

Order Below Exh.64 in R.C.S No. 33/2013

Defendant No. 1 to 4 moved present application Under Order 7 Rule 11 of C. P. C. and prayed for rejection of plaint as plaintiff failed to pay requisite court fees for the relief of declaration in respect of sale deeds. Plaintiff filed say and submitted that application is not tenable being false.

Perused record. Heard both learned Advocates. I have relied on following ratios of Hon'ble Bombay High Court.

1- Common Piru Chaudhari Vs. Berubai Chendu Redhiwale (2017 ALL MR 283)

2. Ravindra Narayan Rajarshi & other Vs. Smt. Rohini Ganpatrao Heblkar passed by Hon'ble Bombay High Court on 31 July 2017 in Civil Application No. 339/2016.

Above both ratios of Hon'ble Bombay High Court clarified that the consequential relief of declaration that subsequent sale deed is void and not binding on him is not susceptible to monitory consideration and therefore it shall be valued under section 6 (iv) (j) of Bombay Court Fee Act. Further in Ravindra's case (cited supura) Hon'ble Bombay High Court clarified that the case of Prism Reality is having different facts. Further it is held that the principle laid down in the Suhrid Singh by Hon'ble Apex Court that if the person is not executant of the document and prays for the relief that the said document is declared to be void and not binding on him, then, he is not to be required to pay court fees, is the law of the land.

(2)

In case at hand, suit is for partition and separate possession along with declaration that sale deeds executed by defendant No. 1 to 6 in favour of other defendant during pendency of suit are not binding. Further partition deed not binding. Main relief sought by plaintiffs is the partition which is on the basis of theory of ancestral property. During pendency of suit number of sale deeds of partly suit property came to be executed by defendants in favour of other defendants. Moreover, plaintiffs are not party to the under challenged partition deed. In such circumstances as per above ratios, plaintiff need not pay court fee for the relief of declarations in respect of sale deeds and partition deed as per section 6 (iv) (ha) of Bombay Court Fee Act. Even valuation of 2/6th share of plaintiffs has been made proper by plaintiffs. In such circumstance I have no hesitation to hold that plaintiff has properly valued the suit and paid requisite court fee. Thus I do not find any merit in present application. As a result, application is rejected.

Sd/-

Date:-12/4/2018.

(V.G.Karmore)
3rd C.J.J.D, Vaijapur.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file judgment /order are same, word to word, as per the original judgment.

Name of the Stenographer : S. D. Chavan

Court : 3rd Court, Vaijapur.

Date : 12-4-2018

Judgment signed by the
presiding officer on : 12-4-2018
Judgment uploaded on : 12-4-2018.