IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3289 OF 2025

Ketan Dilip Shah and Others ...Petitioners
vs.
Chandrakant Kantilal Shah and Others ...Respondent

Mr. Rubin Vakil i/b. Mr. Gaurang Jhaveri, for the Petitioners.
Mr. Sharan Jagtiani, Senior Advocate a/w. Mr. Siddharth Joshi, Mr. Prasanna Tare, Ms. Sankalpita Mullick, for Respondent Nos. 1 to 4 and 8 to 10.
Mr. Kunal Vajani a/w. Mr. Shubhang Tandan and Ms. Akshada Shetye, for Respondent No. 26.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 18 MARCH, 2025
PRONOUNCED ON : 28 MARCH 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith and with the consent of the counsels for the parties, heard finally.

2. A short question of the admissibility of copies of unregistered sale deed and confirmation deeds which were subsequently executed and registered in relation to such unregistered sale deed arises for consideration, in this petition.

3. A group of seven persons allegedly acquired immovable properties admeasuring 312 Acres and 19 ½ Gunthas of land situated at village Khari, Taluka and District Thane. It is alleged, the legal heirs of one of the co-owners namely Kantilal Smanilal Sonawala created third party rights in the said properties (the suit

property) without knowledge and notice to the other co-owners. Resultantly, three suits came to be filed amongst the same set of parties representing the seven co-owners.

4. In Special Civil Suit No. 776 of 2011, while the evidence of defendant Nos. 11 to 13 was being recorded, the defendants tendered photostat copies of the unregistered sale deed executed by all the co-owners in favour of Shrikanti Cooperative Housing Society Limited and Shreepal Cooperative Housing Society Limited, which were purportedly formed by the co-owners to develop the suit properties, construct buildings thereon and sale the flats and commercial premises therein. The defendant Nos. 11 to 13 further claimed, in the year 1998 two confirmation deeds dated 12th May, 1988 and 11th May, 1988 were executed in favour of Shrikanti CHS and Shreepal CHS confirming the said unregistered sale deeds dated 29th March, 1972. Those confirmation deeds were duly registered and subsequent thereto, a deed of rectification was executed on 2nd April, 2004 to correct the description of the property.

5. When the defendants No. 11 to 13 sought to tender those instruments in evidence, the plaintiff as well as defendant Nos. 2 to 4 and 8 to 10 raised objection to the admissibility of said documents. Initially the learned Civil Judge ruled that, the

documents may be taken on record keeping open the issue of admissibility of the documents at the time of final adjudication of the suit. However, the plaintiff and other co-defendants insisted for the determination of the question of admissibility of the document before adducing further evidence.

6. Thus, by an order dated 3rd February, 2025, the learned Civil Judge ruled that the copies of the Conveyance Deeds dated 29th March, 1972 cannot be admitted in evidence as those conveyances were unregistered and they cannot be looked into even for collateral purposes. Secondly, it appeared that those instruments were scribed on papers insufficiently stamped. The notification dated 30th October, 1972 issued under section 42 of the Maharashtra Cooperative Societies Act, 1960 had no retrospective operation and thus the stamp duty was not exempted.

7. As regards the Deeds of Confirmation and Rectification Deed, the learned Civil Judge was of the view that since the main instruments i.e. Deeds of Conveyance can not be admitted in evidence, the Deeds of Confirmation and Rectification Deed, executed after long lapse of time, can not be also admitted in evidence. Reference was made to to a circular issued by the Registrar General and Controller of Stamps on 22nd December, 2011, not to register such Confirmation Deeds.

8. Being aggrieved defendant Nos. 11 to 13 have approached this Court.

9. I have heard Mr. Rubin Vakil, the learned counsel for the petitioners, Mr. Sharan Jagtiani, the learned senior Advocate, for respondent Nos. 1 to 4 and 8 to 10, and Mr. Kunal Vajani, learned counsel for respondent No. 26, at some length.

10. Mr. Vakil, the learned counsel for the petitioners, submitted that the learned Civil Judge did not properly appreciate the nature and import of the bar contained in section 49 of the Registration Act, 1908 (the Act). Under the proviso to section 49 of the Act, an unregistered document may be received as evidence of any collateral transaction not required to be effected by registered instrument. Since the Deeds of Conveyance are not registered, those instruments can not evidence the transfer of the suit properties in favour of two cooperative housing societies. However, those instruments can be received in evidence to show the nature of the ownership and the then understanding between the parties as regards the title to the suit property. Thus, the learned Civil Judge unjustifiably discarded those instruments. To this end, Mr. Vakil placed reliance on the judgments of the Supreme Court in the cases of S. Kaladevi V/s. V.R.Somasundaram and Ors.[1] and Korukonda Chalapathi Rao and Anr. V/s. Korukonda Annapurna Sampath

1 (2010) 5 SCC 401

Kumar[2].

