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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.126 OF 2021

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Ramesh Shridhar Joshi & Anr.

... Applicants

V/s.

Naresh Ramchandra Mittal & Anr.

... Respondents

Mr. Rohan Savant with Ms. Nipa Ghosh i/by Parinam
Law Associates for the applicants.

Mr. Vivek V. Salunke for the respondents.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 26, 2023

PC.:

1. The applicants are respondent Nos.1 and 2 in Regular Civil Appeal No.289 of 2018 arising out of said judgment and decree passed in Regular Civil Suit No.1425 of 1998 for specific performance and in the alternative damages.

2. Based on the objection raised by the applicants, issue No.5 was framed by the Trial Court regarding valuation of the suit. Considering principal relief of specific performance, the Trial Court held that the valuation of the suit for the purposes of court fee and jurisdiction is Rs.53 lakh. Based on the said valuation, appeal under Section 96 will lie before the District Court as under Section 28-A of the Maharashtra Civil Courts Act, 1869, appeal arising out of valuation less than Rs.1 crore shall lie before the District Court.

Since principal relief in the suit is for specific performance, alternative relief of damages irrespective of its quantum has no relevance while adjudicating the pecuniary jurisdiction of the Appellate Court. Hence, the Appellate Court has rightly rejected application of the applicants to transmit the appeal to the proper Court.

3. There is no error of jurisdiction. The civil revision application is rejected. No costs.

(AMIT BORKAR, J.)