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

WRIT PETITION NO. 7627 OF 2013

Mangilal Ramchandra Bajaj

.. Petitioner

Versus

Ramnivas Basilal Bajaj & Ors.

.. Respondents

Mr. Abhishek T. Ingale i/by Umesh Mankapure for petitioner.
Mr. A. V. Hardas i/by Mr. S. S. Patwardhan for respondents.

CORAM: ALOK ARADHE, CJ.

DATE: 22nd JULY, 2025

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ORAL ORDER:

1. In this petition filed under Article 227 of the Constitution of India, petitioner/defendant has assailed the validity of the order dated 8th July, 2013 passed by the trial court by which application preferred by the petitioner under Order VII Rule 11(b) of the Civil Procedure Code, 1908 (CPC) has been rejected.

2. Facts giving rise to filing of the instant writ petition, in nutshell, are that the respondents/plaintiffs had filed civil suit, i.e., Regular Civil Suit No. 880 of 2012 seeking declaration of title and injunction. In the aforesaid civil suit, petitioner/defendant filed an application under Order 7 Rule 11(b) of the CPC, *inter alia*, on the ground that relief claimed in the suit has not been properly valued. The trial court vide impugned order rejected the aforesaid application. Hence, this writ petition.

3. Learned counsel for the petitioner submits that the suit filed by the respondents/plaintiffs falls under Section 6(iv)(d) and not under Section 6(iv)(j) of the Maharashtra Court Fees Act, 1959. The learned counsel for the respondents has supported the order passed by the trial court.
4. I have considered the submission made by the learned counsel for the petitioner. The aforesaid issue has not been dealt with by the impugned order. The issue as to whether the relief claimed in the plaint is undervalued is a mixed quest of law and fact. The issue as to whether the suit filed by the respondents/plaintiffs falls under Section 6(iv)(d) or 6(iv)(j) of the Act of 1959 is kept open, which is to be dealt with by the trial court while deciding the suit on merits.
5. Accordingly, the writ petition is disposed of.
6. Let a copy of this order be sent to the trial court.

(CHIEF JUSTICE)