11. Mr. Vakil further urged that the refusal to receive the Confirmation Deeds which are duly executed and registered was wholly unjustifiable. Whether those Confirmation Deeds have any bearing on the rights and liabilities of the parties would be a matter for adjudication at the trial. However, the trial Court was not justified in shutting out the said instruments on the count that the Deed of Conveyance, they referred to, were not registered.

12. Mr. Vakil submitted that the aspect of stamp duty on the Deeds of Conveyance was also not correctly appreciated. In fact, there is a prior Notification which exempted the payment of stamp duty on the conveyances in favour of the Cooperative Housing Society. Mr. Vakil, however, fairly conceded that the said notification issued in the year 1939 was not produced before the learned Civil Judge.

13. Mr. Jagtiani, learned Senior Advocate for the respondents, supported the impugned order. It was submitted that in view of the law laid down by the Full Bench of this Court in the case of Hemendra Rasiklal Ghia vs. Subodh Mody[3], since the objection related to the very admissibility of the document for want of registration and insufficiency of stamp duty, the objection was

2 (2022) 15 SCC 475
3 (2008) 6 Mah.L.J. 886 (FB).

required to be decided the moment the objection was raised without reserving the question of admissibility of the document until the final judgment in the case. The learned Civil Judge has thus followed the correct procedure and, therefore, in exercise of limited supervisory jurisdiction, this Court would not be justified in interfering with the ruling on the admissibility of the documents. Mr. Jagtiani submitted that the perusal of the impugned order would indicate that all the relevant factors are taken into account by the learned Judge. By no stretch of imagination the order can be said to be arbitrary or perverse. Therefore, this Court need not entertain the petition, urged Mr. Jagtiani.

14. On the merits of the matter, Mr. Jagtiani submitted that since the Deeds of Conveyance were not tendered for registration within the period stipulated by sections 23 to 25 of the Registration Act, those deeds of conveyance, cannot be received as evidence of any transaction affecting the immovable property comprised therein, in view of the bar contained in Section 49(c) of the Registration Act, 1908.

15. The endeavour of the defendants to press into service those Deeds of Conveyance for the purported collateral purpose by resorting to the proviso to section 49 of the Registration Act, 1908, cannot be countenanced.

16. Taking the Court through the affidavit in lieu of examination in chief of defendant No. 12/1, especially paragraph 6, Mr. Jagtiani submitted that there is a categorical statement that the suit land was transferred in the name of two societies under two Deeds of Conveyances dated 29th March, 1972. Therefore, it was abundantly clear that those instruments were sought to be tendered as evidence of transaction of Sale and not for any collateral purposes. Thus, the learned Judge was fully justified in declining to receive those instruments in evidence.

17. Mr. Jagtiani further submitted that execution of Confirmation Deeds after 16 years of the execution of Deeds of Conveyance, and registration thereof, would not clothe legality and validity on those Deeds of Conveyance. The learned Civil Judge was, therefore, perfectly justified in disallowing the endeavour of the defendants to bring the Deeds of Conveyance on record in an indirect manner.

18. Mr. Jagtiani submitted that the decision of the Supreme Court in the case of S. Kaladevi vs. V.R. Somasundaram and Ors. (supra), on which reliance was sought to be placed by defendant Nos. 11 to 13, to urge that the Deeds of Conveyance can be admitted in evidence by making an endorsement, as indicated therein that, they were admitted as proof of oral agreement of sale under the proviso to section 49 of the Act, 1908, is not at all applicable to the facts of

the case as the instant suit is not for specific performance of the contract. The decision in the said case is restricted to the suit for specific performance of contract only.

19. Mr. Jagtiani also placed reliance on a judgment of this Court in the case of Nilkanth Shridhar Thorbole and Anr. vs. Hanumant Baburao Magar and Others[4] wherein this Court repelled the submission premised on the admissibility of the Sale Deed for the collateral purpose of establishing longstanding possession of the plaintiff by observing that the alleged Sale Deed constituted the substratum of the plaintiff's case on the basis of which the principal relief of declaration of title was sought. Mr. Jagtiani urged that the aforesaid pronouncement governs the facts of the case at hand as the defendant Nos. 11 to 13 are banking upon the Deeds of Conveyance to assert that the suit property was transferred to the two Cooperative societies thereunder.

20. Under section 54 of the Transfer of Property Act, 1882, a sale of immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument. The consequences of non-registration of documents required to be registered either under section 17 of the Registration Act, 1908 or the Transfer of Property Act, 1882 are provided in section 49 of the Registration Act, 1908.

