



RAJASTHAN HIGH COURT
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 10583/2024

1. Smt. Vijay Lakshmi W/o Late Shri Jagdish Prasad Shrimali, Aged About 66 Years, R/o Ramnagar, Sojat City, Tehsil Sojat, District Pali (Raj).
2. Sanjay Kumar Sharma S/o Late Shri Jagdish Prasad Shrimali, Aged About 45 Years, R/o Ramnagar, Sojat City, Tehsil Sojat, District Pali (Raj).
3. Manju Vyas D/o Late Shri Jagdish Prasad Shrimali, Aged About 51 Years, R/o Ramnagar, Sojat City, Tehsil Sojat, District Pali (Raj).
4. Usha Vyas D/o Late Shri Jagdish Prasad Shrimali, Aged About 41 Years, R/o Bikaner, At Present Sojat, District Pali (Raj).
5. Anita Trivedi D/o Late Shri Jagdish Prasad Shrimali, Aged About 31 Years, R/o Jodhpur, At Present Sojat, District Pali (Raj).

----Petitioners

Versus

1. Madhav Singh Mehadu S/o Karnidan, R/o 947, Gandhipura, B.j.s. Colony, Jodhpur, District Jodhpur, (Raj.).
2. Sub-Registrar, Sojat, Sub-Registrar Office, Sojat, District Pali (Raj.).

----Respondents

For Petitioner(s) : Mr. Alkesh Agarwal

For Respondent(s) : Mr. J.K. Bhaiya

HON'BLE MS. JUSTICE REKHA BORANA

Order

10/10/2024

1. The present writ petition has been preferred against the order dated 31.05.2024 passed by the Additional District Judge, Sojat, District Pali in Civil Original Suit No.12/2024 whereby the



application under Order 7 Rule 11 read with Section 151, CPC as preferred by the defendant respondent No.1 Madhav Singh has although been rejected but vide the order impugned, the petitioners plaintiffs have been directed to revalue the suit on the complete consideration amount of Rs.5,47,84,625/- and pay the deficit Court fee in terms of the said valuation.

2. The present petition has been preferred by the petitioners plaintiffs aggrieved of the above observation and direction only.

3. Learned counsel for the petitioners submitted that as is evident on record, the relief as prayed for in the suit in question was only for the specific performance of the second agreement dated 22.03.2021 executed for the purpose of reiteration of the conditions of the original agreement dated 04.07.2019 and the reliefs as prayed for in the suit pertained only qua the remaining consideration amount of Rs.23 lakhs and hence, the suit was properly revalued on the said consideration amount of Rs.23 lakhs. Counsel submitted that the finding as recorded by the learned Trial Court to the effect that the suit ought to have been valued for the complete consideration amount on basis of the first agreement dated 04.07.2019, is totally erroneous and contrary to law.

4. Counsel, in the alternate, submitted that even otherwise the issue qua Court fee was a mixed question of fact and law and could have been decided only after an issue having been framed and the evidence been led on the said issue. No finding qua Court fee could have been recorded at the stage of an application under Order 7 Rule 11, CPC.



5. In support of his submissions, counsel relied upon the judgments passed in **Seeta Ram & Anr. vs. Gulab Chand; 2014 (1) DNJ (Raj.) 53, Smt. Sharda Devi vs. Iqbal Singh & Ors; 2015 (3) WLC (Raj.) 683, S.B. Civil Revision Petition No.36/2020; Jeevan Ram vs. Joraram** (decided on 29.01.2021) & **S.B. Civil Revision Petition Nos.9 and 8/2021; Rajkumar Vishandas and Sons and Ors. vs. Rajkumar Vishandas** (decided on 01.04.2022).

6. Per contra, learned counsel for respondent No.1, appearing in caveat, submitted that as is the settled position of law, in a suit for specific performance of contract, the plaint has to be valued on the complete consideration amount qua the agreement and it cannot be valued for an amount to the extent of part consideration.

Counsel submitted that the agreement dated 22.03.2021 was a document reiterating the conditions of the original agreement dated 04.07.2019 and hence, the prayers in the suit were effectively for specific performance of the original agreement dated 04.07.2019. The valuation of the said agreement dated 04.07.2019 being Rs.5,47,84,625/-, the suit ought to have been valued on the said valuation and the Court fee ought to have been paid on the said valuation. Counsel submitted that the learned Trial Court rightly directed the plaintiffs to revalue the suit on the complete consideration amount and further to pay the deficit Court fee.

7. In support of his submissions, counsel relied upon the judgments passed in **Jameela (Smt.) vs. Man Singh; 2014 (2) DNJ (Raj.) 727, Kulwinder Singh & Anr. vs. Saurabh Singh**



& Ors.; 2020 (2) CCC 198 (P&H), Vijay Parashar vs. Sawarmal Jat & Ors.; 2012 (3) DNJ (Raj.) 1288 & Amolak Singh Tuteja vs. Munni Bai Sharma; 2018 (1) CCC 557 (M.P.).

8. Heard the counsels and perused the material available on record.

9. What is not in dispute on record is that an agreement dated 04.07.2019 was executed between the parties for sale of 15.875 bighas of land at the rate of Rs.34,51,000/- per bigha. The complete consideration amount of the said agreement came out to be Rs.5,47,84,625/- and the said agreement was executed in part in different phases. As per the agreement, the sale deeds were to be executed by the defendant in favour of the purchasers as directed by the plaintiffs from time to time, after receiving the respective consideration amount.

