MHKO110004532015	**ORDER BELOW EXH. 19 in Regular Civil Suit No. 64/2015** **(Shri.Jagnnath Dattatrya Patil Versus Shri.Anna Ramchandra Patil etc.3)**

This is an application filed by the plaintiff to impound document i.e. agreement dated: 26-09-2009 filed along with Exh. 18.

2. It is the contention of the plaintiff that he has filed present suit against the defendants for specific performance of contract. Further the defendant No.1 has executed agreement in favour of the plaintiff. However, neither plaintiff nor defendants paid requisite stamp on said agreement. Hence, in order to avoid legal difficulties it is necessary to impound said agreement. Furthermore the plaintiff contended that no prejudice will cause to the defendants if application is allowed. Therefore, he prayed to allow the application and send the said agreement to the Collector of Stamp, Kolhapur for determination of deficit stamp duty.

3. The defendants have resisted the application by filing their say on back side of the application. It is contention of the defendants that the plaintiff ought to have file this application at the time of filing of the suit. But the plaintiff intentionally failed to do so. Hence, he prayed to reject the application. In the alternative he prayed to impose cost upon the plaintiff.

4. Heard, Ld.Advocate of the plaintiff and defendants. They argued in consonance with the application and say.

5. Perused record. After perusal of record it appears that the present suit is for specific performance of the contract. Section 33 of the Maharashtra Stamp Duty Act 1958 deals with the provision for examination and impounding of instrument. Hence, it is necessary to decide the present application on touchstone of the said provision. According to said section if any instrument did not execute on sufficient stamp then the Court has power to impound the same.

6. Perused the agreement filed along with Exh.18. It reveals that agreement executed in respect of immovable property. As per section 17 of the Registration Act if any instrument executed for value above Rs.One hundred then it is compulsory to registered the same. In the present case agreement filed along-with Exh. 18 is not registered as per requirement of the Section 17 of the Registration Act. Further said agreement is not executed on sufficient stamps. Therefore, it is necessary to refer said agreement to the Collector for the determination of deficit amount of stamp duty and recover the same. Accordingly, I pass following order.

<u>- ORDER -</u>

1. Application (Exh. 19) is allowed.

2. Agreement dt.26.03.2009 filed along-with Exh.18 is impounded and forwarded to the Collector of Stamp, Kolhapur.

3. Inform The Collector of Stamp, Kolhapur accordingly.

SHASHANK DIVAKAR SHIRSAT
Digitally signed by SHASHANK DIVAKAR SHIRSAT
Date: 2022.11.29 11:24:23 +0530

(S.D.Shirsat)

Dt. 28.11.2022.

02nd Jt. Civil Judge, Junior Division,
Pethvadgaon.