

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.5652 OF 2015**Maroti S/o Rangrao Tamke and others Vs. Shivaji S/o Rangrao Tamke.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.Jain Vishwajit R. (Kamboj), advocate for the Petitioners.

Mr.S.M.Vibhute, advocate for Respondent.

CORAM : S.V.GANGAPURWALA, J.**Date : 21.03.2016.****PER COURT :**

1. Heard.
2. The application to exhibit the document i.e. the partition deed is rejected on the ground that it requires compulsory registration.
3. Mr.Jain, learned counsel submits that the document in fact, is a Memorandum of partition and not a partition deed. It does not require registration. There was no impediment to exhibit the same.
4. Mr.Vibhute, learned counsel for the Respondent submits that partition deed requires compulsory registration. The learned Judge has relied on the judgment of this Court while passing the

order. No error is committed.

5. The Full Bench of this Court in a case of **“Hemendra Rasiklal Ghia and others Vs. Subodh Mody and others”** reported in **2008 (6) Bom.C.R.519** has held as under :

“92. In view of the above analysis of the statutory provisions and our discussion, we, accordingly, articulate our conclusions as follows :

Answer to Question-A :

As already noticed, (i) objection to the document sought to be produced relating to the deficiency of stamp duty must be taken when the document is tendered in evidence and such objection must be judicially determined before it is marked as exhibit;

(ii) Objection relating to the proof of document of which admissibility is not in dispute must be taken and judicially determined when it is marked as exhibit;

(iii) Objection to the document which in itself is inadmissible in evidence can be admitted at any stage of the suit reserving decision on question until final judgment in the case.”

5. The parties may adduce the evidence on the said document. At the time of final judgment or at the time of final argument, the Court may decide about the question of admissibility or otherwise of the said document on the ground of non-registration, as i.e. the only objection raised by the other side and considered while rejecting the

application. While considering the said document at the time of final arguments, the impugned order shall not come in the way.

6. The Writ Petition is disposed of. No costs.

(S . V . GANGAPURWALA, J .)

Dt.21.03.2016.
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