

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 149 OF 2020
IN
CIVIL REVISION APPLICATION NO. 89 OF 2019

Manorama Rameshchandra Thakkar and anr.

..VS..

Ketki Sheth D/o Rameshchandra Thakkar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.S. Giripunje, Advocate h/f Shri Rajesh Nagpure, Advocate
for the applicants. .

Shri V.S. Dhobe, Advocate for the respondent.

CORAM : MANISH PITALE, J.
DATED : 25/03/2022.

By this application, the applicant (original respondent no.1) is seeking review of the judgment and order dated 21.01.2020 passed by this Court, in Civil Revision Application 89 of 2019, whereby the revision application was allowed, the order passed by the Court below was set aside and it was held that the applicant was not entitled to exemption from paying court fees. It was observed that since the applicant had herself valued the suit at Rs.1,50,00,000/-, she would be liable to pay requisite court fees within eight weeks from the date of the order.

2. On 26.02.2020, this Court issued notice recording the contentions raised on behalf of the applicant that requisite court fees as directed by this Court, ought to mean court fees calculated in terms of the Maharashtra Court Fees Act, 1959. It was indicated that since the applicant was seeking a share of the property, the liability to pay the court fee would necessarily have to take into account the aforesaid prayer and other prayers made in the suit.

3. This Court issued notice and in the meanwhile, granted stay of the order whereby the revision application of the non-applicant, was allowed.

4. Today, Mr Giripunje, learned Counsel appearing for the applicant and Mr. V.S. Dhobe learned Counsel appearing for the respondent, have been heard. This Court is of the opinion, that the exercise of determining as to what could be the requisite court fee by application of the Maharashtra Court Fees Act, 1959, cannot be carried out by this Court, in review proceedings.

5. The Revision Application filed by the non-applicant was allowed. It concerned only the question as to whether the applicant could claim exemption from the depositing court fees. The said question has been answered against the applicant and she is found liable to pay court fees. What is to be the amount of court fees payable, is a matter best left to the Court below.

6. Therefore, the review application is dismissed with the clarification that the order dated 21.01.2020 allowing the Revision application filed by the non-applicant, and setting aside the order of the Court below, thereby holding the applicant liable to pay court fee, obviously means that the applicant would be liable to pay court fee in accordance with law, including the relevant statute applicable i.e. the Maharashtra Court Fees Act, 1959.

7. The parties are at liberty to agitate this aspect of the matter, before the Courts below.