

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2022.02.28
18:22:37
+0530

WRIT PETITION NO.6325 OF 2018

Sharad Shankar Udavant

..Petitioner.

Versus

Shobha Dilip Jadkar and Ors.

..Respondents.

Ms. Divya Parab a/w Sachin S. Padaye i/by Satyajeet P. Dighe, for
the Petitioner.

None for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 25th FEBRUARY, 2022

PC.

1. The petitioner/defendant took out proceedings under Order VII Rule 11(b) of the CPC alleging that the suit is under valued. The prayer for rejection of plaint on the aforesaid ground is rejected vide order below Exh.11 passed on 17th February, 2018 by 2nd Joint Civil Judge Junior Division, Nashik. As such, this petition.

2. Relying on the valuation report issued by the Sub-Registrar and the judgment of the Madhya Pradesh High Court in the matter of *Sudhirdas Vs. United Church of D Canada India, Dhar Beneficiary and Ors.* reported in *AIR 2019 MP 165*, it is urged that the Court below has failed to consider the valuation report, so also the rejection of the plaint is sought on the ground that the claim is that of possession. As such, according to counsel, valuation of the

suit for the purpose of court fee should have been based on the valuation report.

3. I have considered the said submissions.

4. At the outset, it is required to be noted that the suit claim is for the purpose of recovery of 300 sq.ft. of land out of total property mentioned in the plaint and accordingly after valuation, court fee is paid as the claim for possession is put forth to the extent of share of Plaintiff/Respondent is canvassed.

5. The Trial Court was sensitive to the fact that aforesaid valuation report was produced by the petitioner, however, such valuation is for more property than the one for which suit is initiated. The Court below noticed that the plaintiff has paid appropriate Court fee after lawful valuation of the suit claim. That being so, no case for interference in the extraordinary jurisdiction of this Court is made out.

6. As such, petition fails, dismissed.

7. However, this will not preclude the petitioner to approach the Court below, in case, if the suit is decreed.

[NITIN W. SAMBRE, J.]