

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 250 OF 2019

M/s. Salasar Estate Developers .. Applicant
vs.
Francis Pavlu Gomes
(since deceased through
Lrs. & ors) & ors. .. Respondents

Mr. R.D. Suryawanshi for the Applicant.

CORAM : M. S. SONAK, J.
DATE : 02 MAY 2019.

P.C. :-

1] Heard Mr. Suryawanshi, learned counsel for the applicant.

2] The challenge in this civil revision application is to the order dated 1st November 2018 by which learned Trial Judge has dismissed the applicant's application under Order 7 Rule 11 of the CPC seeking rejection of the plaint on the ground that the same was under valued.

3] Mr. Suryawanshi points out that the property in the present case is non-agricultural. He, therefore, submits that the appropriate valuation was required to be carried out by the plaintiffs and since this is not been done, the application

under Order 7 Rule 11 of CPC was required to be allowed.

4] Upon consideration of the material on record as well as the impugned order, according to me, no case is made out to warrant interference with the impugned order. The applicant is a Builder and Developers, who claimed certain rights under decree of partition. Admittedly, the plaintiffs in the suit were not parties to the proceedings, in which such a decree was obtained. Therefore, the plaintiffs merely seek a declaration that they are not bound by the said decree of partition. In such a suit, learned Trial Judge, has correctly held that the valuation of the suit has to be 200 times the land revenue prescribed. There is no jurisdictional error in the view taken by the learned Trial Judge. By insisting that the plaintiffs paying excessive Court fees, the applicant, who is Builder and Developer, cannot frustrate the rights of such plaintiffs in this manner.

5] Accordingly, there is no case made out to interfere with the impugned order. This Civil Revision Application is therefore, dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)