



ORDER BELOW EXH.107 IN SPECIAL CIVIL SUIT NO.539/2023

The present application has been filed by the plaintiff for impounding of document under Section 34 of the Maharashtra Stamp Act.

2. It is the contention of the plaintiff that, it was agreed between the plaintiff and the defendant to re-convey the registered sale-deed. It was the oral agreement and therefore, it could not be registered. The said agreement is required by law to be registered. The defendant has deceived the plaintiff by not registering the said oral agreement. The plaintiff is in possession of the suit property. Defendant refused to perform as per oral agreement and therefore, the plaintiff is constrained to file the present suit. The plaintiff is ready to pay the appropriate court fee stamp for registration of the said oral agreement. The plaintiff has filed a type written document having title as, 'परतबोलीच्या तोंडी दस्ताचा गोषवारा' vide list of document Exh.110. The said document be impounded. Hence, he prayed that the application be allowed.

3. Defendant No.1 filed his say vide Exh.111. It is the contention of defendant No.1 that the present application is not tenable in the eyes of law. The defendant already denied the existence of such oral agreement between the plaintiff and defendant No.2. Therefore, no question arises of registration of oral agreement

or contract. Defendant No.1 is in possession of the suit property since beginning. No oral contract had taken place at any point and therefore, the question of any loss to the plaintiff does not arise at all. There is concluded contract between defendant Nos.1 and 2. There is no document in existence with respect to agreement between the plaintiff and defendant No.2 and therefore, no question of impounding the said document arises. The document filed by the plaintiff is as per his own whims and fancies. He is trying to create a documentary evidence which is not acceptable. Hence, he prayed that the application be rejected.

4. The present application has been filed by the plaintiff under Section 34 of the Maharashtra Stamp Act. Section 34 of the said Act is titled as “Instruments not duly stamped inadmissible in evidence”. The provision for impounding of document is given under Section 33 of the said Act. The said Act provides relief of impounding the instrument which is insufficiently stamped. Therefore, it is necessary to look into the definition of instrument in the said Act. Section 2(l) provides the definition of instrument. “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 receipt.

5. The word ‘document’ is mentioned in Section 2(l) of the Maharashtra Stamp Act. The definition of document is provided under Section 2(d) of the Bhartiya Sakshya Adhinyam, 2023. “Document” means any matter expressed or described or otherwise

recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.

6. In the present case, the plaintiff had filed a document titled as, 'परतबोलीच्या तोंडी दस्ताचा गोषवारा'. The said document is unstamped and unregistered. It is the contention of the plaintiff that, there was oral agreement between the plaintiff and defendant No.2 regarding re-conveyance of the property transferred by way of sale-deed. It is a separate oral agreement. The said document is unregistered and therefore, it is necessary to impound the said document. The plaintiff is ready to pay a necessary stamp duty over it. The said document is unstamped and no one has signed the said document. In view of above definition of the document and instrument, the said document cannot be considered as an instrument. Neither the plaintiff nor his learned advocate signed the present application. The present suit is pending for evidence of the plaintiff and instead of filing evidence affidavit, the present application has been filed. The very purpose for filing the present application is to prolong the present matter. Therefore, I am of opinion that, the present application is liable to be rejected being devoid on merits. The costs of delay has to be imposed on the plaintiff. Hence, I pass the following order :

ORDER

(1) Application (Exh.107) is rejected.

(2) The plaintiff is directed to pay costs of Rs.500/-
(Five Hundred only) to defendant No.1.

Date: 30.09.2025
Wai.

(A. A. Pacharne)
Jt. Civil Judge, Sr. Division,
Wai.