

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12463 OF 2023

Manoj Anand Sonesar

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

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- Mr. Anand Mishra a/w. Mr. Sushil Upadhyay i./by Mr. Ashok Saraogi, Advocates for Petitioner.
- Mr. Girish Paryani i./by A & G Legal Associates LLP, Advocate for Respondent Nos.2 and 3.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 06, 2024

P.C.:

1. Heard Mr. Mishra, learned Advocate for Petitioner and Mr. Paryani, learned Advocate for Respondent Nos.2 and 3.

2. The order impugned in the present Writ Petition is dated 13.03.2023 passed below Exhibit-71 in Special Civil Suit No.297 of 2012.

3. The Defendant in the suit before the Trial Court sought issuance of directions to the Plaintiffs to pay *ad-valorem* fees on market value of the suit property in which declaration was sought.

4. It needs to be noted that suit is filed in the year 2012. As on date of the filing of the suit proceedings, it is contended by the Defendant that Valuation Report prepared by private Valuer employed by Defendant shows market value of Suit property as

Rs.2,36,40,000/-. In that view of the matter, the Court fee paid by Plaintiffs at the market value of the suit property being Rs.1,12,20,000/- is for a much lower market value and therefore directions were sought to pay the deficit Court fee. It is seen that the valuation of the property as per the ready reckoner is Rs.1,12,20,000/-. Plaintiffs have paid Court fees on the said market value. However it is contended by Defendant in the impugned Application that as per his Valuation Report submitted, the valuation of the property should be Rs.2,36,40,000/-. The learned Trial Court incidentally has observed that there has been similar Application in the past filed by the Defendant infact at different points of time culminating into the Application in which the impugned order is passed. The Trial Court has held that Defendant as per his choice is making different valuation of the suit property despite the suit being at the stage of cross-examination of Plaintiffs after more than 3 years in the Trial Court. Though learned Trial Court has held that Defendant is not sure about valuation of property, however in order to keep the issue raised by Defendant open, the learned Trial Court has in the impugned held that an additional issue to that effect would be framed and if so required parties would be at liberty to adduce evidence thereon for adjudication of the said issue.

5. In that view of the matter, the impugned order dated

13.03.2023 gives cogent reasons for deciding the Application filed below Exhibit-71 and also keep the contention of the Petitioner open. I therefore find no reason to interfere with the reasons which are *prima facie* correct according to me in so far determination of market value of the suit property is concerned, since it is based on the ready reckoner produced by the Defendant himself. The order dated 13.03.2023 is therefore sustained. All contentions of parties namely the Defendant in so far the issue of determination of market value of the Suit property is concerned, is kept open.

6. In view of the timeline stated above and at joint request of both the learned Advocates, the learned Trial Court is directed to determine the Suit as expeditiously as possible and in any event within a period of four months from today and the issue of determination of market value of property on the date of suit shall be determined by the Trial Court without being influenced by any of the observations and findings in the impugned order dated 13.03.2023 and strictly in accordance with law if any such issue is framed by the Trial Court.

7. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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