

MHKO190001472014



ORDER PASSED BELOW EXH.70

IN

R.C.S No.44/2014

Dhruvkumar Ganpat Ambare etc. Vs. Shri.

Parshuram Tukaram Shinde etc.

(Date:23/04/2025)

1. Plaintiffs have filed the present application for impounding the agreement dated 01/08/1978.
2. Defendants have filed their say below Exh.71 and prayed for rejection of the application.
3. Heard both the sides.
4. Perused the record. The plaintiff has filed the present suit for the relief of perpetual injunction. It is contention of the plaintiffs the suit property bearing Block No.337 admeasuring H.0.47 R was originally owned by their predecessors. Their predecessors by excluding Well situated at North-East corner along-with its portion and surrounding area of 5 R land portion of said Well i.e 7 R land of block No.337, have sold remaining 40 R land to the father of the defendant No.1 for the consideration of Rs.26000/- by registered sale deed dated 01/08/1978. However, inadvertently at the time of execution of sale deed dated 01/08/1978 the portion of Well and its surrounding area of 5 R land remained to be excluded. After the registration of aforesaid sale deed said fact of noticed by both parties. Therefore, immediately the father of plaintiff No.1, Pralhad, Nandkumar and predecessor of defendants have executed agreement on stamp of Rs.5 in the presence of witnesses. In the said agreement it was agreed that the portion which remained to be mentioned in the registered sale deed will remain with the plaintiff No.1, Pralhad and Nandkumar. The said agreement dated 01/08/1978 was executed on insufficient stamp of Rs.5. Therefore, it needs to be impounded.

5. The plaintiff has filed original agreement at Exh.43/1. The said agreement appears to be executed upon Rs.5/- stamp paper. The plaintiff is ready to deposit deficit stamp duty and penalty, if any, on the deficit stamp duty. As per Section 34 of the Maharashtra Stamp Act, the instrument which is inadequately stamped shall be impounded. The Stamp Collector has power to determine the stamp duty in view of Section 31 of the Maharashtra Stamp Act. In the back drop of above discussion, I am of the opinion that, the original agreement dated 01/08/1978 needs to be impounded. In the light of above discussion, I pass the following order:-

- ORDER -

1. Original agreement dated 01/08/1978 is hereby impounded.
2. True copy of agreement be sent to the Hon'ble Stamp Collector, Kolhapur for its adjudication in accordance with provisions of the Maharashtra Stamp Act.
3. The Hon'ble Stamp Collector, Kolhapur is hereby directed to make adjudication in view of the provisions of the Maharashtra Stamp Act and submit the certificate regarding compliance of deficit stamp duty and penalty, if any, in accordance with the provisions of the Maharashtra Stamp Act.
4. He is further directed to return the original agreement dated 01/08/1978 after completing procedure of recovery of deficit stamp duty and penalty, if any.
5. The plaintiff to comply accordingly.

Date:23/04/2025

(R. D. Shinde)
Civil Judge Junior Division,
Radhanagari.