

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.697 OF 2022

Kamal Dayaldas Narwani

..Petitioner

Versus

Prafullata Kumar Desai and Anr.

..Respondents

Mr. Rajiv Narula a/w Mehek Choudhary & Tarang Jagtiani i/by M/s.
Jhangiani Narula & Associates, for the Petitioner.

Mr. O. R. Tiwari i/by Roseline Nadar, for the Respondent No.1.

Mr. S. Venkateshwar, for the Respondent No.2.

CORAM : NITIN W. SAMBRE, J.

DATE : 21st MARCH, 2022

PC.

1. Heard.

2. I am informed that the Chamber Summons No.565 of 2020 is pending adjudication, wherein respondent/plaintiff has sought amendment which is objected by the petitioner.

3. Let said proceedings be decided expeditiously.

4. As far as the order impugned dated 15th March 2021 on the issue of jurisdiction based on valuation of the suit claim is concerned, it appears that the Court below while passing order impugned, on the issue of pecuniary jurisdiction has lost sight of the prayer clause (c) in the plaint, which reads thus :-

“(c) That this Hon’ble Court be pleased to declare that Memorandum of Understanding dated 20th May, 2018, and Deed of Release dated Nil executed by and between

Plaintiff Defendant No:1 and 2 abovenamed relinquishing and/or releasing Plaintiff's right title interest claim and share in respect of the suit Property i.e. Plot of land along with Tenanted Building standing thereon consisting of 12 tenements, bearing Plot No.2, Survey No:92, Hissa No:10, admeasuring about 657 sq. yards equivalent to 482 sq.mtrs. bearing C.T.S. No:206 of Village Deonar, Taluka Ghatkopar, Kurla Mumbai Suburban District acquired by Plaintiff's mother Late Smt. Rajni Bhaskar Raote by virtue of Deed of Conveyance dated 29th April, 1961 from her predecessor Owner Shri. P. N. Kenge registered with Sub Registrar of Assurances vide Sr. No:BOM/R/2944/1/5 of 1961 known as Rajni Building Near Post Office, Govandi, Mumbai 400 088 bounded on towards North by CTS No:198 and CTS No:201, on towards East by CTS No.205, On towards South by Existing Road, in favour of Defendants abovenamed is illegal, bad in law, null and void and not binding upon Plaintiff and other legal heirs and legal representatives of her deceased mother Smt. Rajni Bhaskar Raote in any manner whatsoever."

5. Admittedly, respondent/plaintiff is a party to MOU dated 20th May, 2018. Consequences of it, the issue of valuation of the suit claim needs to be gone into. The order impugned dated 15th March, 2021 has not considered the same and that being so, same is quashed and set aside.

6. Once the Chamber Summons No.565 of 2020 is decided, the Court below is directed to decide the present proceedings i.e. issue of jurisdiction canvassed in this petition afresh.

7. The petition is partly allowed in above terms.

[NITIN W. SAMBRE, J.]