

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10192 OF 2021

Aamanaji s/o Bhaurao Wadje,
Age : 69 years, Occu. Agriculture
and Pensioner, R/o c/o Dr. Vijay
Amanaji Wadje, Barul, Tq. Kandhar,
District Nanded

PETITIONER
(Orig. Defendant)

VERSUS

Atul s/o Dhonduram Debadwar,
Age : 40 years, Occu. Agriculture
and Business, R/o Mahajan Galli,
Mukhed, Tq. Mukhed, Dist. Nanded

RESPONDENT
(Orig. Plaintiff)

Mr. Dhananjay M. Shinde, Advocate for the petitioner

CORAM : MANGESH S. PATIL, J.

DATE : 11.10.2021

PER COURT :

Heard Mr. D.M. Shinde, learned Advocate for the petitioner.

2. By way of this writ petition, the original defendant is taking exception to the order passed by the trial court whereby his composite application under Order VII Rule 10 and under Order VII Rule 11 of the Code of Civil Procedure for return/rejection of the plaint on the ground of it having been undervalued, has been rejected.

3. Learned Advocate Mr. Shinde would submit that it is a suit for

specific performance of a contract alongwith a prayer for possession. Therefore, irrespective of the amount of consideration mentioned in the agreement, the suit ought to have been valued on the basis of the market value of the suit property, which is several lakhs of rupees and a court of Civil Judge Junior Division would not have pecuniary jurisdiction to decide it.

4. Since it is a suit for specific performance of a contract, by virtue of Section 8 of the Suits Valuation Act, 1887, the value of the suit for the purpose of jurisdiction and court fees would be the same, since it is a suit, which would be governed by Section 6 (xi)(a) of the Maharashtra Court Fees Act, 1959. Suffice for the purpose to observe that the suit is not to be valued on the market value of the suit property but its value would depend upon the value of consideration agreed to be paid. To the extent of this stipulation in the agreement of sale, there is no dispute raised by the petitioner in his written statement, albeit he is disputing execution of the agreement itself.

5. Going by the assertions in the agreement, the respondent has agreed to purchase the suit property which is a piece of land admeasuring 8080 sq.feet and the rate mentioned is Rs.60,00,000/- for three acres of land. The learned Judge, in the impugned order, has calculated it to hold that the respondent having correctly valued the suit at Rs.4,04,040/- and having paid *ad valorem* court fees. I find no error much less any illegality

in the respondent's valuation of the suit for the purpose of court fees and jurisdiction.

6. The writ petition is dismissed in limine.

[MANGESH S. PATIL]
JUDGE

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