

MHBU100008612023



R.C.S. no.46/2023

Vasudeo Bhagat

V/s.

Radheshyam Agrawal

**ORDER BELOW EXH.15**

Perused the application and say filed. Heard Shri S. R. Tarkase, the learned Counsel for the defendant and Shri S. G. Kulkarni, the learned Counsel for the plaintiff.

2. This is an application filed by the defendant for rejection of the plaint. The case of the defendant in short is as follows :

The plaintiff has to assess the suit for the purpose of valuation and court fees for each relief and pay aggregate court fees. The suit property is residential property situated in the cream area of Malkapur. The plaintiff is seeking declaration of his title over the suit property by adverse possession along with the relief of perpetual injunction and he ought to have valued the present suit as per the provisions of Section 6(iv)(d) of the Bombay Court Fees as per the market value of the suit property. On 17/06/2023 i.e. on the date of the suit, the value of the suit property was more than Rs.10 Lakhs and, therefore, the plaintiff was bound to pay court fees of Rs.24,430/- for the relief of declaration and Rs.1,000/- for the relief of injunction. However, the plaintiff deliberately misled the Court and paid Court fees of Rs.400/- without giving any description of assessment. The valuation of the suit is beyond the pecuniary jurisdiction of this Court. He, therefore, prayed for direction to plaintiff to assess the valuation of

the suit for Rs.10 Lakhs. He further prayed for returning the plaint as valuation of the suit is exceeding the pecuniary jurisdiction of this Court. He further prayed for rejection of the plaint, on failure of the plaintiff to pay the necessary court fees.

3. The plaintiff opposed this application by filing his say vide Exh.18. In short, the case of the plaintiff is as under :

The plaintiff has paid proper court fee. Since the date of the purchase of the suit property by the defendant, it is in the possession of the plaintiff and, therefore, if the suit property is valued, that should be valued for Rs.13,000/- i.e. the sale consideration, because from that date, the suit property is in possession of the plaintiff. Therefore, there is no question of valuation. The plaintiff has not sought possession and injunction in this suit. If these prayers were to have sought by the plaintiff, the Court fees as demanded by the defendant ought to have been paid by him. In this suit, there is no question of susceptibility of monetary evaluation and the plaintiff is only seeking declaration to his continuous possession since 15/03/1993 and no monetary dispute is involved. Therefore, the provisions of Section 6(IV)j is applicable in this case and the plaintiff has paid Rs.200/- Court fee properly on Rs.1,000/-. In the alternative, it is prayed that if the Court decides that the Court fee is less, then the plaintiff is ready to pay the court fee as per order of the Court.

4. As per S.6(iv)(d) of Court Fee Act, when the suit is filed for declaration in respect of ownership or nature of title, right of immoveable property, one fourth of ad valorem fee is leviable for a

suit for possession on the basis of title of the subject matter, subject to a minimum fee of one hundred rupees. Provided further that in any of the cases falling under this clause except its first proviso, when in addition any consequential relief other than possession is sought, the amount of fee shall be one half of ad valorem fee and when the consequential reliefs also sought include a relief for possession the amount of fee shall be the full ad valorem fee.

5. In ***Saraswatibai Bishwambarlal Charity Trust, Thr. Sudarshan Malpani And Ors vs. Gopal Traders Pvt. Ltd;*** (2023) 11 BOM CK 0012, the Hon'ble Bombay High Court has discussed about the applicability of the Section 8 of Suit Valuation Act, 1887 to State of Maharashtra. It is held in the said case that “*where in suits other than those referred to in the Court-fees Act, section 6, paragraphs v, vi and ix, and paragraph xi clause (d), court-fees are payable ad valorem under the Court-fees Act, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.*” The Hon'ble Bombay High Court relied upon The Maharashtra Suits Valuation (Determination of Value of Land for Jurisdictional Purposes) Rules, 1983 regarding the same. Originally Section 8 of Suit Valuation Act, 1887 refers to Section 7 of Court Fee Act 1870, but as per the above mentioned observation and the Rules of 1983, the provisions of Section 8 of Suit Valuation Act, 1887 are made applicable to section 6 of Maharashtra Court Fees Act. Therefore, I hold that the provisions of Section 8 of Suit Valuation Act, 1887 are applicable to Section 6 of Maharashtra Court Fees Act as clarified above. Therefore, Section 8 of Suit Valuation Act, 1887 has to be read

accordingly. Section 8 of Suit Valuation Act, 1887 as applicable to State of Maharashtra, reads as under :

