

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1958 OF 2021

Late Dr. Vishwanath Narayan Nakhare
deceased through L.Hr.

....Petitioners

V/S

Radhika Sanjeev Malhotra

....Respondents

...

Mr. Ravindra S. Pachundkar for Petitioner.

...

CORAM: SANDEEP V. MARNE, J.

DATE : JULY 27, 2023.

P.C.:

1 By this Petition Petitioners challenge the order dated 27 August 2019 passed by the 22nd Joint Civil Judge Senior Division, Pune allowing application filed by the Respondent-Defendant for correction of valuation of suit. By the impugned order, Trial Court has directed Petitioners/Plaintiffs to correct the valuation of the suit and to pay the deficit Court Fees.

2 Plaintiff No.1 is the father, Plaintiff No.2 is his son and the sole Defendant is his daughter. It appears that the Plaintiff No.1-father executed two gift deeds gifting the suit property in favour of sole

Defendant-daughter. Plaintiffs have filed the Suit seeking declaration for cancellation of the two gift deeds. They however valued the suit for court fees at Rs.3,000/-. Defendant appeared in the suit and filed an application under section 9A of the Code of Civil Procedure for framing and trial of preliminary issue as to jurisdiction to entertain the suit. On that application, the trial Court has held that the Plaintiffs must value the suit in accordance with Entry No.5 of the Schedule-I of Maharashtra Court Fees Act, 1959.

3 Perusal of Entry No.5 of the Schedule-I to the Maharashtra Court Fees Act, 1959 would indicate that every suit seeking setting aside of an alienation of immovable property is required to be valued to the extent of the valuation of alienation sought to be set aside. In that view of the matter, I do not find any error on the part of the Trial Court in directing the Plaintiffs to correctly value the suit and pay the deficit Court Fees. The Writ Petition being devoid of merits, is dismissed without any order as to costs.

(SANDEEP V. MARNE, J.)