



ORDER BELOW EXH.87

1. I have perused the application and the say filed by plaintiff. I have heard arguments of both the sides. Record perused.
2. This is an application under Order 7 Rule 11 of CPC filed by defendant no.2 to 4 for rejection of plaint. In this application, it is alleged by the defendants that, as per prayer clause (d) of the plaint, the plaintiff is seeking relief regarding declaration that the three sale-deeds mentioned thereunder are bogus and illegal. It is also alleged that, thus the plaintiff is seeking cancellation of these three sale-deeds. Therefore, the plaintiff is required to value the suit for the three sale-deeds as per their consideration amounts as per Sections 6(iv) (ha) of the Maharashtra Court Fees Act.
3. The plaintiff submitted her say below Exh.89 and resisted the application on various grounds. It is submitted by her that, the plaintiff has not sought relief regarding cancellation of the sale-deeds and hence there is no need to value the suit as per contentions of these defendants.
4. If the prayer clause (d) of the plaint is seen it appears that the plaintiff has sought declaration that the three sale-deeds



are bogus and illegal. Thus, the contention of defendants that the plaintiff has sought declaration about cancellation of sale-deeds is out of context.

5. If the other averments in the plaint are seen then in paragraph no.8 and 13 of the plaint the plaintiff is seeking declaration that the sale-deeds are not binding upon them. The plaintiff also pleaded therein that, their consent was not obtained for such sale-deeds etc. In the present application it is not the case putforth by defendant no.2 to 4 that the plaintiffs are signatories to the three sale-deeds.

6. The counsel for defendants relied upon a citation in the case of Sandeep Maruti Jagdale Vs. Ramdas Hiranman Ambekar, arising out of Civil Revision Application No.200/2014 decided on 03/09/2018. The counsel for defendants also passed a pursis on record at Exh.93. Mr. Londhe on previous date orally made a statement that, the defendants are relying upon this citation only. I have perused this citation. In paragraph no.2 of this citation the plaintiff had filed a suit for declaration that the sale-deed therein be declared illegal and void etc. If paragraph no.3 of this citation is seen then it is mentioned therein that, the original plaintiffs were not the parties in the said sale-deed. The Hon'ble High Court of Bombay has dismissed the Civil Revision



Application. The circumstances and facts in that citation are appearing to be almost similar in the present case. So also, I am considered the observations of the Hon'ble High Court made in paragraph no.7 of this citation.

7. On the contrary, the counsel for plaintiff relied upon citation in the case of Niraj S/o Narendra Walle Vs. Vijaya Narendra Walle, reported in 2017 (4) MhLJ 402. I have perused this citation. In paragraph no.5 in the last paragraph the Hon'ble High Court of Bombay observed that, the plaintiff is admittedly not executant of the sale-deed etc. In that citation also the plaintiff was not executant of the sale-deed. Therefore, the Hon'ble High Court with reference to judgment of Hon'ble Supreme Court in the case of Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others observed that the plaintiff is not liable to pay the ad valorem court fee as per Section 6 (iv) (ha) of the Maharashtra Court Fees Act.

8. Therefore, after perusing the citations, pleadings in the plaint and aforesaid discussion I came to the conclusion that plaintiff is not required to pay court fees as per Section 6 (iv) (ha) of the Maharashtra Court Fees Act.

9. However, if the valuation clause 16(a) of the plaint is perused then it appears that there is no mentioned about valuation



of the declaration about the three sale-deeds. As per law, the plaintiff is required to mention in the valuation clause of the plaint the valuation about declaration of these three sale-deeds. But, plaintiff failed to do so. Hence, I am of the considered view that direction is required to be given to the plaintiff to value the relief of declaration about the three sale-deeds as per Section 6(iv)(j) of the Maharashtra Court Fees Act and to pay appropriate court fees thereon. The upshot of the aforesaid discussion is that the application deserves to be allowed in the following manner.

ORDER

1. The plaintiff is directed to value the three sale-deeds as described in prayer clause (d) of the plaint and to pay court fees thereon as per Section 6(iv)(j) of the Maharashtra Court Fees Act, within a period of 10 days from today.
2. If the plaintiff fails to obey the above direction within the given time then necessary order would follow.
3. No order as to costs.

Dt.20/03/2024

(**Md. Taher Bilal**)
Civil Judge J.D., Saswad.



CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word for word as per original Judgment.

Name of Steno : S. S. Gupte, Stenographer, (Grade III)

Court Name : Shri. Md. Taher Bilal
Civil Judge Jr. Division, Saswad.

Date of Order : 20/03/2024

Judgment signed by presiding officer on : 20/03/2024

Judgment uploaded on : 22/03/2024