

**R.C.S. No. 11/2024
Nandabai Meshram Vs.
Bhagwan Wanjari.**

ORDER BELOW EXH. 16

1. This is an application filed by defendants under section 8 of The Maharashtra Court fees Act, 1959 (said act) seeking to conduct inquiry for determination of court fees affixed by the plaintiff.
2. The application is opposed by the plaintiff by filing reply at **Exh. 18.**
3. Perused plaint, application, say and record of case. Heard Ld. Advocate appearing for both sides.
4. It is averred that the plaintiff has sought relief of possession along with declaration, perpetual and mandatory injunction. While the plaintiff has paid court fees regarding the reliefs of declaration and injunction, no court fees have been affixed specifically for the relief of possession. Therefore, it is necessary to hold inquiry for under aforesaid section for determination of proper court fee.
5. The defendant opposed application on the ground of being false and baseless. It is contended that the suit is properly valued in as much as the defendant has closed the road by encroaching upon land. Hence, application is liable to be rejected.
6. Upon perusal of plaint, it is evident that there is specific

pleading that the defendants have made encroachment on suit property and plaintiff has made prayer for obtaining said possession. However, the plaintiff has valued suit for Rs. 1000/- each for declaration, mandatory and permanent injunction. It appears that the said valuation is made as per section 6(iv)(j) of The Maharashtra Court Fees Act, 1959 which provides for ad valorem fee payable, as if value of subject matter is rupees one thousand in a suit where declaration with or without injunction and **subject matter in dispute is not susceptible of monetary evaluation**. In the present matter, the prayer for possession involves a subject matter that is clearly susceptible to monetary evaluation. Consequently, the suit must be valued according to the market value as prescribed under **Section 6(v) of the Act**, rather than the fixed valuation under Section 6(iv)(j). The question of enquiry under section 8 will arise when there is dispute regarding correctness of stated market value of suit property, however in present case the suit is not at all valued on basic of market value. Therefore, direction for an inquiry under Section 8 will be pre-mature. As the plaintiff has failed to value the suit based on market value entirely, the immediate requirement is a direction to correct the valuation rather than conducting a formal inquiry. Accordingly, I proceed to pass following order :-

ORDER

1. The plaintiff is directed to re-value the suit property in accordance with **Section 6(v)** of the Maharashtra Court Fees Act, 1959.

(3)

2. The requisite court fees shall be paid within **30 days** from the date of this order.
3. Failure to comply with this direction shall result in the rejection of the plaint under **Order VII Rule 11** of the Code of Civil Procedure.
4. Application at Exh. 16 is disposed of in the above terms.
5. Cost shall follow the event.

Date – 11/3/2026

(A. S. Agrawal)
Jt. Civil Judge Junior Division,
Tirora