

MHKO110015232017



Reg.Civil Suit No.159/2017
(CNR No.MHKO110015232017)

Order below Exh.30

1. This application was filed by the defendant No.1 and 2 under Order VII Rule 11 of The Code of Civil Procedure for rejection of plaint.

2. The defendants have submitted that, the plaintiff has filed the suit for partition, separate possession and perpetual injunction. The defendants have submitted that, the suit is not properly valued. The plaintiff has falsely mentioned the valuation of the house property i.e. C.S.No.432 as Rs.50,000/-, which is false valuation of the said property. She has not paid the proper Court fees as per the market value of the above mentioned property. Hence they prayed to reject the plaint.

3. On the other hand the plaintiff has filed her say at **Exh.31** and denied the contentions made in the application. She submitted that, the suit is properly valued and accordingly proper court fees has been paid. She further submitted that, as per The Bombay Stamp (Determination of True Market Value of The Property) Rules 1995, procedure has been laid down as to how to determine the valuation of the suit property. It is further submitted that, "The Collector of the District may if he thinks fit so to do (a) record the statement of the person - (i) call for any information or record from any public office record statement from member of the public officer (b) call upon parties to be present on the date as the case may be. (3) On hearing of the parties and considering the objections if any received in writing and all

the relevant factum and evidence placed before him at the hearing of the matter or otherwise the Collector of the District shall pass an order determining the true market value of the property. "

4. The plaintiff further submitted that, the defendants have to prove how the valuation of the suit is not proper. The entire written statement of the defendants is silent upon how the valuation of the suit is improper. Further she submitted that, the application is not maintainable and deserves to be rejected. Hence she prayed to reject the application.

5. Heard both sides. Perused the record and documents. On perusal, it reveals that, the plaintiff has filed the suit for partition, separate possession and perpetual injunction. The plaintiff has claimed her 1/5th share in the properties as mentioned in para 1 of the plaint. The plaintiff has paid court fees of Rs.301 for her 1/5th share in the agricultural properties. She has also paid Rs.1,000/- for her 1/5th share in the house property i.e. C.S.No.432. She has submitted in her plaint that, the market value of the house property i.e. C.S.No.432 is approximately Rs.50,000/- and she has claimed 1/5th share in the said house property and accordingly has paid court fees of Rs.1,000/-. On the other hand, the defendants have only challenged the valuation of the said house property - as mentioned in their written statement. The defendants have merely stated that, the valuation of the house property i.e. C.S.No.432 is totally false, therefore to save the court fees, the plaintiff has falsely mentioned the valuation of the said house property accordingly and has paid insufficient court fees.

6. The defendants have failed to mention the current market value of the house property i.e. C.S.No.432. Further the defendants have filed valuation chart alongwith **Exh.54**. On perusal of said chart, it reveals that, the value of open and constructed property situated at

village Wathar Tarf Udgaon goes upto Rs.2,36,034.48 paise. The Ld. Counsel for the defendants submitted that, as per the above mentioned market value, the plaintiff has not valued the house property i.e. C.S.No.432 and has paid insufficient court fees. On perusal of the said valuation chart, it nowhere mentioned the number of the property. More particularly it is general chart and it nowhere discloses any relation as to the house property i.e. C.S.No.432. The defendants have merely taken the objection as to insufficient court fees by the plaintiff. It is their duty to mention and to prove the current market value of the house property i.e. C.S.No.432. The defendants have failed to submit the supporting evidence as to their contentions. Hence the application is devoid of merits and deserves to be rejected. Accordingly I pass the following order.

ORDER

The application is rejected.

Date : 10/08/2020

(J. S. Gaikwad)
Civil Judge Junior Division,
Peth-Vadgaon

I affirm that, the contents of the P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Sou.K.S.Gaikwad
Name of the Court	J. S. Gaikwad, Civil Judge Junior Division, Peth Vadgaon
Date of Dictation	10/08/2020
Order signed by the P.O. on	12/08/2020
Order uploaded on	12/08/2020