

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT (L) NO. 838 OF 2019

Rahul Madhukar Navalkar and others

...Plaintiffs

V/s.

Amit alias Prashant Neelkanth Navalkar and others

...Defendants.

Before : Taxing Master

Date : 27th January 2020

For adjudication of Court Fees.

O R D E R

Mr. Robin Thomas, Advocate for the Plaintiffs.

Mr. S.B. Gore, AGP for State.

This matter has been referred by Hon'ble Prothonotary And Senior Master for adjudication of court fee by an order dated 9th October 2019.

The plaintiff lodged papers in this office on 8th october 2019. Notice to office of Government Pleader was served on 15th November 2019. The first meeting was fixed on 18th November 2019. Plaintiff submitted first submission on 25th November 2019 and 2nd submission on 4/12/2019. Ld AGP has appeared on 16th December 2019. However Ld AGP has not submitted any written submissions till date.

The plaintiffs has filed the suit for declaration for ownership of 1/3rd share in joint family property in the estate left by deceased Sitaram Nanabhai Navalkar by way of partition by mets and bound.

Ld advocate for the plaintiff submitted that referred matter is a partition suit. The claim refered is valued at Rs. 15,00,00,000/- (rupees fifteen crores only) therefore plaintiff has paid maximum court fee. He further submitted the objection is raised by the department is for deficit court fee and that plaintiff had to file individual suits for their individual remedy and they would have had to pay individual court fee. He further submitted that matter is a partition suit and this partition suit is between the branches of the family and not individual. The plaintiffs as one branch has prayed for 1/3rd share in the estate of the deceased. Therefore plaintiffs has duly paid maximum court fee. In the second submission submitted by the plaintiffs has given separate valuation of properties stated in schedule of properties mentioned in the plaint.

I rely upon the judgement passed by the Hon'ble High Court in notice of Motion No. 165 of 2011 in suit No. 2110 of 2004 on 15th March 2011. In this case in partition suit application was taken out by defendant No. 33 who is one of the members of HUF and he has applied for 1/4th share on behalf of one branch. The Hon'ble court passed an order that the defendant no. 33 shall deposit Rs.3 lakhs in

...3/-

court towards the court fee payable for the 1/4th share in property claimed by him on behalf of one branch.

In view of the above, in the present case the plaintiffs are jointly claiming 1/3rd share in the property of the deceased. The plaintiffs jointly form one branch for share in joint family property. Therefore the plaintiff has paid proper maximum court fee Rs.3 lakhs.

Taxing Master