

CNR No.MHWS100007932021



ORDER BELOW EXH.48

The defendant has filed this application during the additional chief examination stage. During examination-in-chief, the plaintiff relies on thokepatrak (lease deed) to support his claim and tried to exhibit the said thokepatrak. However, defendant submitted that the said document requires compulsory registration and unregistered document can not be proved and exhibited. Hence, by this application he filed his written objection to the exhibition of said documents.

02. The plaintiff denied the contentions of the application and argues that the thokepatrak is a valid document and supports the lease agreement. He also alternatively contends that he has no objection if the document is impounded.

03. Heard both the advocates.

04. The primary issue at this stage is whether the thokepatrak is sufficiently stamped. As per the Indian Stamp Act, 1899, the Court is mandated to impound documents that are insufficiently stamped and refer them to the Collector for appropriate action. So also, in the present matter, the alleged thokepatrak is unregistered and also insufficiently stamped. Consequently, the document must be impounded.

05. The advocate for the defendants also argued that the defendants are members of Scheduled Tribes and the alleged property transfer is barred under the relevant law. As for the legal validity of the lease deed under the relevant law and the issue of transfer between Scheduled Tribes, these are matters that require a detailed examination of evidence. Therefore, these substantive issues will be determined during the trial.

06. The defendant's application even though raises legal questions, but the immediate concern is the insufficient stamping of the thokepatrak. The broader legal issues regarding the validity of the property transfer will

be addressed through evidence.

07. It is well settled that party relying on any document finds to be improperly stamped, then as per provision the same is liable to be impounded. Therefore, for the just decision of the case and to hear the suit on merit, the documents alleged thokepatrak required to be impounded and be sent to Collector for affixing appropriate stamps. Thus, following order.

ORDER

1. The thokepatrak dated 14.11.2011 at Exh.04 serial No.02 is hereby impounded and be sent to Collector for affixing proper stamp duty.
2. Concern clerk to follow Para 677 of Civil Manual i.e. *Para 677. To avoid the danger of loss of documents in transit, all orders and processes issued by the Civil Courts under Order XXI, rules 48 of 57, Civil Procedure Code or similar other matters addressed to the revenue or other authorities should be sent by registered post, acknowledgment due."*

Date :18.09.2024.

(A. S. Koshti)
Civil Judge Jr. Dn., Malegaon.

CERTIFICATE

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

Name of Stenographer	Shri. C. R. Lande (Grade III)
Name of Court	C.J.J.D. & J.M.F.C., Malegaon, Distt. Washim.
Date of Dictation	18/09/2024
Judgment/Order signed by the PO on	18/09/2024
Judgment /Order uploaded on	20/09/2024