IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4569 OF 2007

Ramchandra Anant Naniwadekar (Deceased)
By Lrs.-Manjusha Anant Yadnik & Ors. ...Petitioners

Versus

The Asst. Superintendent -
Civil Court (Senior Division),
Kolhapur & Anr. ...Respondents

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Ms. Dhanashree Bhate a/w. Mr. A. R. Gole i/by Mr. Vaibhav Patankar for the Petitioners.

Ms. A. P. Vanarse, AGP for the Respondent (State).

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CORAM : JITENDRA JAIN, J.

RESERVED ON : 7th OCTOBER, 2023.
PRONOUNCED ON : 10th OCTOBER, 2023.

Judgment:-

. This petition challenges an order dated 8th August 2006 passed by the learned Civil Judge, Senior Division, Kolhapur in Civil Miscellaneous Application No.121 of 2005, whereby the Petitioners were called upon to calculate court fees on the basis of the market value of the shares mentioned in the said Civil Miscellaneous Application No.121 of 2005.

2. **Brief Facts:-** The Petitioners made an application for grant of succession certificate in respect of shares of the

deceased-father of the Petitioners. On 19th September 2003, the succession certificate was granted by calculating court fees of Rs.12,220/- based on the face value of the shares specified in Schedule-A to the said application. Thereafter, on 4th April 2005, the Petitioners filed Civil Miscellaneous Application No.121 of 2005 for extension of succession certificate in respect of shares of 2 more companies which came to the notice of the Petitioners after the issue of succession certificate. The said Civil Miscellaneous Application No.121 of 2005 was allowed by the learned Civil Judge, Senior Division, Kolhapur on 28th April 2006 and on 2nd August 2006, the succession certificate was extended to the additional shares of these 2 companies. Later on the succession certificate dated 2nd August 2006 was recalled for the purpose of calculation of court fee on the market value as against the court fee paid on the face value of the shares which were subject matter of the succession certificate. Being aggrieved by the said recall, the present petition is filed for quashing of the recalling order.

3. Heard learned counsel for the Petitioners and the Respondents and have perused the records of the petition.

4. The short point which arises for the consideration of the Court is whether, the court fees for the purpose of succession

certificate should be calculated on the face value of the shares or the market value of the shares. In this connection, it is important to note that as per Schedule-I to the Maharashtra Court Fees Act for the purpose of succession certificate under the Indian Succession Act, 1925 the value of the security specified in the certificate should be considered and Note No.2 provides that the value of the security would be market value on the day on which the inclusion of the security in the certificate is applied for. Similarly, section 21 of the Bombay Stamp Act, 1958 provides for valuation of marketable securities and it states that where an instrument is chargable with ad-valorem duty in respect of any stock, such duty shall be calculated on the value of such stock according to the average price or the value thereof on the day of the date of the instrument.

5. In my view, the aforesaid provisions are clear that for the purpose of court fees for issue of succession certificate, it is the market value of the shares which should be considered for the payment of court fees and not the face value. It is not the case of the Petitioner that the market value of the shares on the date when the application for succession certificate was made is the face value.

6. In view thereof, there is no infirmity in the order passed by the learned Civil Judge, Senior Division, Kolhapur in recalling the succession certificate for the purpose of calculation of court fee on the market value of the shares, which were the subject matter of the succession certificate.

7. Petition is dismissed. No order as to costs.

[JITENDRA JAIN, J.]