

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1095 OF 2018

VISHNU BABU SARNAIK)...PETITIONER

V/s.

RAGHUNATH NAMDEV DALVI)...RESPONDENT

Shri.Sandeep Koregave, Advocate for the Petitioner.

CORAM : A. M. BADAR, J.

DATE : 4th NOVEMBER 2019

P.C. :

1 By this petition, the petitioner/defendant is challenging the order dated 21st March 2017 passed by the learned Civil Judge, Junior Division, Kolhapur, thereby rejecting his application under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint.

2 Heard the learned counsel appearing for the petitioner/defendant. He argued that, initially, claim for specific performance of contract was made but later on claim for possession was incorporated in the plaint by effecting amendment. Therefore, the plaintiff ought to have paid court fees for specific performance of contract as well as for possession separately. In submission of the learned counsel for the petitioner/defendant, the learned trial court ought to have conducted inquiry under Section 8 of the Suit Valuation Act. Support is drawn from the judgment dated 13th April 2016 passed by the learned Single Judge of this court in Anil Laxman Otari vs. Lata Jival Otari and Others¹.

3 I have considered the submissions so advanced and also perused the application for rejection of plaint as well as the order passed thereon.

4 The suit is for specific performance of contract. It was valued as per provisions of Section 6(xi) of the Maharashtra Court

1 Writ Petition No.1477 of 2015 decided on 13th April 2016

Fees Act. As provided by the said section, in a suit for specific performance of contract for sale, the court fees is according to the amount of consideration. Possession follows when such suit is decreed and as such, there is no need to pay separate court fees for claim of possession. Suit for specific performance of contract are categorized by Section 6(xi) of the Maharashtra Court Fees Act and the requisite court fees as per provisions of the said Section is already paid. No infirmity, as such, can be found in the impugned order. The petition, as such, is devoid of merits, and the same is therefore dismissed.

(A. M. BADAR, J.)