4 2021 (5) Mh.L.J. 264.

In a sense, section 49 of the Registration Act lends sanction to the mandate of compulsory registration of instrument under section 17 of the Registration Act or the provisions of Transfer of Property Act, by incorporating disabilities.

21. Section 49 of the Registration Act, 1908 reads as under:-

> **49. Effect of non-registration of documents required to be registered-**
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> No document required by section 17 (or by any provision of the Transfer of Property Act, 1882 to be registered shall -
> (a) affect any immovable property comprised therein, or
> (b) confer any power to adopt, or
> (c) be received as evidence of any transaction affecting such property or conferring such power,unless it has been registered.
>
> Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (3 of 1877) or as evidence of any collateral transaction not required to be effected by registered instrument.

22. Section 49 thus provides that any document which is required to be registered, but has not been registered, shall not affect any immovable property comprised therein, nor such document shall be received as evidence of any transaction affecting such property. The proviso to section 49, however, removes the disability in specified cases. Under the proviso, an unregistered document may be received as an evidence of a contract in a suit for specific performance or evidence of collateral transaction not required to be effected by registered instrument.

23. Consequently, by virtue of the proviso, an unregistered Sale

Deed of an immovable property of the value of rupees hundred and more can be admitted for two purposes. First – specific, as evidence of a contract in a suit for specific performance of the contract. Second – general, as evidence of any collateral transaction not required to be effected by registered instrument.

24. In the case of K.B. Saha and Sons Private Limited Vs Development Consultant Limited[5], the Supreme Court culled out the principles regarding the interplay between the main part of Section 49 and the proviso thereto, as under:-

> "1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.
>
> 2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.
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> 3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.
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> 4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.
>
> 5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose." (emphasis supplied)

25. A useful reference can also be made to a three Judge judgment of the Supreme Court in the case of Bhaiya Ramanuj Pratap Deo Vs Lalu Maheshanuj Pratap Deo & Ors.[6], wherein the

5 (2008) 8 SCC 564.
6 (1981) 4 SCC 613.

admissibility of Khorposh (Maintenance Deed) was called in question as it was an unregistered instrument. The Supreme Court held that the maintenance deed can be looked into for collateral purpose of ascertaining the nature of the possession. The observations in para 22 read as under:

> "22 As regards the second reason, the argument is based on Section 17 read with Section 49 of the Indian Registration Act. Section 17 of the Registration Act enumerates the documents requiring registration. Section 49 of the Registration Act provides that no document required by Section 17 or by any provision of the Transfer of Property Act, 1882 to be registered shall be (a) affect any immovable property comprised therein, (b) *** (c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered. Khorposh (maintenance) deed is a document which requires registration within the meaning of Section 17 of the Indian Registration Act and as the document was not registered it cannot be received as evidence of any transaction affecting such property. Proviso to section 49, however, permits the use of the document, even though unregistered, as evidence of any collateral transaction not required to be effected by registered instrument. In this view of the legal position the maintenance deed can be looked into for collateral purpose of ascertaining the nature of possession.

(emphasis supplied)

26. In the case of S. Kaladevi (supra), on which reliance was placed by Mr. Vakil, undoubtedly the suit was instituted for specific performance of the contract for sale and, in that context, the Supreme Court enunciated that when an unregistered Sale Deed is tendered in evidence, not as evidence of a completed sale, but as proof of an oral agreement of sale, the deed can be received in evidence making an endorsement that it is received only as evidence of an oral agreement of sale under the proviso to Section 49 of 1908 Act.

27. Mr. Jagtiani was justified in canvassing a submission that the said mode of admission of an unregistered Sale Deed in evidence would apply where the suit is for specific performance of the contract. However, it deserves to be noted in paragraph 11 of the said judgment, the Supreme Court also referred to the exception carved out by second proviso to section 49 in its general application, namely, admission of an unregistered instrument, as an evidence of any collateral transaction not required to be effected by registered instrument.

28. In the case at hand, it is the later part of the proviso i.e. admissibility of unregistered Deed of Conveyance as evidence of any collateral transaction not required to be effected by registered instrument, that requires consideration.

29. In the case of Korukonda Chalapathi Rao (supra), the Supreme Court had an occasion to consider the import of the term, "affect" used in clause (c) and the "collateral transaction" used in the last limb of the proviso to Section 49. The observations in paragraphs 25 to 27, 31, 36 and 37 are instructive and hence extracted below:-

> 25} The expression 'affect' has been explained by the Full Bench judgment of the Madras High Court in Muruga Mudallar and Ors. v. Subba Reddiar, 1950 SCC OnLine Mad.136. We may notice only the following discussion in the judgment of Satyanarayana Rao, J.:
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> > "….. ….As pointed out by Spencer J. in Saraswathamma v. Paddayya, 46 Mad. 349 : (A. I. R.

