

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2256 OF 1998

Harinarayan G. Bajaj and Anr.

...Plaintiffs

V/s.

Vijay Agarwal and Ors.

...Defendants

Ms. Sonal with Mr. Vivek M. Sharma for the Plaintiffs.

Mr. Girish Kedia with Mr. Krushang Kedia for the Defendants No. 1,2,4
and 5.

Ms. Jyoti Chavan, AGP for the State-Collector of Stamp.

CORAM : ABHAY AHUJA, J.
DATE : 29 SEPTEMBER, 2025

PC. :

1. When the matter is called out, Ms. Chavan, learned AGP appears for the State and Ms. Sonal, learned Counsel appears for the Plaintiff and both submit that the adjudication of the MOU has been completed on 16th July, 2025.

2. Let the Collector of Stamps return the duly adjudicated and stamped MOU to the office of the Prothonotary & Senior Master of this Court as soon as possible, after payment of stamp duty.

3. Just when the above order is passed, Mr. Kedia, learned Counsel appears for the Defendants and submits that since the MOU is being relied upon by the Plaintiffs in their examination in chief, in view of the

decision of the Hon'ble Supreme Court in the case of *Seetharama Shetty Vs. Monappa Shetty*¹, where it has been clearly held that the person who intends to rely on insufficiently / improperly stamped, instrument has option to submit to the scope of Section 34 of the Indian Stamps Act, 1899 to pay duty and penalty, the Plaintiffs would have to pay the duty after which the adjudicated MOU can be sent to the Prothonotary & Senior Master.

4. On the other hand, Ms. Sonal, learned Counsel appearing for the Plaintiffs opposes the said submissions stating that the said submission is factually incorrect.

5. It appears that this matter requires perusal of the record to ascertain as to who first intended to rely upon the insufficiently/ improperly stamped MOU.

6. At the joint joint request of the learned Counsel appearing in the matter to prepare the compilation of relevant material / documents in the matter for the assistance of the Court, list on **11th November, 2025**.

(ABHAY AHUJA, J.)