



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL REVISION APPLICATION NO. 160 OF 2023**

Vijay Pralhad Baviskar

(Owner of Gat No.686/5)

Age: 49 years, Occu. Service & Agriculture,

R/o. "Ramraksha", Mundada Nagar,

Opp. Water Tank, Amalner,

Taluka - Amalner, Dist. Jalgaon.

..Applicant

(Orig. Defendant No.6)

Versus

1. Ravindra Gangadhar Mahajan
Age: 55 years, Occu. Agriculture & Business,
R/o. "Suyash", Plot No.59, Survey No.412,
Near Mehrun Talav, Opp. Saint Teresa School,
Shirsoli Road, Jalgaon, Taluka & Dist. Jalgaon.
2. Hemant Yadav Zope
Age: 51 years, Occu. Agriculture & Business,
R/o. 3/B, Patel Nagar, Near Bhagirath School,
Post Office Road, Behind Collector Bungalow,
Jalgaon, Tal. & Dist. Jalgaon.
3. The Collector Jalgaon, Jalgaon,
Tal. & Dist. Jalgaon.
4. The Sub Divisional Officer,
Amalner, Amalner, Taluka- Amalner,
Dist. Jalgaon.
5. The Tahsildar, Parola,
Tal. Parola, District-Jalgaon.
6. The Land Acquisition Officer,
National Highway No.6, Jalgaon,
Taluka & Dist. Jalgaon.
7. The Superintendent
of Land Records (City Survey),
Parola, Tal. Parola, District -Jalgaon.
8. Khandu Chindhu Bhil
Age: 80 years, Occu. Agriculture,
R/o. Bhabhalenag, Taluka - Parola,
District – Jalgaon.

..Respondents

(Nos.1 and 2 – Orig. Plaintiffs,
Nos.3 to 8 – Org. Deft.Nos.1 to
5 and 7.)

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Mr. Girish S. Rane, Advocate for the Applicant.

Mr. D. B. Bhange, AGP for Respondent Nos.3 to 7.

Mr. Anand I. Deshmukh, Advocate for Respondent Nos.1 and 2.

Mr. P. V. Barde h/f Mr. Amol S. Sawant, Advocate for Respondent No.8.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED 03rd DECEMBER, 2024.

P.C.:-

1. The applicant impugns order dated 06.09.2022 passed by Civil Judge Senior Division, Amalner, thereby rejecting application at Exhibit-38 in Regular Civil Suit No.79/2021.

2. The respondent nos.1 and 2 instituted Regular Civil Suit No.79/2021 before the Civil Judge Senior Division, Amalner. It is contention of the respondents (original plaintiffs) that land bearing Gut No.686/3 has been purchased by them under registered sale deed dated 30.12.2014. Since then, they are in possession of the land. The land is abutting to National Highway No.6, which is under widening by National Highway Authority. The Northern portion of the plaintiffs' land has been acquired by defendants, therefore, plaintiffs are entitled for compensation. However, defendant nos.6 and 7 in collusion with authorities are trying to grab the compensation. The plaintiffs have raised dispute with the competent authorities. However, cognizance of their complaint is not taken. The plaintiffs further contend that defendant nos.1 to 5 needs to be restrained from releasing compensation amount in favour of respondent no.6. Ultimately, prayer is made in the suit seeking declaration that defendant no.6 is not entitled to claim compensation towards acquisition of lands based on incorrect boundaries shown in the sale deed. Consequently, decree of perpetual injunction is also sought against defendant nos.1 to 5

from releasing any sort of compensation towards acquisition of land.

3. The applicant who is respondent no.6 appeared before the Court in pursuance to the suit summons and filed application under Order VII Rule 11(b) of the Code of Civil Procedure incorporating prayer that plaintiffs be directed to revalue the suit as per amount of compensation and pay Court Fees on said amount. In case, plaintiffs fails to pay Court fees as per valuation, plaint be rejected under Order VII Rule 11(b) of the Code of Civil Procedure.

4. The Trial Court after considering the submissions advanced by respective parties, concluded that averment in the plaint depicts that provision of Section 6(iv)(j) would apply in the suit and suit is appropriately valued. Therefore, rejected application.

5. Mr. Rane, learned Advocate appearing for the applicant relying upon the observation of the Division Bench of this Court in case of ***Gulam Mohamed Yunus and Another Vs. Lalchand Chelaran and Others***¹ (para no.12), ***Mohan Meakin Breweries Ltd. Vs. Oceanic Imports and Exports Corporation and Another***² (para no.6) and ***Vinod Vyankat Narsaiyya Gannu Vs. Sunil S/o. Diwakar Poshettiwar and Others***³ submits that complete reading of the plaint clearly demonstrate that plaintiff is interested in the compensation amount i.e. determined by authorities towards acquisition of land. He seeks prohibitory injunction against authorities from releasing said amount. The claim in the suit is camouflage, whereby prayer is incorporated for declaration and injunction without appropriately valuing the suit.

¹ AIR 1976 BOMBAY 389.

² 1980 Mh.L.J. 803.

³ 2004 (4) Mh.L.J. 245.

He would submit that under the pretext of suit of declaration and injunction, plaintiff is seeking prohibitory order from releasing compensation amount, which is already determined. Therefore, suit needs to be valued in terms of Article 7 of Schedule I of the Maharashtra Court Fees Act.

6. Per contra, Mr. Anand Deshmukh, learned Advocate appearing for respondent nos.1 and 2 justifies the order of Trial Court stating that plaintiffs are asserting their own rights in respect of land acquired for widening of highway and, therefore, till decision over such rights, decree of perpetual injunction is sought against release of compensation amount. According to him, suit valuation is appropriately made and Section 6(iv)(j) would govern the suit.

7. Having considered submissions advanced and law laid down by this Court in judgments referred above, the legal position that can be deduced is that if any complaint or petition seeks substantive relief, which otherwise capable of monetary gain or prevention of monetary gain, suit needs to be dealt with under Article 7 of Schedule I of the Maharashtra Court Fees Act. The objection as regards to valuation of suit appears to have been raised by defendant no.6 by filing application. However, Trial Court superficially looked to the pleadings and prayers in suit without getting into details of actual relief sought by the plaintiffs. The impugned order nowhere shows that Trial Court has applied its mind to the contents of plaint and nature and purport of actual relief sought. If upon reading of entire plaint, the Court comes to the conclusion that suit is susceptible to the monetary evaluation, although there is no specific claim as regards to amount, it is for the Court to see that suit is appropriately valued by applying

relevant Clauses of the legal provisions. The impugned order appears to be cryptic and sans reasons as to nature of actual purport of claim in suit. It would be, therefore, appropriate in the interest of justice to quash and set aside the impugned order and direct Trial Court to reconsider application below Exhibit-38 keeping in mind principle of law espoused by this Court in the judgments referred above. Hence, following order is passed:

ORDER

- a. Civil Revision Application is partly allowed.
- b. The impugned order dated dated 06.09.2022 passed by Civil Judge Senior Division, Amalner, thereby rejecting application at Exhibit-38 in Regular Civil Suit No.79/2021, is hereby quashed and set aside.
- c. The matter is remitted back to the Trial Court for reconsideration of application at Exhibit-38 by keeping in mind principle of law espoused by this Court in judgments referred in paragraph 5 of this order.
- d. The Trial Court shall expeditiously consider and decide the application, in any case, within a period of four months from today.
- e. Civil Revision Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE