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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 606 OF 2022

MR. GHANSHYAM NARAYAN TALELE PETITIONERS
AND ANR

V/s.

PRAMOD SWAPNA CO-OPERATIVE RESPONDENTS
HOUSING SOCIETY LTD AND ORS

Mr. Drupad S. Patil advocate for the Petitioner
Mr. M. S. Topankar for Respondent nos. 1 to 3
Mr. Harish R. Pawar for Respondent nos. 4 to 8

CORAM : NITIN W. SAMBRE, J.

DATE: JANUARY 20, 2022.

P.C.:

1) The contentions raised by Mr. Dhrupad Patil, learned counsel appearing for the Petitioners are, Suit is initiated in individual capacity questioning the development agreement dated 29/11/2016 and supplementary agreement dated 24/12/2019. He would claim that agreement is not signed by the Plaintiffs and that being so, Plaintiffs-Petitioners are not required to pay court fees as has been directed vide impugned order dated 06/01/2022. He would claim that

principle of law that if the agreement is questioned by non-signatory to such agreement, the court fee is not payable pursuant to provisions of Section 6 (iv)(ha) of Bombay Court Fees Act.

2) Respective learned counsel appearing for Respondents would support the order impugned.

3) Considered submissions.

4) In the factual matrix of the case viz. of the 14 members of the society, 12 members have agreed and supported the development agreement and supplementary agreement, Plaintiffs, remaining two members have questioned the same. Their locus primarily is based on, they being members of the society and as such fact remains that Suit is initiated by the Petitioners-Plaintiffs in their aforesaid capacity. That being so, Suit is initiated by the Petitioners-Plaintiffs in their capacity as members of the society, directions issued by the Court below thereby directing Petitioners-Plaintiffs to pay court fee on the valuation of scheme of Rs. 3,69,54,000/- appears to be quite justified.

5) No case for interference in extraordinary jurisdiction is made out. Petition stands rejected.

6) In view of order impugned, liberty is granted to Petitioners to take such steps as are permissible and available in law so as to pursue the Suit.

[NITIN W. SAMBRE, J.]