

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

WRIT PETITION NO. 13510 OF 2017

Babasaheb Bhausahab Ladge

.. Petitioner

Vs.

Zilla Pariviksha and Anurakshan
Sangathana, Kolhapur & Anr.

.. Respondents

Mr.Dhairyasheel Sutar for petitioner.

CORAM : N.J. JAMADAR, J.

DATE : 22ND JULY 2019

P.C.

1 Heard the learned counsel for the petitioner.

2 This petition takes exception to an order dated 7th August 2017 passed by the learned 11th Joint Civil Judge, Senior Division, Kolhapur on an application filed by the petitioner-original defendant No.1 under Order VII Rule 11(b) of the Code of Civil Procedure, 1908 ('CPC') for rejection of the plaint on the count that the suit claim has been undervalued.

3 The substance of the application of the petitioner was that the lease has been executed for a term of 99 years and a consideration of Rs.7,20,000/- has been accepted under the said Lease Deed. In this backdrop, the suit claim should have been valued at the said consideration

of Rs. 7,20,000/-. However, the plaintiff-respondent No.1 has valued the suit in accordance with the provisions contained in Section 6(XII) clause (d) of the Maharashtra Court Fees Act, 1959.

4 The learned Civil Judge was persuaded to reject the application holding that the plaintiff has rightly valued the suit claim in accordance with the provisions contained in Section 6(XII)(d) of the Maharashtra Court Fees Act, 1959 as the suit is between the landlord and tenant, for recovery of the demised premises.

5 The learned counsel for the petitioner assailed the aforesaid reasoning of the learned Judge by canvassing submission that the fact that the lease has been executed for a term of 99 years, and the entire consideration for Rs.7.20 lakhs has been accepted thereunder, have not been properly appreciated by the learned Civil Judge.

6 It would be suffice to note that neither tenure of the lease nor the amount of rent or premium therefor changes the fundamental nature of the jural relationship between the plaintiff and the defendants. In this backdrop, the suit still retains the character of a suit for regaining the possession of the demised premises. Thus, the learned Civil Judge was

justified in rejecting the prayer for rejection of the plaint under the provisions contained in Order VII Rule 11(b) of the CPC. Faced with this situation, the learned counsel for the petitioner submitted that the question of proper valuation be kept open for consideration.

7 Since the learned Civil Judge has determined the question of valuation of the suit only for the purpose of rejecting the prayer for rejection of plaint, the petitioner may agitate the aspect of the improper valuation of the suit claim, if permissible in law.

8 Thus, no interference is warranted in the impugned order. The petition does not deserves to be entertained.

9 Hence, the petition stands dismissed.

(N.J. JAMADAR, J.)