

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 443 OF 2016

**SUDAN BATAN SABRE AND OTHERS
VERSUS
KISANRAO MANIKRAO KHOPDE AND OTHERS**

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Mr.S.P.Shah, Advocate for petitioners

Mrs.Rashmi Kulkarni, Advocate i/b Mr.S.S.Kulkarni,
Advocate respondent no.1

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CORAM : S.V. GANGAPURWALA, J.

DATE : APRIL 24, 2017

PER COURT :

Heard.

2. Present petition is filed against the order passed by the trial Court exhibiting the documents during the course of evidence of the respondents.

3. Mr.Shah, learned Counsel for the petitioners submits that prior to exhibiting the documents at Exhibits 82 and 83, the petitioners had raised objection regarding insufficiency of

stamps, however, the said objection has not been dealt with by the trial Court. He submits that even no permission for adducing secondary evidence has been obtained by the respondents. The said documents were inadmissible.

4. Mrs.Kulkarni, learned Counsel for the respondents submits that the document at Exhibit 82 is on a revenue stamp of 20 paise, the document at Exhibit 83 is on a stamp paper of Rs.5/- and they are sufficiently stamped. She submits that as far as Exhibit 89 is concerned, the property is in possession of the defendants and evidence to that effect has been led. She submits that no illegality has been committed by the learned Judge of the trial Court while exhibiting the said documents.

5. It is trite that merely exhibiting the documents does not mean that the same are proved. All the objections raised except in respect of

insufficiency of stamps can be considered at the time of final disposal of the suit by the trial Court as has been held by the Full Bench of this Court in the case of **Hemendra Rasiklal Ghia Vs. Subodh Mody, 2008(6) Mh.L.J. 886.**

6. As far as the documents at Exhibits 82 and 83 are concerned, it does not appear that the trial Court has applied its mind with regard to the sufficiency/insufficiency of the stamp. The said objection was raised before exhibiting the documents. The said objection has to be decided, which cannot be postponed at the stage of final hearing of the suit.

7. Considering above, I pass the following order :-

(i) The trial Court shall re-consider the documents at Exhibits 82 and 83. The plaintiff would be at liberty to file an application for impounding the document if it appears that the

said documents are insufficiently stamped. As far as Exhibit 89 is considered, the plaintiff have led evidence without permission to adduce the secondary evidence. As far as admissibility of the said document so also other documents are concerned, the defendants have a right to raise objection, which would be decided by the trial Court while disposing of the suit finally.

(ii) With these directions, the present Writ Petition stands disposed of. No costs.

[S.V. GANGAPURWALA, J.]