



ORDER BELOW EXH. 174

1. Read the application and say. Heard both the sides. The defendant has filed the present application for impounding the alleged partition deed executed on 16/07/1990 on stamp paper of Rs.10/-. It is contention of the defendant that they have filed a xerox copy of alleged partition deed on record. The original copy of the partition deed is with the plaintiff. The defendant had given the notice to produce the document in-spite of that plaintiff had not produced the same.

2. Case is fix for the evidence of the witness namely Shankar Appa Mote, who is the witness to the partition deed dated 16/07/1990. The defendant and other witnesses have mentioned about the alleged partition deed.

3. The defendant had filed an application to lead the secondary evidence about the partition deed. The said partition deed was executed on the stamp paper of Rs.10/-. In fact it requires the stamp of Rs.200/- according to the law. Therefore it is necessary to impound the said document. No prejudiced will caused to the plaintiff. In fact it will be helpful to adjudicate the matter and prayed to send the copy of partition deed for impound.

4. The plaintiff opposed the application by filing say below Exh.175. It is the contention of the plaintiff that the contents in the application are false and bogus. No alleged partition deed in existence, therefore there is no question of the possession of the same with the plaintiff. The alleged partition deed is the xerox copy and xerox of the document cannot be impounded according to the law

and prayed to reject the application.

5. The defendant no.1 and 2 has taken the plea of previous partition in their written statement. In that support the defendant no.1 and 2 has produced the xerox copy of said partition deed. The matter is pending for the evidence of the defendant. Defendant had filed an application to lead the secondary evidence about the alleged partition deed. The alleged partition deed is insufficiently stamped therefore that application was rejected. Therefore the present application has been filed by the defendant no.1 and 2. It is not the original.

6. On perusal of the partition deed, it is a xerox copy. Section 2 (1) of the Maharashtra Stamp Act defines 'instrument' and it reads as under :-

Instrument includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded but does not include a bill of exchange, cheque, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipts.

7. Photocopy of document cannot be an instrument under section 2 (1) of the Maharashtra Stamp Act and therefore order of impounding cannot be passed. Hence application is liable to be rejected. Hence I pass the following order.

ORDER

1. Application is rejected.
2. No order as to cost.

Atpadi.
Date : 14/06/2023

(Anant R. Tengse)
Jt. Civil Judge Jr. Dn. Atpadi.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment/order are same, word to word, as per the original Judgment.

Name of the Stenographer : A.A.Jamadar (L.G.)
Court. : Jt. Civil Judge,Jr.Dn., Atpadi.
Date. : 14.06.2023.
Judgment/order signed by the
Presiding Officer on. : 14.06.2023.
Judgment uploaded on. : 14.06.2023.