

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR**

**Writ Petition (WP) No. 3060 of 2021**

Ram S/o Shridhar Ayachit

**Versus**

Kiran S/o Wamanrao Ayachit and others

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Shri Amit Choube, Advocate for the petitioner.

Shri M.P.Sagdeo, Advocate for the respondents.

**CORAM : ANIL S. KILOR, J.**

**DATED : 3<sup>rd</sup> JULY, 2023.**

In this writ petition, the order passed below Exhibit 66 moved by the petitioner under Order 7 Rule 11(b) of the Code of Civil Procedure (in short hereinafter referred as “CPC”) passed by 6<sup>th</sup> Joint Civil Judge, Senior Division, Nagpur rejecting the application, is under challenge.

2. Learned counsel for the petitioner submits that considering the prayers made in the suit filed by the respondent for declaration, permanent, perpetual and mandatory injunction. The suit was under valued and therefore the plaint needs to be rejected. It is submitted that Section 8 of Maharashtra Court Fees Act, 1959 (in short hereinafter referred as “Act, 1959”)

stipulates inquiry. It is submitted that the learned trial Court without conducting an inquiry has held that the suit is properly valued.

3. On the other hand, learned counsel for the respondent has drawn attention of this Court to the findings recorded by the learned trial Court while rejecting the application. He has submitted that the issue about the proper valuation of suit is a mix question of facts and law. It is submitted that the Court has therefore rightly held that the issue will be framed in this regard and after recording of the evidence the same is to be decided.

4. In the light of rival contentions of the parties, I have perused the record and the impugned order.

5. Section 8 of the Act, 1959 relates to inquiry as to valuation of suits, which says that 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 think fit for such purpose.

6. The words “may hold such inquiry as it think fit for such purpose” gives discretion to the Court.

In this case the trial Court by observing that the said point of under valuation will be decided after framing of an issue and after recording the evidence. It is a settled law that the issue in respect of valuation is a question of law and facts. The trial Court has exercised its discretion in a judicial manner. Hence, I do not find any merit in the present matter and accordingly it is dismissed.

**[ANIL S. KILOR, J.]**