

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8906 OF 2022

Santosh Vitthalrao Patil

PETITIONER

VERSUS

Nandu Sadashiv Kunte and Another

RESPONDENTS

.....

Mr. Chandrakant V. Thombre, Advocate for the petitioner

Mr. A. R. Vaidya, Advocate for the respondents

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th SEPTEMBER, 2022

ORDER :

1. This petition challenges the order passed by the 5th Joint Civil Judge, Senior Division, Aurangabad below Exhibit-14 in Special Civil Suit No. 275 of 2020, thereby rejecting the application filed by the petitioner – original defendant, under Order VII, Rule 11 of the Civil Procedure Code.

2. By filing the said application, the petitioner – defendant claims that the plaintiffs have not properly valued the suit and proper court fee is not paid and, therefore, the suit is liable to be rejected. According to the petitioner, the valuation of the suit property is Rs.1 crore on which the plaintiffs ought to have paid court fees.

3. The said application was opposed by the respondents – plaintiffs submitting that the petitioner has not averred in his written statement that valuation of the suit property is Rs.1 crore. The Trial Court has rejected the application, hence present petition.

4. I have duly considered the rival submissions of the learned advocate for the petitioner and learned advocate for the respondents. Perused the grounds raised in the petition and the documents annexed thereto.

5. Admittedly, the suit is filed seeking specific performance of contract on the basis of registered agreement of sale, wherein consideration is Rs.60,00,000/- and court fee of Rs.85,230/- is properly paid. As per law, in a suit for specific performance of contract, the valuation is to be done as per consideration amount of agreement and not on the market value.

6. The petitioner, by placing reliance on the notarized agreement of sale, has claimed that the valuation of the property is Rs.1 crore. The respondents have denied the said document. In that view of the matter, the Trial Court has rightly held that proper court fee is paid by the plaintiffs – respondents in terms of the consideration amount, which is proper as per section 6

(xi) (1) of the Maharashtra Court Fees Act. No illegality or perversity is found in the order impugned in the present petition to exercise extraordinary writ jurisdiction.

7. Writ petition being devoid of substance is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE

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