



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.18206 OF 2024**

Sunil Jangonda Patil	...	Petitioner
versus		
Appaso Anna Tare and Anr.	...	Respondent

Mr. Manoj Patil with Mr. Shubham Dhenge, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 5 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 10 May 2024 passed by the learned Civil Judge, Jaisingpur, whereby the application for review of an earlier order dated 15 February 2024 came to be rejected. By the said order dated 15 February 2024, the learned Civil Judge has directed that the document which is in the form of purported memorandum of Partition dated 21 January 1974 be admitted and read in evidence under Section 90 of the Indian Evidence Act.
3. Learned Counsel for the Petitioner submitted that the trial Court did not consider the objection raised by the Plaintiffs as to the evidentiary value of the said document. In fact, the said document had never been acted upon. The order passed by the trial Court indicates that the document would be read in evidence without considering the objection to the evidentiary value of the said

document.

4. I have perused the orders dated 15 February 2024 and the impugned order dated 10 May 2024, whereby the application for review of the former order was also rejected.

5. It appears that the document in question was impounded as it was not adequately stamped. Post impounding, the adjudicating authority had determined the deficit stamp duty and penalty, thereon and, thereafter, the document was admitted in evidence as it is 30 year old. The trial Court has raised presumption under Section 90 of the Indian Evidence Act. The mere fact that the document has been admitted in evidence and marked as exhibit does not imply that the document is proved in evidence. All the contentions on behalf of the Petitioner as regards the evidentiary value of the said document would be required to be adjudicated at the stage of the final decision of the suit.

6. With the aforesaid clarification, the Writ Petition stands disposed.

(N.J.JAMADAR, J.)