

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10465 OF 2017

Shri Kshetra Mahabaleshwar	
Devasthan Trust	...Petitioner
Versus	
Pandurang Dhondo Bavlekar & Ors.	...Respondents

Ms. Namrata Arun Kadam i/b Mr. Vijay Killedar for Petitioner.

**CORAM : N. J. JAMADAR J.
DATE : OCTOBER 10, 2019**

P.C. :

1. Heard Ms. Namrata Kadam, the learned Counsel for petitioner.
2. The challenge in this petition is to an order dated 15th December 2016, passed by the learned Civil Judge, Junior Division, Mahabaleshwar, in Regular Civil Suit No.389/2010 whereby, the learned Civil Judge directed the plaintiff Trust to correct the valuation of the suit claim and pay the requisite Court Fee thereon. It was further directed that in the event of failure to correct the valuation of the suit claim and deposit the requisite Court Fee, the plaint shall stand rejected under Order VII, Rule 11(b) of the Code of Civil Procedure, 1908.
3. On perusal of the impugned order, it appears that the learned Civil

Judge was persuaded to pass the same on the premise that the Assistant District Registrar, Class-I and Collector of Stamp, Satara had reported that the market value of the suit land, on the date of the institution of the suit, was Rs.2,16,000/- and, therefore, it was necessary to correct the value of the suit claim and pay the Court Fee thereon.

4. From the perusal of the plaint in Regular Civil Suit No.389/2010, it becomes evident that the plaintiff-Trust seeks to recover the possession of the suit land, of which the defendants are alleged to be in unauthorized possession on account of illegal subletting by the original tenants. It is further averred that the plaintiff had determined the tenancy with effect from 31st March, 2004 and sought the possession of the suit land. On the basis of said averments, the plaintiff has valued the suit claim.

5. In the light of the averments in the plaint, it was incumbent upon the learned Civil Judge to determine the provision under which the suit claim ought to have been valued by the plaintiff and, thereafter, compute the fees payable thereon. The impugned order does not indicate that the learned Civil Judge had adverted to the question as to under which provision the Court Fee was required to be computed and paid. It simply records that the market value of the suit land on the date of institution of

the suit was Rs.2,16,000/-. A further finding that the plaintiff was enjoined to value the suit claim on the basis of market value and pay the Court Fee thereon, has not been recorded by the learned Civil Judge.

6. In this view of the matter, the impugned order deserves to be quashed and set aside.

The learned Civil Judge, Mahabaleshwar, is directed to determine the issue of the correct valuation of the suit claim and the Court Fee which the plaintiff is enjoined to pay thereon afresh, after providing an opportunity of hearing to the parties.

The Writ Petition stands disposed of in the aforesaid terms.

(N. J. JAMADAR, J.)