

GJVD020099142023



Presented on : 24-03-2023
Registered on : 24-03-2023
Decided on : 09-03-2026
Duration : 2 years, 11 months, 16 days

**In The Court Of 5th Addl Senior Civil Judge
Vadodara**

Court Fees Reference No. 5 of 2023
Arising out of Special Civil Suit No. 379 of 2013

Plaintiff : Dhuliben Jaidevbhai D/o Jethabhai Parmar

versus

Defendants : Kajalpuri Chimanpuri Gosai & Ors.

ORDER

1. This Court Fees Reference is submitted by the Inspecting Officer (Court Fees), Vadodara under Section 12(3) of the Gujarat Court Fees Act, 2004, opining that the plaintiff has not paid proper court fees and calling upon the Court to direct payment of court fees of Rs. 1,08,400/-.
2. The suit is filed by the plaintiff seeking Declaration that registered sale deeds dated 16.07.2010 bearing Registration Nos. 8917/2010 and 8919/2010 are null and void; and Alternative relief of recovery of amounts allegedly payable

under the said sale deeds. The plaintiff has valued the suit at Rs. 1,12,02,315/- and has paid court fees of Rs. 37,500/-, asserting that the valuation and court fees are proper as per law.

3. The Inspecting Officer has opined that for declaratory relief relating to avoidance of sale deeds, court fees is payable under Section 6(9) of the Act, and For the alternative relief of recovery, ad-valorem court fees under Section 6(1) would apply, Since the alternative relief involves higher court fees, the plaintiff must pay Rs. 1,08,400/- being the highest amount payable.
4. The plaintiff has filed detailed objections contending inter alia that The principal relief is declaration that the sale deeds are null and void; The relief of recovery is purely alternative and contingent; Court fees cannot be demanded on speculative or contingent reliefs. The Inspecting Officer has wrongly applied Section 6(1) ignoring settled legal principles. The valuation adopted by the plaintiff is legal, bonafide and as per the pleadings.
5. It is a settled principle of law that for the purpose of court fees that The Court must examine the plaint as a whole and The substance of the relief and not the form is decisive and Court fees must be determined on the basis of the dominant principal relief.

6. In the present case, on a bare reading of the plaint, it is evident that the core and substantive relief sought by the plaintiff is the declaration that the sale deeds are null and void. The relief of recovery is pleaded only in the alternative, to operate only if the declaratory relief is refused.
7. Law is equally well settled that Court fees is not payable on alternative reliefs simultaneously. A plaintiff cannot be compelled to pay court fees on a relief which may never arise; The higher court fees principle applies only when multiple independent reliefs are claimed, not when reliefs are alternative.
8. The approach adopted by the Inspecting Officer in mechanically applying Section 6(1) on the alternative relief and insisting upon payment of the highest court fees is legally unsustainable and contrary to established principles governing court fees. Furthermore, the Inspecting Officer cannot Rewrite the plaint, Substitute his own interpretation over the plaintiff's pleadings and Compel valuation on hypothetical outcomes.
9. The valuation adopted by the plaintiff is found to be Based on the plaint averments and in accordance with the provisions of the Gujarat Court Fees Act.

10. This Court holds that the court fees paid by the plaintiff is proper and sufficient. The Court Fees Reference lacks legal merit, hence I pass the following order in the interest of justice.

ORDER

- a] The Court Fees Reference No. 5 of 2023 is hereby REJECTED.
- b] The valuation made and court fees paid by the plaintiff in Special Civil Suit No. 379 of 2013 are held to be proper.
- c] No order as to costs.

Order signed & Pronounced in the open Court on 9th day of March, 2026.

Place: Vadodara.
Date: 09-03-2026

Dhirendrasinh Jagroopsinh Rajput
5th Additional Senior Civil Judge,
Vadodara.
Judge Code GJ00958