

Regular Civil Suit No.37/2017
Manjulabai Vs. Ganpat

ORDER BELOW EXHIBIT - 68

(Passed on this 26th day of November,2021)

1. Present application is filed by the defendant under Order 7 Rule 11 of Civil Procedure Code for under valuation, non payment of proper court fees. It is submitted that the plaintiff is filed the suit for declaration, partition, separate possession and permanent injunction. The plaintiff has claimed that she is the daughter of Janabai Ramteke and by virtue of said relationship claiming ownership of suit property. The suit property admeasuring area of 896 sq. ft. The plaintiff is claiming possession over 896 sq. ft. as well as declaration of ownership of suit property therefore suit is needs to be valued under Order 6 (iv) (d) of the Maharashtra Court Fees Act. However, the market value of he suit property is about 6 to 8 lacs. Therefore suit is needs to be properly valued. The plaintiff out to be paid proper court fees upon the proper value. Present suit is filed beyond the jurisdiction of this Court, therefore this suit is not maintainable and liable to be rejected.

2. On the contrary the plaintiff filed say at Exh.17. The plaintiff denied all the submissions of the defendants. The plaintiff contended that the suit is rightly and properly valued. The defendant no.8 is deliberately delaying the matter by filing frivolous application therefore, requested to reject the application with compensatory costs.

3. I heard the learned advocate Shri. P.S. Sayare for defendant. He argued and invited my attention towards prayer clause of the

plaintiff. In this context the plaintiff has claimed declaration of ownership over 896 sq. ft. as well as cancellation and declaration of sale deed. And lastly the plaintiff has claimed possession of 896 sq. ft. of the suit property. He further argued that and invited my attention towards Section 6 Clause (iv) (d) of Maharashtra Court Fees Act. By virtue of this Section the suit is needs to be valued as per market value and full court fees shall pay upon the said market value. Further he invited my attention towards redi-recnor of the suit property for the year 2020-2021. In this context he argued that valuation of suit property is near about 15,76,585/-. Therefore the plaintiff out to be valued suit properly as per market value. The plaintiff deliberately avoided to give proper valuation of the suit property as per rule and bring this suit within jurisdiction of this Court. Therefore he requested to allow the application.

4. On the other hand Advocate Shri. Paliwal for the plaintiff argued that the plaintiff is applying delaying testis by frivolous application. Further he argued that the original suit was filed bearing number RCS 57/2016 which was withdraw on 19/08/2017 with liberty to file fresh suit. Later on present suit is came to be filed.

5. Further he argued that redi-reconer is filed for the year 2020 but the defendant out to be show valuation of the suit in the year 2016. Further he argued that the valuation of the suit is needs to be considered for the year 2016 and not for the 2020-2021. Previously Parseoni village constituted under Gram Panchayat and later on converted into the Nagar Panchayat. Therefore, market value of the

properties fall within area of Parseoni rise in the year 2018 and thereafter. The plaintiff has properly valued the suit which is applicable for the year 20156.

6. Considering submissions of both sides and gone through case papers before parting with the reason it is needs to be reproduced relief sought by the plaintiff. Prayer Clause – 11

7. Now I perused the pleading of the plaintiff, it appears that the defendant have executed registered sale deed bearing no.905/2016 through power of attorney holder Raju Bhojankar. The plaintiff is claiming right of ownership through their parents therefore, the plaintiff has constrained to file this suit. Now I perused valuation clause of the plaint which shows that the suit claim is valued for Rs.1,76,870/-. Now I perused sale deed executed by the defendant which shows that the suit property is shown Rs.1,59,000/- and said sale deed is executed for the same value. Therefore it is crystal clear that the market value of the suit property was not more than Rs.1,60,000/- or even Rs.2,00,000/- in the year 2016. Valuation report or redi-reconer report filed by the defendant shows that the market value is given for the year 2020 – 2021.

8. Considering all the facts and circumstances I am of the view that the is needs to be valued as per market value for the year 2016. The defendant did not show any material thing or brought any material on record that the market value of the suit is more than Rs.2,00,000/-. In such circumstances I do not find any reason to interfere in the

valuation made by the plaintiff. Hence, this application is deserves to be rejected. For the aforesaid reason I am passing following order:-

Order

1. The application Exh.68 is hereby rejected.
2. Costs in main cause.

Parseoni.
Date:-26/11/2021

(O.J. Kulkarni)
Civil Judge, Junior Division,
Parseoni.