

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE PONNERI,
THIRUVALLUR DISTRICT**

**Present : Tmt.P.Ezhilarasi, B.Com., L.L.M.,
Additional Subordinate Judge, Ponneri.**

Saturday, 06th day of June-2026

**I.A.No.01/2021
in
O.S.No.140/2019**

E.Vasu

..... Petitioner/Plaintiff

// Vs //

1. E.Umapathy
2. E.Viswanathan
3. E.Kumar
4. E.Arumugam
5. V.Kaviarasan

..... Respondents/Defendants

This Petition came on 27.04.2026 for final hearing before me in the presence of Thiru.T.Kumar, Advocate for the petitioner and Ms.Senthamil Selvi, Advocate for the 1st respondent, Thiru.G.Nandha Gopal, Advocate for the 2nd respondent, Mr.R.Krishnaswamy, Advocate of the 4th respondent and Mr.D.Sathish, Advocate for the 5th respondent and the 3rd respondent was remained exparte in the main suit and upon perusing all the connected material records and having stood over till this day for consideration this court delivered the following:

ORDER

The petition filed Under section 35 of the Indian Stamp Act 1899 r/w Section 151 of CPC to permit the petitioner/plaintiff to pay the stamp duty and the penalty in respect of the partition deed, dated 20.10.2000, which is filed as plaint document No.1 and thus render justice.

1. Brief averments of the petition:-

The petitioner is the plaintiff in the above suit. The above suit is filed for the relief of partition deed, dated 20.10.2000 as plaint document No.1, which is an unregistered one. The said partition deed was among his mother and his brothers. The petitioner advised to state that it is well settled principal of law that an unregistered document of family partition would operate as an estopped against parties to such a document and the law does not require any registration of such a document. However in the written statement filed by the 2nd defendant he has raised some objections to the said partition deed, dated 20.10.2020 that it was an unstamped and unregistered one and as such it is inadmissible in evidence. In such a situation in order to dispel any ambiguity or cloud of doubt over the admissibility of the said partition deed, dated 20.10.2020 and as a way of abundant caution. The petitioner intend to pay the duty and penalty in respect of the said partition deed. It is in this context that the petitioner taking out this application under section 35 of the Indian Stamp Act 1989, seeking permission of this court for the payment of the duty and penalty as envisaged in section 35 of the Indian Stamp Act. Therefore in the interest of justice, it is highly just and necessary to permit the petitioner to pay the duty and penalty in respect of the partition deed, dated 20.10.2020. This petition is allowing no prejudice would be caused to the respondents/defendants. Hence this petition.

2. Brief averments of the counter filed by the 2nd respondent/2nd defendant :-

2.1. This respondent denied the alleged Partition took place on 20.10.2000

and reduced the same into writing and acted upon are all false and hereby denied. There was no effective partition effected on the alleged date and never acted upon as stated by the plaintiff (E.Vasu) in this suit in O.S.No.140/2019 as well as by the Umapathy's suit in O.S.No.189/2019 pending before this court. Based on the two kind of unregistered Partiton deeds, dated 20.10.2000 the present Plaintiff (E.Vasu) in this suit in O.S.No.140/2019 on the file this court colluding with another brother namely the Umapathy had filed another suit in O.S.No.189/2019 pending on the file of this court only in order to grab this Respondent/Defendant's property. The above un-registered insufficiently stamped partition deed was not acted up on. Therefore the Plaintiffs in both the above suits have no right, title or interest over the suit properties based on the alleged partition deeds.

2.2. This respondent further submits that there was an alleged amicable partition among them on 20.10.2000 and it was reduced into writing and the suit property was allotted to his share as per the alleged partition deed are all false and hereby denied by this respondent. The alleged partition deed is the unregistered and insufficiently stamped instrument. The alleged partition deed was not signed in each and every page by the parties and in the alleged partition deed several ancestral properties and the properties purchased from ancestral and joint family properties income in the name of Umapathy are not included in the alleged partition. Hence at the time preparing draft of the alleged partition, this Respondent asked to include the entire joint family properties in the partition but the Umapathy colluding with other

brothers did not add the aforesaid properties and did not hear the words of this Respondent. Hence at the time the alleged partition was dropped. Subsequently the Umapathy and Vasu colluding each other with other brothers affixed the stamp papers in the first two pages by removing the first two pages of the draft.

2.3. This Respondent/Defendant further states that the plaint document No.1 is the alleged Partition deed, dated 20.10.2000 as stated by the plaintiff. The Nomenclature of Unregistered and unstamped Partition and its entire contents speaks about division of properties in Presaenti. Therefore the plaint Document No.1 alleged Partition Deed, dated 20.10.2000 shows that the division of the properties in presentee. Any Partition dividing the properties in presentee, require a registration since it creates right in the properties. More over the properties refered in Paleswaram Village is the self acquired properties of this defendant. In the Paleswaran properties except this respondent's father no one including the Vasu & Umapathy have no right, title, interest or possession over the properties.

2.4. This Respondent submits that when this respondent's self acquired properties were included in the alleged unregistered and unstamped Partition Deed, dated 20.10.2000, it ought to be compulsorily registered under the Registration Act. But the above partition deed is not registered one. Therefore the Plaintiff or the defendants 1, 3, 4 have no antecedent title or interest over the self acquired properties of this respondent. Therefore the alleged partition deed is unregistered and

unstamped instrument is inadmissible in evidence and it cannot be looked into any purpose even collateral.

2.5. This respondent submits that the above plaintiff claiming right and title over suit property is only based on the unregistered and unstamped partition, dated 20.10.2000. The above alleged partition deed 20.10.2000 is mainly relied upon only to get declaration of title over the suit property. Therefore the above document cannot be received in evidence. Therefore the plaintiff have no right to filed the above suit to get declaration based on the unregistered and unstamped partition deed dated 20.10.2000.

2.6. This respondent submit that this defendant along with his son enjoying the suit property. Therefore the Plaintiff is not in possession. The plaintiff is not paid proper court fee in the plaint and further states that without any right, title, interest or possession over the suit property the plaintiff cannot claim declaration of title or injunction based on the unregistered and unstamped partition deed, dated 20.10.2010 as against this defendant in respect of his self acquired properties.

2.7. The Petitioner/Plaintiff filed the above suit in O.S.No.140/2019 colluding with another brother Umapathy and the said Umapathy also filed another suit in O.S.No.189/2019 colluding with this plaintiff convince of other brothers on the same set of facts and allegations and the same cause of action. But the alleged partition deeds are not one and same in the both suit filed by them. The above suits

are in collusive one with the plaintiff and defendants 1, 3, 4 to grab this respondent's property and they also try to give legal effect to the alleged partition deed and their illegal acts/transactions. Therefore the above suit as well as this application is vexatious one. Hence the above application is to be dismissed with exemplary costs.

3. Now the point for consideration is ***“Whether this petition is to be allowed or not?”***

Heard, records perused on perusal of records it is seen that the petitioner/plaintiff has filed an unregistered partition deed, dated 20.10.2000 along with the plaint and the petitioner has not paid the required stamp duty on the said document and it is necessary that the required stamp duty penalty ought to be paid on the said document and the court is of the view that no prejudice could be caused to the respondent, if this petition is allowed for impounding of document and for receipt of proper stamp duty penalty to the said partition deed, dated 20.10.2000. Hence in the interest of justice, this petition is hereby allowed.

Directly typed by me in my laptop, corrected and pronounced by me in the open court on this 06th day of June- 2026.

**Additional Subordinate Judge,
Ponneri.**

Both side witness and Exhibits : Nil

**Additional Subordinate Judge,
Ponneri.**