

Order below Exh. 36 in Regular Civil Suit No. : 80/2017.

1. Perused application, say of the plaintiff filed at Exh. 49. Heard both parties.

2. Defendant No. 8 to 12 have filed this application and submitted that the plaintiff has not properly valued the suit claim. Therefore, according to these defendants that, inquiry is required to fix the proper court fees paid by the plaintiff. Therefore, defendant No. 8 to 12 have filed this application and prayed to this court to direct the plaintiff to correct valuation of the suit claim.

3. The plaintiff has filed her say at Exh. 49 and submitted that, the suit is properly valued. Therefore the plaintiff prayed for rejection of this application.

4. It is settled law that for deciding application that whether the suit is properly valued, the court is required to look into averment made in the plaint. Accordingly I perused averment made in the plaint. It appears that the plaintiff has filed this suit for partition and separate possession of the suit property with relief of perpetual injunction, the plaintiff has seeking further relief of declaration that alleged deed bearing No. 443 executed in the year of 1998 and development agreement-deed bearing No. 2592/2015 are not binding upon

the plaintiff. For this claim, it appears that the plaintiff has paid court fees of Rs. 7,430/-.

5. At the time of argument both parties have pointed to me relevant provisions of Maharashtra Court fees Act, 1959. On perusal of averment made in the plaint, it appears that the plaintiff was not party for the both deed which were executed in the year of 1998 and 2015. As a non-executant of these deeds the plaintiff has only seek the remedy of the declaration that these deeds are not binding upon the plaintiff. This being the suit for partition and separate possession, with relief of perpetual injunction and declaration that alleged deeds are not binding upon the plaintiff, then in my opinion the suit has to be valued as per Section 6 (iv)(j) of The Maharashtra Court Fees Act, 1959. On perusal of the averment made in the plaint, I am of the opinion that the plaintiff has properly paid the court fees in view of claim made by her. Therefore, I am of the opinion that there is no merit in this application, as the suit claimed is properly valued by the plaintiff. Hence, application is liable to be rejected. Accordingly I pass the following order.

:: ORDER ::

Application is rejected.

Date : 11.11.2019.

(V. N. Girwalkar)
Civil Judge Junior Division, Wai.