

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

**WRIT PETITION NO.8484 OF 2018**

**ALIMUNISA W/O SHAIKH CHUNNUMIYAN (DECEASED) THROUGH  
L.RS. KOUSARBEE ABDUL SAYYAD AND OTHERS  
VERSUS  
JILANIPASHA AHMEDSAHEB SAYYAD AND OTHERS**

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Advocate for Petitioners : Mr. Tukaram M. Venjane  
Advocate for Respondent No.1 : Ms. Madhaveshwari Mhase

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**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 08<sup>th</sup> JUNE, 2023**

**PER COURT :**

1. Petitioners are aggrieved by the order dated 19/12/2014, passed by learned Civil Judge, Senior Division, Nilanga, below Exhibit-44 in Regular Civil Suit No.13/2014.
2. The petitioners/original plaintiffs have filed suit for partition and separate possession of the joint property thereby claiming 21/32<sup>th</sup> share in the suit property. Defendant No.1 filed application Exhibit-44 claiming that the suit property is converted into non-agricultural land under the orders of Collector and if valuation of the same is considered as per prevailing market value, the value of 21/32<sup>th</sup> share of the suit property claimed by the plaintiff comes to Rs.36,76,31,055/- and the plaintiff is liable to pay Court fees of Rs.36,73,000/-. The said application was resisted by the plaintiffs. Trial Court by the impugned order directed petitioners

/plaintiffs to value suit property as per the prayer in plaint, within 15 days and deposit required court fees. Hence, the present petition.

4. Having heard learned advocate for petitioners and learned advocate for respondent No.1, and after perusal of the writ petition memo, annexures thereto and the impugned order, this Court is of the view that no fault can be found in the order impugned in present petition.

5. The bone of contention of petitioners is that without holding any inquiry impugned order is passed.

6. Learned advocate for respondent No.1 is right in pointing out Sections 8 and 9 of the Bombay Court-fees Act 1959, which contemplates an inquiry as to valuation of the suit property.

7. Sections 8 and 9 of the Bombay Court-fees Act, read thus:-

*"Section 8 – If the Court is of opinion that the subject-matter of any suit has been wrongly valued or if an application is made to the Court for the revision of any valuation made, the Court may revise the valuation and determine the correct valuation and may hold such inquiry as it thinks fit for such purpose.*

*Section 9 – (1) For the purpose of an inquiry under section 8 the Court may depute, or issue a commission to, any suitable person to make such local or other investigation as may be necessary and to report thereon to the Court. Such report and any evidence recorded by such person shall be evidence in the enquiry.*

*(2) The Court may, from time to time, direct such party to the suit as it thinks fit to deposit such sum as the*

*Court thinks reasonable as the costs of the inquiry, and if the costs are not deposited within such time as the Court shall fix, may, notwithstanding anything contained in any other Act, reject the plaint or as the case may be the appeal, if such party is the plaintiff or the appellant and, in any other case, may recover the costs as a public demand : Provided that, when any plaint or appeal is rejected under this section the court-fee already paid shall not be liable to be refunded."*

8. In the light of the above provisions, it is obvious that the procedure prescribed under Sections 8 and 9 will be followed by the trial Court before revising the valuation. No prejudice is likely to be caused to the petitioners because of the said exercise. No illegality or perversity is found in the order impugned in present petition. No case is made out by the petitioners for interference in exercise of extraordinary writ jurisdiction. The writ petition is, therefore, disposed of.

9. Taking into consideration the fact that suit is of the year 2014, the trial is expedited.

10. The amount deposited by petitioners at the time of admission of the plaint shall continue with the trial Court and shall be subject to the final adjudication of suit.

**(NITIN B. SURYAWANSHI, J.)**