

FARAD CONTINUATION SHEET NO.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

SECOND APPEAL (ST) NO. 6975 OF 2018

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's order
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CORAM : V. R. Kachare  
REGISTRAR (JUDL-II)

Date : 15/01/2019

The learned Advocate for Appellant present

The office has raised objection that the claims for court fee and jurisdiction has not properly stated and calculated. Appropriate court fees has not been paid.

Learned Advocate for the Appellant has filed foot note and submitted that the suit was filed for declaration of co-parcenary right, title, interest and cancellation of sale deed dated 21/01/2008 and injunction as consequential relief. He further submits

..2/-

that no possession has been sought as the Appellant is being in physical possession of the suit property. Therefore, half of ad-valorem court fees as per Section 6(d) of the Maharashtra Court Fees Act has been paid.

Perused record. It appears that the suit was filed for declaration of co-parcenary right and for cancellation of sale deed dated 21/01/2008 wherein the consideration amount is Rs.2,27,500/-. The suit was valued for the same in lower court. The court fee stamp of Rs.4,515/- has been paid. The possession has not been sought and only consequential relief of perpetual injunction has been sought. In view of Section 6(d) third proviso if in case of a suit for declaration if consequential relief other than possession has been sought, the amount of court fees shall be half of ad-valorem court fees. Here, in this case, consequential relief of possession has not been sought. Considering the valuation of Rs.2,27,500/-, the court fee stamp as per Schedule 1 of the Maharashtra Court Fees Act comes to

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Rs.9,030/-. Half of the same came to Rs.4,515/-. Here, the Appellant claims to have paid court fees of Rs.4,620/- considering the other consequential relief. Thus, the objection raised by the office regarding court fees is not sustainable. Hence, office is directed to remove this office objection and to proceed.

**REGISTRAR (JUDL-II)**