

Regular Civil Suit No. 34/2013.
Limbabai & others V/s. Kusum & others.
CNR No : MHBI060002332013.

ORDER BELOW EXH - 175.

Through this application defendants are praying direction of this Court to the plaintiff to correct the valuation of the suit as per the amendment carried vide order below Exh. 46 and 100 in the plaint. Before moving ahead it is worth to mention that prior to this, the defendants have moved an application vide Exh. 159 under Order 7 Rule 11 of C.P.C. on two grounds that the suit is not properly valued by the plaintiff and this Court has no jurisdiction to try the suit in view of its pecuniary jurisdiction. Needless to mention that this Court vide order below Exh. 159 has held that not only the suit is properly valued by the plaintiff but also, this Court has jurisdiction to try this suit. Further it is to be stated that feeling aggrieved by the order below Exh. 159 the defendants have preferred Revision Application no. 96 of 2024 before Hon'ble Parent High Court wherein the Hon'ble Parent High Court was pleased to uphold the findings of this Court.

2] After the decision of Hon'ble Parent High Court in Revision Application, this application came to be filed. Now, the Ld. Counsel for defendants tried to differentiate the applications i.e. application at Exh. 159 and present application submitting that the application at Exh. 159 was prayed to settle preliminary issue as to valuation of the suit property and through this application the directions of Court is prayed to correct the valuation of the suit in terms of amendment in claim vide order below Exh. 46 and 100.

3] It is worth to mention that, I failed to differentiate between the prayer at Exh. 159 and present application. At the lighter note, I am to state that the defendants are trying to sale the old product with the new packages. The clever drafting and clever skills of advocacy will not going to change the nature of both the applications. Indeed, I am of candid and firm view that the same application again cannot be adjudicated sitting over the order of Hon'ble Parent High Court.

4] So far as concern to the amendment at Exh. 100 undoubtedly with all fairness, the Ld. Counsel for defendants highlighted that the plaintiff has not paid the Court Fee on the valuation of the house property which she is bound to be paid. Being in complete agreement with the submissions of Ld. Counsel for defendants, I am also of the same view that plaintiff is required to pay the Court Fee on house property which is added after amendment vide order below Exh. 100. However, at no stretch of imagination in view of the order of Hon'ble Parent High Court, this Court can direct to plaintiff to correct the valuation as per the amendment vide order below Exh. 46 which has already been adjudicated by this Court as well by the Hon'ble Parent High Court.

5] Concluding the order, it is worth to mention that the suit is more than 10 years old, both the parties have closed their evidences, even the plaintiff finally argued the suit and when the defendants are called upon to argue the suit finally Exh. 159 has been preferred and now this application has been preferred. Needless to mention that the payment of the court Fee and its recovery is the exclusive issue

between the Court and the plaintiff for which defendants need not bother. In fact, the defendants have not locus-standee to compel the Court to issue any direction to the plaintiff. I am unable to understand the fact that, in case the plaintiff has not paid the Court Fee in that case what the prejudices the defendants are going to be faced. No doubt, the plaintiff is duty bound to pay the Court Fee which is mandatory and obligatory and which will be lawfully recovered even after the judgment whether plaintiff succeed or not. But, for that, the trial of such an old suit cannot be delayed for deciding such sort of interlocutory applications one after another. Hence, with the observations, I reckon to pass following order;

:: ORDER ::

- 01.** Application is partly allowed with costs of ₹ 1,000/-
- 02.** Plaintiff to correct the valuation in view of amendment below Exh. 100 immediately.

Place : Ambajogai.
Date : 04/09/2024.

(Z. Z. Khan)
Jt. Civil Judge (Junior Division),
Ambajogai (MHBI06-2196)