

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7433 OF 2023

Pushpa Navin Delwadia

... Petitioner

Versus

Ranjanan Dharmaraj Chinchavle and Anr.

... Respondents

— —

Mr. Tejas Bhide for the Petitioner.

Mr. Shreepad Murthy with Mr. Abhishek Patil i/by Mr. P. G. Sawant
for Respondents.

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CORAM : SHARMILA U. DESHMUKH, J.

DATE : August 7, 2023.

P. C. :

1. The challenge in the petition was to the order dated 17.04.2023, rejecting the petitioner's application seeking return of plaint under Order VII Rule 10 of the Code of Civil Procedure, 1908, in view of the admitted valuation of the suit property being Rs.1,17,98,556/-. Subsequently, the pecuniary jurisdiction of the City Civil Court has been enhanced from Rs.1 Crore to Rs.10 Crores and as such, nothing survives for consideration by this Court.

2. Learned counsel for the petitioner submits that in the application seeking return of the plaint contention was also raised

as regards the prayer clause “C” of the counterclaim which according to the petitioner cannot form the subject matter of the counterclaim. He would further submit that by the prayer clause “C”, a declaration was sought as regards the tripartite agreement executed between the plaintiff, society and developers, who are not parties to the proceedings.

3. Considering that the application was filed seeking return of the plaint under Order VII Rule 10 of the CPC, the contention as regards the Order VII Rule 6-A(1) of the CPC cannot arise for consideration in the said application. The Petitioner may move an appropriate application before the trial Court, which application, the trial Court may consider on its own merits and in accordance with the law. All rights and contentions of both the parties are expressly kept open.

4. Needless to clarify that this Court has not gone into the merits of the matter and by virtue of enhance pecuniary jurisdiction, as now the counterclaim will lie before the City Civil Court.

5. In view of the above, writ petition stands dispose of.

(Sharmila U. Deshmukh, J.)