*Court-fee value and jurisdictional value to be the same in certain suits.- Where in suits other than those referred to in the Court-Fees Act, section 6, paragraphs v, vi and ix, and paragraph xi, clause (d), court-fees are payable ad valorem under the Court-fees Act, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.*

6. In this case, the suit is filed for declaration that the plaintiff has become owner of the suit property by adverse possession and for perpetual injunction. Therefore, as per third proviso to Section 6(iv)(d), as the plaintiff is seeking declaration and consequential relief of perpetual injunction, which is other than the relief of possession regarding the suit property, one half of ad valorem fee is leviable on the valuation of the suit property.

7. The defendant has produced on record ready reckoner of the suit property of the year 2024, which shows the valuation of the suit property to Rs.5,10,750/-. The same was disputed by the learned Counsel for the plaintiff. Therefore, the defendant has again produced on record fresh ready reckoner of the suit property dated 09/10/2023, which shows similar valuation including sheet no.22, plot no.14. Again, the learned Counsel for the plaintiff disputed the said ready reckoner stating that it bears plot no.14 and the plot number of suit property is 29 in Survey No.143/2. As against this, the learned Counsel for the defendant produced the copy of sale deed of Trimbak Madhav Bhole of the suit property,

who is erstwhile owner of the suit property. The said sale deed shows the suit property number as Survey No.143/2, Sheet no.22, Plot no.29 in plot no.14. Therefore, I find that the ready reckoner produced by the defendant is of the suit property.

8. As discussed above, as one half of the ad valorem fee is leviable on the value of the suit property, the plaintiff is liable to pay one half of the ad valorem fee on the value of the suit property. The value of the suit property as mentioned above is Rs.5,10,750/-. Therefore, the plaintiff has to pay one half of the ad valorem fee i.e. Rs.7,690/- for Rs.2,55,375/-. Plaintiff has paid Court fee of Rs.200/- for the relief of declaration. Hence, he has to pay more Rs.7,490/- for the said relief. The plaintiff has paid Court fee for the relief of perpetual injunction. Therefore, no comment is made on the same.

9. The present suit is not falling in the category of the suits as mentioned in section 6 paragraphs v, vi and ix, and paragraph xi clause (d) of Maharashtra Court Fees Act. Therefore, as observed above, as per Section 8 of Suit Valuation Act, the court fee is payable on Rs.2,55,375/- and therefore, the suit is actually valued at Rs.2,55,375/-. Therefore, the value for the suit is Rs.2,55,375/-, which should also be the value for jurisdiction of the Court as per Section 8 of the Suit Valuation Act. Therefore, as the said amount is not exceeding the pecuniary jurisdiction of the Court, the suit is maintainable before this Court.

10. As per Section 6(iv)(j) of the Maharashtra Court Fees Act, in suit where declaration is sought, with or without injunction

or other consequential relief and the subject matter in dispute is not susceptible to monetary evaluation and which are not otherwise provided for by this Act, ad valorem fee is payable, as if the amount or value of the subject matter was one thousand rupees.

11. In this case, the suit property being house property is susceptible to monetary evaluation as declaration of ownership is sought and the plaintiff is liable to pay the court fees as section 6(iv)(d) of the Maharashtra Court Fees Act. Therefore, the contention of the plaintiff that the subject matter of the suit is not susceptible to monetary relief is rejected.

12. For the discussion made supra, the application is liable to be partly allowed. In the result, following order is passed :

**ORDER**

1. The application is partly allowed.
2. The plaintiff is directed to pay Rs.7,490/- deficit Court fee on or before next date, failing which the plaint is liable to be rejected.

Date : 09/02/2024

**(S.M. Aher)**  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Malkapur.