

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1105 OF 2019
ALONG WITH
CIVIL APPLICATION NO.2774 OF 2019

Himmat Raghunath Saste.] ... Appellant

Vs.

Vijay Pandurang Jagtap & Ors.] ... Respondents

...

Mr. P.S. Dani, senior counsel i/b Mr. Chetan R. Nagare for the appellant.

Mr. G.S. Godbole with Mr. Ashok B. Tajane for respondent No.1.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 14TH MARCH, 2022.

P.C. :-

1. The Deputy Registrar (Civil) has submitted his report to this court, in view of the order dated 09/03/2021, directing the Registry to ascertain whether the appeal can be entertained by this court.

2. By a detailed report, the Deputy Registrar (Civil) has made a reference to Section 26 of the Maharashtra Civil Court (Amendment) Act, 2015 and specifically noted the provision that an appeal shall lie before the High Court if the value of the subject matter exceeds Rs.1 crore and, in the instant case, the value of the suit is ascertained as Rs.2,51,000/- and for counter-claim the value is Rs.47,61,938/-. It is therefore, recorded that the value of the suit including in the counter-claim is below Rs.1 crore. In the wake of the above, since the appeal is a continuation of the suit proceedings and the valuation of the suit remains the same even at the appellate stage, the Deputy Registrar has opined that the appeal cannot lie before the High Court.

3. In the wake of the above, since I am satisfied that the report is based on Maharashtra Civil Court (Amendment) Act, where it is stipulated that no appeal can be entertained by the High Court, if the valuation of the subject matter is below Rs.1 crore and, since in the present case, it is less than Rs.1 crore and the appellant is not justified in capping it at Rs.1,50,00,000/- because the decree directed handing over of the vacant possession by accepting the enhanced consideration of Rs.1,50,00,000/- will not be determinating factor in deciding the valuation of the suit.

4. Accepting the report of the Deputy Registrar, the present appeal is directed to be returned for its presentation before the appropriate court having jurisdiction. The appellant is at liberty to

prefer an application for refund of court fees, since he has paid court fee valuing the claim in the appeal at Rs.1,50,00,000/-.

5. In the wake of the return of the appeal memo for its presentation to the proper court having jurisdiction, the appellant is entitled to the benefit of Section 14 of the Limitation Act.

6. First Appeal is disposed off.

[SMT. BHARATI DANGRE, J.]