

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL REVISION APPLICATION NO. 02 OF 2020

Gulab S/o Shyamraoji Shinde

vs.

The Taxing Officer, High Court of Judicature at Bombay, Nagpur Bench,
Nagpur

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. S. D. Moharir, counsel for applicant.

Shri. P. S. Khubalkar, counsel for respondent.

CORAM : MANISH PITALE J.

DATED : 13/02/2020

By this revision application, the applicant has challenged order dated 03/12/2019, passed by the Taxing Officer of this Court, wherein contentions raised on behalf of the applicant have been rejected and it is held that he is liable to pay full advalorem Court fee of Rs.27,630/-, as per rate prescribed in table under Article 1 of Schedule – I of the Maharashtra Court Fees Act, 1959 and not one half of the advalorem Court fees amounting to Rs.13,815/-, as claimed by the applicant.

2. This Court issued notice in the present application and on 17/01/2020, Shri.Khubalkar, learned counsel has appeared on behalf of the non-applicant. It is fairly pointed out by Shri.Khubalkar, learned counsel that the dispute raised in the present case is no more res integra, as by a judgment and order dated 09/03/2018

in Civil Revision Application No.05/2018, this Court has upheld a contention identical to the contention raised by the applicant in the present revision application.

3. A perusal of the said judgment and Order of this Court shows that in the context of a similar controversy pertaining to the Court fee payable in similar circumstances in appeal arising under the provisions of the Land Acquisition Act 1894, this Court held as follows :-

“9. A perusal of Section 7 of the Act, 1959 shows that sub-section (2) thereof specifically provides for the amount of Court fees payable when the appeal is filed against an award of a Claims Tribunal under the provisions of the Motor Vehicles Act, 1939. It has been provided therein that there would be different sets of Court fees payable if the insurer or owner of the motor vehicle files the appeal and when the appeal is filed by any other person. In sub-section (1) of Section 7 of the Act, 1959, no such specification is given and it is simply stated that the amount of Court fee payable shall be computed according to the difference between the amount claimed by the applicants and the amount awarded by the Reference Court. The provision states that where the State Government is an acquiring body, it shall not be liable for Court fee in appeals. This also indicates that unlike appeals or proceedings arising out of awards passed by the Claims Tribunal under the Motor Vehicles Act, insofar as the appeals and proceedings arising out of acquisition of land are concerned, different rates of Court fees have not been provided and it is specific that the computation of the Court fee shall be

according to the difference between the amount claimed by the applicants and the amount awarded by the Reference Court. In this situation, the calculation of Court fee payable by the applicants would have to be based on Schedule wherein Articles 4 and 15 of the Act, 1959, are relevant. Therefore, on a conjoint reading of Section 7(1) with Articles 4 and 15 of Scheduled – I of the Act, 1959, it is evident that the applicants are justified in claiming that they are liable to pay only one half of the advalorem Court fee amounting to Rs.7500/-. The learned Counsel appearing for respondent No.1 has not been able to show any provision or any material to show that there could be any other conclusion that could be reached, based on the provisions of the Act, 1959.”

4. This Court is of the opinion that the controversy in the present case is fully covered by the said view taken by this Court. Accordingly, the order under challenge dated 03/12/2019, is quashed and set aside.

5. It is held that the applicant in the present case, by applying Articles 4 and 15 of the aforesaid Act, is liable to pay only one half of the advalorem Court fee which admittedly comes to Rs.13,815/-.

6. The learned counsel appearing for the applicants submits that the said Court fee has been already paid. Therefore, the revision application is allowed and since the requisite grievance is already paid by the applicant, it is directed that the appeal be

processed for listing before the appropriate Bench for hearing.

7. Revision application is disposed of. No order as to costs.

JUDGE

KOLHE/P.A.