10. Sale deeds of 22 plots were even executed as per the agreement. However, sale deeds qua 8 plots remained to be executed and hence, the second agreement dated 20.03.2021 was executed between the parties qua the said 8 plots, with the condition that defendant No.1 shall execute their sale deeds in favour of the plaintiff/his father/any person as directed by the plaintiffs, after receiving the remaining consideration amount of Rs.23 lakhs.

11. As the sale deeds were subsequently not got executed by defendant No.1, the dispute arose and hence, the suit in question for specific performance of the contract qua the remaining 8 plots was preferred.



12. The plaintiffs valued the suit for an amount of Rs.23 lakhs and paid the Court fee on the said valuation.

13. The dispute raised by defendant No.1 was to the effect that the suit ought to have been valued on the complete consideration amount of Rs.5,47,84,625/- and the Court fee ought to have been paid on the said valuation.

14. In the specific opinion of this Court, the suit in question had rightly been valued for an amount of Rs.23 lakhs and the Court fee as paid on the said valuation was sufficient and in terms of law.

As is the settled position of law, it is the nature of the relief claimed which becomes the basis for the valuation of a suit. A suit is always to be valued on the reliefs as claimed. The market value of any property cannot be a decisive factor for valuation of the suit. It is only the nature and the valuation of the relief claimed, on basis of which, the valuation of the suit is to be determined and the Court fee is to be paid.

15. For the above proposition of law, reliance can be placed on the Hon'ble Apex Court judgment passed in the case of **Bharat Bhushan Gupta vs. Pratap Narain Verma & Ors.; AIR 2022 SC 2867** whereby the Court held as under:

"9.1. It remains trite that it is the nature of relief claimed in the plaint which is decisive of the question of suit valuation. As a necessary corollary, the market value does not become decisive of suit valuation merely because an immovable property is the subject-matter of litigation. The market value of the immovable property involved in the litigation might have its relevance depending on the nature of relief claimed but, ultimately, the valuation of any particular suit has to be decided primarily with reference to the relief/reliefs claimed"



16. The reliefs as prayed for in the present suit are as under:

- "ए. यह कि मूल बेचान इकरारनामा दिनांक 04/07/2019 की पालना में निष्पादित लिखत भरपाई याददाशस्त इकरारनामा दिनांक 22.03.2021 की पालना में सौदे पेटे बकाया राशि रूपयें 23,00,000/- अक्षरे तेबीस लाख रूपयें प्राप्त कर वादग्रस्त भूखण्डो की बेचान रजिस्ट्री प्रतिवादी संख्या 1 एक से वादीगण के पक्ष में निष्पादित कर पंजीयन करावें तथा वादग्रस्त भूखण्डो का कब्जा वादीगण को दिलाया जावें।
- बी. स्थाई निषेधाज्ञा इस आशय की सादिर फरमाई जावें कि प्रतिवादी संख्या 1 एक वादग्रस्त भूखण्डो का बेचान, हस्तान्तरण, बक्शीश, रहन, वसीयत इत्यादि न तो स्वयं करे न ही अपने नौकर, एजेन्ट इत्यादि से ही करावें।
- सी. अन्य सहायता जो न्यायोचित हो वो प्रतिवादी संख्या 1 एक से वादीगण को दिलाई जावें।
- डी. खर्चा मुकदमा वादीगण को प्रतिवादीगण से दिलवाया जावें।"

17. A bare perusal of the above reliefs makes it clear that specific performance of the contract/agreement dated 22.03.2021 to the extent of the consideration amount of Rs.23 lakhs has only been prayed for and even the possession of the said plots has only been prayed for.

18. Admittedly, the sale deeds of 22 plots had already been executed and there was no dispute regarding them. Therefore, when no relief qua the said 22 plots or the amount of Rs.5,47,84,625/- (excluding the amount of Rs.23 lakhs) has been prayed for, the plaintiffs cannot be directed to revalue the suit on the complete consideration amount of agreement dated 04.07.2019 and further, cannot be directed to pay the Court fee on the said valuation.

19. So far as the judgment as relied upon by learned counsel for respondent No.1 in the case of **Jameela (Smt.)** (supra) is



concerned, the same was a matter wherein the dispute pertained to the two properties which were to be exchanged. Therein, the dispute was qua the complete properties and hence, the Court observed that the suit was to be properly valued.

20. So far as the case of **Kulwinder Singh (supra)** is concerned, the ratio therein would also not apply to the present matter as therein also the dispute was pertaining to the specific performance of both the agreements in question. Herein, although there are two agreements in existence, the specific performance of only the second one has been prayed for.

The ratio of **Amolak Singh Tuteja (supra)** would also not be of any help to the respondent as therein the issue was whether the Court fee would be required to be paid qua two separate reliefs of permanent injunction and specific performance.

21. In view of the above analysis and observations, the present writ petition is **allowed**. The order impugned dated 31.05.2024 to the extent it directs the plaintiffs to revalue the suit on the total consideration amount of Rs.5,47,84,625/- and to pay the deficit Court fee, is hereby quashed and set aside. As a consequence, the application under Order 7 Rule 11, CPC as preferred by defendant No.1 is dismissed in toto.

22. Stay petition and all pending applications, if any, stand **disposed of**.

(REKHA BORANA),J

912-KashishS/-