

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10457 OF 2024

Kashinath Sopan Nirmal And Another

VERSUS

The State Of Maharashtra Through The Secretary And Others

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Advocate for the Petitioner : Mr. Gaikwad T. G.

AGP for Respondent/State : Ms. R.P. Gaur

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CORAM : R.G. AVACHAT &
ABASAHEB D. SHINDE, JJ.

DATED : SEPTEMBER 10, 2025

PER COURT :

. The petitioners have urged for the following main
reliefs :

“B. The impugned order styled as Notice dated 02.07.2024, issued by the respondent no.2 may please be quashed & set aside, by issuing writ of certiorari or any other appropriate writ, order or direction in the nature of writ of certiorari.

C. The respondent No.2 may please be directed to forthwith accept the statutory registration stamp fee of Rs.100/- from the petitioners in accordance with the proviso (b) & (c) below Section (Article 46) of the Maharashtra Stamps Act, 1958 and further direct the respondents No.4 to 6 to forthwith sanction the Mutation Entry in the revenue record in pursuance of Compromise Decree dated 30.04.2023, passed by the Civil Judge Junior Division at Parali Vajjnath in R.C.S. No.135/2023, by issuing writ of mandamus or any other appropriate writ, order or direction in the nature of writ of mandamus.”

2. The petitioners were one of the parties to the civil suit (R.C.S. No.135 of 2023). It was a suit for partition and separate possession of the joint family properties. The suit was compromised on 30.04.2023. The compromise decree was passed in the Lok Adalat. The petitioner moved the revenue authorities for change in the revenue record pursuant to the terms of the compromise decree. The revenue authorities directed him to the office of Sub Registrar, for having the decree registered. The Sub Registrar in turn asked the petitioner to have the decree endorsed on the requisite amount of stamp paper. According to the petitioner, the Sub Registrar asked him for the stamp paper of worth Rs.1,42,900/- i.e. more than prescribed under Article 46 of the Maharashtra Stamp Act.

3. We have heard the learned AGP. For better appreciation, Article 46 of the Maharashtra Stamp Act is reproduced below :

Description of Instrument (1)	Proper Stamp duty (2)
Art. 46. Partition – Instrument of as defined by section 2 (m)	
	
	(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than five rupees
	(b) where the instrument relates to the partition of agricultural land, the rate of duty applicable [shall be one hundred rupees].

(3)

	(c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed ten rupees.
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4. The learned advocate makes a statement that post passing of the decree, none of the parties thereto have challenged the same either in appeal or writ petition.

5. In view of sub-clause (c) of proviso to Article 46, the final order of a civil Court, effecting partition is to be stamped with a stamp worth not exceeding ten rupees. No other provision requiring more amount of stamp paper is brought to our notice. We therefore direct the concerned Sub Registrar to have the partition decree endorsed on a stamp paper worth Rs.10/-. We therefore allow the writ petition in terms of prayer clause (B).

6. Writ Petition stands disposed of.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)