BEFORE THE TAXING OFFICER,
HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

In

SECOND APPEAL NO. 324/2024

APPELLANTS	**:**	**Rajabhau Pundlik Chopade (since deceased through LRs) Ravindra Rajabhau Chopade and others.**

VERSUS

RESPONDENTS	**:**	**Yashodabai Dinkar Chopade and others.**

ORDER

The Advocate of the Appellants is absent since inception. On two occasions, the Junior Associate Advocate of the learned Advocate on record had appeared, however, only to seek time for argument. The learned Advocate of the Appellants placed on record a Pursis through his registered clerk. However, neither him nor his associates appeared to advance argument thereafter.

2. The office has raised objection that the Appellants have not paid proper court fee on the Memo of Appeal. According to the office, the Appellants ought to pay court fee as per the

valuation in the Courts below i.e. on the amount of Rs.50,01,766.64/- and the court fee payable is Rs.74,430/-.

3. In view of the above, the following point arises for determination and finding thereon is recorded for the reasons to follow:

Sr. No.	Point	Findings
1.	What Court fee is payable on the Appeal memo?	**Total Court Fee of Rs.74,430/-.** **Deficit Court fee of Rs.70,330/- is payable.**

<u>REASONS</u>

4. Before touching the main issue, it is necessary to note a few facts. On perusal of the record, it appears that respondent no.1 to 3 herein had filed Spl.C.S. No.41/1999 against the other respondents and the father of the Appellants namely Rajabhau Chopade for partition, possession, declaration and permanent injunction. They had mentioned several properties in the suit and valued the suit for the purpose of court fee as Rs.50,01,766.64/-. It appears that they were exempted from payment of court fee being women litigants. After full-fledged trial, the suit was dismissed. Therefore, the original plaintiffs preferred RCA No.48/2015 which was also dismissed. The

Appellants feeling aggrieved by the judgment and decree in RCA No.48/2015 preferred this Second Appeal.

5. On perusal of the Memo of Appeal and the Pursis placed on record it appears that the Appellants have restricted their claim in respect of the properties mentioned in the Memo of Appeal. The Appellants have mentioned the valuation as Rs.40,500/- for the purpose of court fee in the Appeal Memo and paid court fee of Rs.4,100/-. The Appellants have merely stated the amount of valuation without any explanation regarding the same. In view of the provisions of Ch. IV of the Bombay High Court Appellate Side Rules, it is obligatory on the Appellants to state as to how the valuation has been arrived at. However, the Appellants have not clarified as to how they have arrived at the said calculation as to valuation. There is nothing in the Memo of Appeal as well as in the Pursis that will throw light on the mode and manner in which the Appellants have evaluated their claim.

6. On perusal of the Memo of Appeal as well as the prayer clause in the Appeal, it becomes clear that the Appellants are challenging the judgment and decree in RCA No.48/2015 along with Spl.C.S. No.41/1999. As the Appellants are praying to set aside both these Judgments, the valuation in these proceedings will have to be taken into account for the purpose of calculation of court fee. It is also important to note that the original plaintiffs i.e. the Appellants in RCA No.48/2015, who are

respondent no.1 to 3 in the present Appeal were women litigants and were exempted from the payment of court fee. However, no such exemption can be availed by the present Appellants. As such, for the purpose of this Appeal, the valuation of the claim will have to be considered as Rs.50,01,766.64/-. As per the table appended to Schedule I of Maharashtra Court Fees Act, the Appellants will have to pay court fee of Rs.74,430/-. The Appellants have already deposited court fee of Rs.4,100/-. Hence, the Appellants are required to deposit deficit court fee of Rs.70,330/-. In view of the aforesaid reasons, point no.1 is answered accordingly.

7. The office to act accordingly.

Date : 05.05.2026
Place : Nagpur

Taxing Officer and Deputy Registrar,
High Court of Judicature at Bombay,
Bench at Nagpur.