

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

**WRIT PETITION NO. 3666 OF 2016**

**Smt. Antakala W/o Sanjay Mohabe**

**...Versus...**

**Shri Sanjay S/o Ramsingh Mohabe**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's orders  
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Court's or Judge's orders

Shri B.L. Meshram, Counsel for petitioner  
Shri S.S Rao, Counsel for respondent

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 06.03.2020**

1. The present petition challenges the order below Exh. 64, dated 14.08.2015, in Special Civil Suit No.945/2013, passed by the 3<sup>rd</sup> Joint Civil Judge, Senior Division, Nagpur, whereby, the application as filed by the plaintiff/husband for rejection of counter-claim, as filed by the defendant/wife, is partly allowed, directing the defendant to properly value her counter-claim as per market value and pay *ad valorem* court fees thereupon.

2. It is undisputed, that the relationships between plaintiff and the defendant is that of husband and wife. It is also not disputed, that the plaintiff had filed a suit for permanent injunction and declaration to the effect that he is

the owner of the suit property, having contributed for the same, though the title-document stands in the name of the defendant/wife. The defendant/wife has, in turn, filed a counter-claim, seeking a declaration that she is the absolute owner of the suit property.

3. For opposing the application, the defendant/wife submitted that the dispute, clearly arises out of the matrimony between the plaintiff and the defendant, and therefore, in light of the notification dated 01.10.1994, as amended on 23.03.2000, she was exempted from paying court fee, which did not find favour with the Trial Court.

4. Learned Counsel Mr. Meshram for the defendant/wife submits, that since the relationship between the parties is an admitted one, and the subject matter of the suit is a bone of contention between them, the same squarely falls within the expression “disputes arising out of and concerning matrimonial matters”, as contained in the explanation, in the notification dated 23.03.2000, explaining the expression “property disputes”.

5. Considering the language of the explanation, any dispute between the husband and wife, in relation to property, held by either of them, would clearly fall within the explanation as occurring in the notification dated 23.03.2000. This is clearly supported, by the judgment of this Court in the case of Manoramabai Keshav Joshi Vs Arun Keshav Joshi and another, reported in 2008 (1) Mh.L.J. 905,

wherein, in a dispute between the mother and son it has been held, that the same pertains to property consisting the matrimonial dispute and therefore, the same was exempted from payment of court fee.

6. In the above light of the matter, the impugned order as passed by the Trial Court therefore, cannot be sustained. The same is therefore, quashed and set aside and the application at Exh.64, as filed by the plaintiff/husband is dismissed without costs.

The writ petition stands allowed in the above terms. No order as to costs.

**JUDGE**

J.Pethe