

ORDER BELOW EXH- 82.

Defendant no.3 & 4 have filed this application for impounding of partition deed dtd. 28.05.1995. It is contention of defendants that, they have produced above original partition deed on record and alleging previous partition. The alleged partition deed ought to be scribed over stamp paper. However, it wrote down over plain paper and for its admissibility in evidence it need to be impounded. Hence, prayed to allow their application Under Sec.32 (A) and 33 of Bombay Stamp Act.

2. Plaintiff filed his say at Exh.85 and strongly opposed. He contended that, these defendants previously filed same application at Exh.72 and therefore present application is not tenable. He further contended that, the partition suit filed by these defendants for different properties. Plaintiff purchased suit property vide registered sale deed dtd.30.04.1979. These defendants to prolong proceeding filed this baseless application. Hence, prayed to reject the same.

3. Heard counsel for both sides. Counsel for defendants submitted as per contents of the application and to buttress his contention placed reliance over the Judgment of Hon'ble Apex Court in *Ramrattan (d.) through L. R. Vs. Bajaranglal & Ors.*¹ Herein Hon'ble Court observed that, an unstamped or insufficiently stamp instrument is tendered in evidence the court is obligated to impound it U/sec. 33 and if duty and penalty are paid U/Sec.35 the document may be admitted subject to other just exceptions.

¹ (1978) 3 SCC 236.

4. Herein in present suit, defendant no.3 & 4 have filed original copy of partition deed written on unstamped paper. These defendants intend to rely over the same to prove their defence. As per partition deed, properties have been separated between parties. For admissibility of alleged partition deed in evidence it ought to be sufficiently stamped. Further, previous application filed by these defendants at Exh.72 not finally decided and traced out on record. Hence, present application not barred under principal of res-judicata claimed by plaintiff.

5. It is settled law that, unstamped or insufficiently stamp documents can not be admitted in evidence for any purpose including for collateral purpose. However, such document can be received in evidence on payment of deficit duty and penalty in terms of Sec.35 of Stamp Act. The same view laid down by Hon'ble Court in Judgment supra *Ramrattan* filed by defendants.

6. From the above discussion it may be safely concluded that, the admissibility of particular document in evidence is to be adjudged in the light of relevant provisions of Registration and Stamp Act and unstamped or in sufficiently stamped document which is required to be stamped can not be admitted in evidence for any purpose including collateral purpose. Further, court can not determine the stamp duty thereon and said power is vested in the Collector.

7. These defendants solely base their case on above partition deed which is insufficiently stamped and unregistered one. Further, court having ample power to direct impounding document vide Sec.32 (A) & 33 of Bombay Stamp Act. The defendants intend to produce it in their evidence. They having fear to be discard their evidence due to

insufficiently stamped partition deed.

8. If present application rejected and during evidence alleged partition deed not admitted on ground of insufficiently stamped, it will caused hardship to these defendants. No prejudice caused to plaintiff, if application allowed. Further, defendants are ready to paid deficit stamp duty and penalty. Thus, application deserved to be allowed. Hence, I pass the following order,

ORDER

1. The partition deed filed by defendant no.3 & 4 along with Exh.52 at Sr. No.2 dtd. 28.05.1995 which is executed on unstamped paper is hereby impounded and sent to the Collector of stamp for the recovery of deficit stamp and penalty.
2. The defendant no.3 & 4 are hereby directed to comply the aforesaid order within one months and shall bring necessary certificate from the Stamp Collector.
3. Issue Letter accordingly.

Place- Ajara.
Date- 07.04.2026.

(R. P Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.