

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

WRIT PETITION NO.4467 OF 2022

**ASHWIN VINOD REDDY AND ANOTHER
VERSUS
EKTA RAJKUMAR GADDIME AND OTHERS**

...
Advocate for Petitioners : Mr. Gundre Suraj V

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21st April, 2022

ORDER :

1. The petitioners are aggrieved by the order dated 17/02/2022, passed by the learned 3rd Joint Civil Judge, Senior Division, Latur below Exhibit-32 in Regular Civil Suit No. 379/2020.
2. By the said application, the petitioners/original defendant nos.1 & 2 raised an objection that respondent No.1/plaintiff has under valued the suit and has not paid proper Court fees and therefore, the plaint should be rejected.
3. The said application was resisted by the respondent No.1/plaintiff and the Trial Court has rejected the said application.

4. Perusal of the documents placed on record indicate that respondent No.1/plaintiff has sought a declaration in the plaint that the sale deed executed by defendant no.1 in favour of defendant nos.3 to 22 and sale deed executed by defendant no.2 in favour of defendant nos.23 to 33 be declared null and void and not binding on the plaintiff. An injunction is sought that the defendants should not carry out constructions on the suit property. It is thus clear that the plaintiff has not sought a decree of possession of the suit property.

5. The Trial Court by placing reliance in **Niraj Walle Vs. Vijaya Walle** reported in **Mh.L.J. 2017 (4) Mh.L.J. 402** has rejected the application by recording a finding that since the plaintiff is not seeking a decree for possession of property, he is not under obligation to pay advalorem court fees on valuation of the sale deed. Admittedly, the plaintiff is not executant of the sale deed, the sale deeds are executed by defendant nos.1 and 2 in favour of defendant nos.3 to 33.

6. In the light of these facts, this Court is of the opinion that the Trial Court was right in rejecting the application filed by the petitioners by relying on the ratio in **Niraj Walle Vs. Vijaya Walle**

(Supra). No illegality or perversity is found in the order impugned in the present petition. No case is made out by the petitioners to exercise extra ordinary writ jurisdiction. Writ Petition, being devoid of merits, is dismissed.

[NITIN B. SURYAWANSHI, J.]

Sameer