

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 241 OF 2022

Sanjay Kumar Ashta

.Petitioner

Vs.

Airport Authority of India & anr.

.Respondents

Mr. Atul Damle, Senior Advocate i/b. Ms Meena A. Ruparel,
Advocate, for the Petitioner

Ms Radha H. Bhandari i/b. M/s. M. V. Kini & Co., Advocate,
for the Respondent 1

Mr. Vikram Nankani a/w Ms Naziya Khan i/b. M/s. Wadia
Ghandy & Co., Advocate, for the Respondent 2

CORAM : ROHIT B. DEO, J.

DATE : 27.06.2022

P. C.

. The Petitioner is the Plaintiff in Suit 7072 of 2003 in which he moved a Notice of Motion 1238 of 2019 seeking permission to value the suit claim appropriately and to pay the Court fees. The Plaintiff contended that the Defendant 5 - Airport Authority of India in written statement has objected to the valuation of the claim and has contended that the valuation ought to be atleast Rs. 1,35,41,500/- (Rupees One Crore Thirty Five Lakhs Forty One Thousand Five Hundred Only). According to the Plaintiff, it is in view of the objection

to the valuation that he intends to value the suit appropriately and to pay the Court fees.

2. By Order dated 12.04.2019, the Notice of Motion is rejected. Simultaneously, the trial Court has framed preliminary issue as to whether the Court has jurisdiction to try the suit in the present form. It appears that the preliminary issue is framed in view of Application -Exh.11 which is preferred by the Defendant 5 contending that in view of the statutory regime of the Airports Authority of India Act, 1994, as amended with effect from 2004, the jurisdiction of the Civil Court is ousted.

3. Perusal of the order reveals that the prayer for correction of the valuation is not rejected as such. The trial Court has observed that the Plaintiff is at liberty to correct the valuation, since he is the master of the suit. In this view of the matter, it shall be open for the Plaintiff to correct the valuation and pay the Court fees. It shall further be open for the Plaintiff to take out an appropriate Motion after correcting the valuation and making the payment of the

Court fees, raising the issue of pecuniary jurisdiction.

4. The Plaintiff has no objection to that part of the order which frames preliminary issue. The Plaintiff is at liberty to contest the preliminary issue, which issue shall be adjudicated on its own merits.

5. The Plaintiff undertakes to correct the valuation and to pay the Court fees on or before 11.07.2022.

6. The Petition is disposed of.

(ROHIT B. DEO, J.)