

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9156 OF 2014

Sanjay Madhukarrao Rudrawar

PETITIONER

VERSUS

Ashok Sukhdeorao Khamkar and Others

RESPONDENTS

.....

Mr. Vivek J. Dage, Advocate for the petitioner

Mr. S. J. Salunke, Advocate for respondent No.1

Mr. M. C. Ghode, Advocate for respondent No.2

Mr. R. N. Chavan h/f Mr. V.A. Bagadiya, Advocate for respondents
No.3 and 4

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th MARCH, 2022

ORDER :

1. The petitioner is aggrieved by the order passed by the learned Joint Civil Judge, Junior Division, Majalgaon below Exhibit-32 in Regular Civil Suit No. 51 of 2014 thereby rejecting the application filed by the petitioner requesting to frame preliminary issue of jurisdiction.

2. The petitioner contended in the said application that the disputed property, as per the map of the office of Taluka Inspector of Land Records and Town Planner, Beed, is part of survey No. 371 admeasuring 32 Are. N.A. permission is granted

by the competent officer for the said property. Thus, the disputed property is not an agricultural land, but it is Non Agriculture land in which plots are demarcated by the petitioner. One of the plots has been sold by the petitioner for a consideration of Rs.21,25,000/-. Therefore, valuation of the disputed property is beyond Rs.5,00,000/- and, therefore, the same does not fall within the jurisdiction of the Trial Court and the same may be framed as preliminary issue and it may be decided first.

3. The Trial Court, rejected the said application mainly on the ground that the court fee has to be paid on the value of the property and not on market value of the property, in terms of the language used in section 6 (iv) (ha) of the Bombay Court Fees Act, which does not use word "market value", but it only uses the word "value" of the property. The trial court has held that it is not disputed that sale deed dated 23rd September, 2013 is for Rs.69,000/- and accordingly the plaintiff valued his suit and the same is within the pecuniary limits of the jurisdiction of the Trial Court.

4. Heard learned advocate for the petitioner and learned advocates for the respondents.

5. Perusal of the impugned order shows that a well reasoned order is passed by the Trial Court, which does not warrant interference in the extraordinary writ jurisdiction of this Court. The Trial Court may consider the question of payment of court fee by the plaintiff, if the occasion so arises.

6. With aforesaid observations, writ petition is disposed of.

[NITIN B. SURYAWANSHI]
JUDGE