

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

29 WRIT PETITION NO.1421 OF 2023

**YAMUNABAI SOPAN DARADE AND ANOTHER
VERSUS
DIKSHA RAJENDRA ALIAS DADASAHEB DHAKANE
AND ANOTHER**

...
Advocate for Petitioners : Mr. Shailendra S. Gangakhedkar

...
CORAM : SHARMILA U. DESHMUKH, J.

DATE : 08-02-2023

PER COURT :

. Heard.

2. Petitioners are aggrieved by order dated 25.11.2022 passed by the 2nd Jt. Civil Judge, J.D., Bhoom below Exh.1 in R.C.S. No. 594 of 2022 directing the petitioners to value the suit property as per Section 6 (iv)(d) third proviso (part-1) of the Maharashtra Court Fees Act, 1959 (hereinafter, in short, 'Act of 1959') and pay the deficit court fees. Regular Civil Suit No.594 of 2022 was filed by the petitioners for declaration of ownership and permanent injunction in respect of landed properties bearing Block No.411, admeasuring 00H-86R, revenue assessed by Rs.1.03 paisa and Block No.5, admeasuring 00H-50R, revenue assessed by Rs.00.60 paisa situated at village Rameshwar, Tq. Bhoom and Dist. Osmanabad on the basis of sale deed bearing Nos.1507/2006 dated 13.06.2006, 1514/2006 dated

14.06.2006 & 1846/2014 dated 06.08.2014. The trial Court during the proceedings *suo moto* directed the petitioners to value the suit property as per the provisions of the Section 6 (iv)(d) third proviso (part1) of the Act of 1959.

3. Learned counsel for the petitioners submits that in the written-statement there is no objection raised by the defendants as regards the valuation and the Court has *suo moto* exercised the power. He further submits that as the petitioners seek declaration of ownership in the suit, the suit is required to be valued under Section 6 (iv) (j) and not under third proviso of Section 6 (iv)(d) as directed by the trial Court.

4. In support of his contentions, he relies upon the following decisions of the Apex Court:

- (i) **Smt. Tara Devi vs. Sri Thakur Radha Krishna Maharaj through Sebaitis Chandeshwar Prasad and Meshwar Prasad and another, AIR 1987 SC 2085.**
- (ii) **Suhrid Singh Alias Sardool Singh vs. Randhir Singh and others, (2010) 12 SCC 112**

5. Considered the submissions of the learned counsel for the petitioners.

6. Regular Civil Suit No.594 of 2022 has been filed seeking

a declaration of ownership in respect of the landed properties. The said declaration as to the ownership cannot be said to be a declaration as to the only a status, but it is a declaration in respect of the immovable property, which is capable of monetary evaluation and as such it has to be valued in accordance with the provisions of Section 6 (iv)(d) which reads as under:

“Section 6: The amount of fee payable under this Act in suits next hereinafter shall be computed as follows:-

- (i)
- (ii)
- (iii)
- (iv)
 - (a)
 - (b)
 - (c)
 - (d) For ownership, etc. of immovable property, etc. – In suits for declaration in respect of ownership, or nature of tenancy, title, tenure, right, lease, freedom or exemption from, or non-liability to attachment with or without sale or other attributes, or immovable property, such as a declaration that certain land is personal property of the Ruler or any former Indian State or public trust property or property of any class or community – one fourth of ad valorem fee leviable for suit for possession on the basis of title of the subject-matter, subject to minimum fee of [one hundred rupees;]”

7. As far as the submission of the learned Counsel for the

petitioners that there is no objection raised by the defendants, the issue of the valuation of the suit is an issue between the court and the plaintiff and it is not necessary that an objection in that respect is required to be raised. The trial Court upon examination of the averments made in the plaint and the reliefs which have been sought in respect of the immovable property under the sale-deeds has rightly directed the valuation as per the Section 6 (iv)(d). Learned counsel for the petitioners submits that an enquiry in the valuation is required to be made. An enquiry under Section 8 of the Maharashtra Court Fees Act is required to be made when the Court is of the opinion that the subject matter of any suit has been wrongly valued or if an application is made to the Court for revision of any valuation made.

8. As far as the decisions which have been relied upon by the learned counsel for the petitioners are concerned, the same are in the context of completely different matter and do not assist the case of the petitioners.

9. For the reasons above, there is no merit in the Writ Petition. Petitioners are directed to comply with the order dated 25.11.2022 as there is no infirmity in the order which has been passed and to pay the court fees accordingly. Upon the court fees

being paid, liberty to the petitioners to make an application to the Court under the provisions of Section 8 of the Act of 1959 for revision of valuation, which application will be decided by the Court on its own merits and in accordance with law.

10. Writ petition stands dismissed.

(SHARMILA U. DESHMUKH, J.)

GGP