



Jingonda Chougule etc. Vs. Smt.Anjana Chougule etc.

CNR - MHKO130005782021

ORDER BELOW EXH. 18 IN R.C.S.NO. 120/2021

1. This application is filed by defendants under Order 7 Rule 11(b) of Code of Civil Procedure.
2. It is submitted by defendants that, in the present matter the plaintiff has claim the relief to declare the sale deed as non binding upon his preemption right, executed by defendant no. 7 in favour of defendant no. 1 to 4, executed on 05/07/2021 vide deed no.1330/2021. According to defendants, in the above said sale deed consideration amount is of Rs.11,91,000/-. Therefore, the plaintiff has to pay court fee upon said amount. Whereas by misleading the court the plaintiff has paid less court fee. Therefore, the suit is not maintainable in accordance with above provisions. Hence, prayed to allow the application. Alternatively, it is prayed to direct the plaintiff to pay appropriate court fee
3. The plaintiff has filed his say below Exh. 19 and submitted that, he is seeking only declaration of sale deed executed on 05/07/2021 as to non binding in nature upon his rights. Therefore, there is no need to pay the court fee upon sale consideration amount. It is argued that, the plaintiff is not party to that sale. Consequently, only section 6(iv)(j) of Maharashtra Court Fees Act will be applicable in this matter. Hence, he has paid appropriate court fee. Thus, accordingly prayed to reject the application.
4. Perused the application and say filed thereon. Heard learned advocate for both sides. Recently Hon'ble Bombay High Court in the case of **Writ Petition No. 8968/2018 of Dilip Khushalchand (Srisrimal) Jain etc. Vs. Hardik Deepakbhai Ramani etc.** has laid

down that,

“suit for declaration of the sale deed to which the plaintiff is not a party to the sale deed binding on him and for consequential injunction would be governed by Section 6(iv)(j) of Maharashtra Court Fee Act”.

5. Further, Hon'ble High court also made reference of the Judgment of **Common Piru Caudhari Vs. Berubai Chendu Redhiwale and others** cited by learned advocate of plaintiff. Admittedly, the plaintiff is not party to the sale deed. Moreover, he is seeking declaration of sale deed as to non binding on him. Therefore, the ratio laid down in above case is applicable to the facts and circumstances of this case. Thus, the plaintiff has paid court fee in accordance with law. Thus, the application is devoid of merit. Hence, application is rejected.

Kagal.
Date:- 12/10/2022.

(B. D. Gore)
Civil Judge Junior Division,
Kagal.