

Order below Exh. 37

Perused the application, say of plaintiff thereon, entire record before me and heard both parties at length.

2. Present application has been filed by defendant no. 12 and 13. According to them it is pleaded by plaintiff that alienation of the suit properties made by their forefather are not binding on them. Therefore, plaintiffs are required to pay requisite court fees regarding those transactions. Accordingly, these defendants have prayed that plaintiffs be directed to correct the valuation. Plaintiffs opposed the application by filing say contending that they have not parties to sale deed in issue. They have already paid court fees as per Section 6(ha) of Maharashtra Court Fees Act. As per consideration of said sale deed. Therefore, they are not required to pay more court fees.

3. In plaint it is mentioned that sale deed no. 78/1987 is not binding on plaintiffs and they have paid court fees on consideration amount of Rs.13,000/-. This is suit for partition and declaration. Hon'ble Bombay High Court in **Anjanabai Bahirat and others Vs. Bajirao Talekar writ petition 7879/2015 (decided on 05 March 2018)** after discussing several earlier judgments has held that in the suit for partition and separate possession, when the valuation of the suit property is already made under Section 6 (VII) of the Maharashtra Court Fees Act, it is not necessary to pay the court fees on the market value of the sale deeds. In view of this judgment, it has to be said that plaintiff has valued the suit properly. Hence, I hold that present application deserves to be rejected. In the result following order -

O R D E R

Applications stands rejected.

Sd/-

Date : 31.08.2018

(A.G.Deshingkar)
Jt. Civil Judge S.D., Bhoom