

Dt.:09-07-2025

**Order on Impoundment of Oral Hiba  
dated 14-08-2006 and affidavit dated  
21-08-2006.**

The plaintiff has produced an oral Hiba dated 14-08-2006 and an affidavit dated 21-08-2006.

The plaintiff's counsel contends that the gift was made orally in accordance with Mohammedan Law, which recognizes oral gifts without requiring registration or stamp duty, and that the affidavit is merely a record of the past transaction. On the other hand, the counsel for defendants No.1 and 2 has filed objection and contended that since the plaintiff has produced written document which are insufficiently stamped, they are liable for stamp duty and registration and cannot be marked without compliance.

Upon consideration of the documents and arguments, it is well settled that under Mohammedan Law, an oral Hiba of immovable property is valid if it satisfies the three conditions: declaration, acceptance, and delivery of possession. Such a gift does not require registration or stamp duty. However, if a written instrument is executed to effectuate the gift, it must be registered. If the writing is merely a memorandum of an already completed oral gift, it is not chargeable with stamp duty.

In the present case, the affidavit dated 21-08-2006 recites the fact of an oral Hiba made on 14-08-2006 and confirms delivery of possession. It does not create or effectuate the gift but simply records a past transaction. There is no recital of gifting the property through the affidavit.

Therefore, it is held that the affidavit is a mere memorandum of a completed oral Hiba and is not liable for stamp duty or registration.

For further chief of PW-1  
Call on 16-08-2025

OS 91/2017

CJ & JMFC, Savanur