> 1923 Mad. 297) the verb "affect" in Section 49 is only a compendious term employed by the Legislature to express the meaning of the longer phrase "purporting or operating to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent to" (See also Kanjee & Moolji Bros, v. Shanmugham Pillai, 56 Mad. 169 : (A. I. R. 1932 Mad. 734), where the view of Spencer J. was accepted)."

26} Section 49(c) of Registration Act prohibits the admitting of compulsorily registrable documents which are unregistered as evidence of any transaction affecting immovable property unless it has been registered. In the very same Judgment, we notice the following discussion: (Murdga Mudaliar case)

> ".. ……..The other consequence of non-registration is to prohibit the document from being received not "in" evidence, but "as" evidence of any transaction affecting such property. The emphasis on the word "as" was, in my opinion, rightly laid by Venkatasubba Rao J. in Saraswathamma v. Paddayya, where the learned Judge observed:
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> "What is prohibited by the section is receiving a document as evidence of a transaction, not merely receiving it in evidence, i.e., as a piece of evidence having a bearing on the question to be ultimately decided."
>
> In other words, the prohibition is to prevent a person from establishing, by the use of the document in evidence a "transaction, affecting Immovable property". *A person should not be permitted to establish indirectly by use of the document what he is prevented from doing directly under Clause (a).*"

27} The proviso carves out two exceptions. We are only concerned, in this case, with only one of them and that is contained in the last limb of the proviso. The unregistered document can be used as evidence of any collateral transaction. This is however subject to the condition that the said collateral transaction should not itself be one which must be effected by a registered document. It is this expression contained in the proviso which leads us to ask the question as to what would constitute a collateral transaction. If it were collateral transaction, then an unregistered document can indeed be used as evidence to prove the same. Would possession being enjoyed or the nature of the possession on the basis of the unregistered document, be a transaction and further would it be a collateral transaction? We pose this question as the contention of the appellants is that even if the Khararunama dated 15.4.1986 cannot be used as evidence to prove the factum of relinquishment of right which took place in the past, the Khararunama can be looked into to prove the conduct of the parties and the nature of the possession which was enjoyed by the parties.

31. This is significant for the reason that the law is not that in every case where a party sets up the plea that the Court may look into an unregistered documents to show the nature of the possession that the Court would agree to it. The cardinal principle would be whether by allowing the case of the party to consider an unregistered document it would result in the breach of the mandate of the Section 49 of the Registration Act.

36. If we apply the test as to whether the Khararunama in this case by itself "affects" i.e. by itself creates, declares, limits or extinguishes rights in the immovable properties in question or whether it merely refers to what the appellants alleged were past transactions which have been entered into by the parties, then going by the words used in the document, they indicate that the words are intended to refer to the arrangements allegedly which the parties made in the past. The document does not purport to by itself create, declare, assign, extinguish or limit right in properties. Thus, the Khararunama may not attract Section 49(a) of the Registration Act.

37. As far as Section 49(c) of the Registration Act is concerned, it provides for the other consequence of a compulsorily registrable document not being so registered. That is, under Section 49(a), a compulsorily registrable document, which is not registered, cannot produce any effect on the rights in immovable property by way of creation, declaration, assignment, limiting or extinguishment. Section 49(c) in effect, reinforces and safeguards against the dilution of the mandate of Section 49(a). Thus, it prevents an unregistered document being used "as" evidence of the transaction, which "affects" immovable property. If the Khararunama by itself, does not "affect" immovable property, as already explained, being a record of the alleged past transaction, though relating to immovable property, there would be no breach of Section 49(c), as it is not being used as evidence of a transaction effecting such property. However, being let in evidence, being different from being used as evidence of the transaction is pertinent (see Murdga Mudaliar[7]). Thus, the transaction or the past transactions cannot be proved by using the Khararunama as evidence of the transaction. That is, it is to be noted that, merely admitting the Khararunama containing record of the alleged past transaction, is not to be, however, understood as meaning that if those past transactions require registration, then, the mere admission, in evidence of the Khararunama and the receipt would produce any legal effect

7 1950 SCC Online Mad 136

on the immovable properties in question."

30. The thrust of the submission of Mr. Jagtiani was that the defendant Nos. 1 to 13 are not seeking to tender the Sale Deeds as for any collateral purpose but as evidence of transfer itself. Strong emphasis was laid on the assertion in paragraph 6 of the affidavit in lieu of examination in chief. Para 6 of the affidavit reads as under :

> "6. After the demise of my maternal grandfather, in order to implement their objective to do the business of land development and construction, all the co-owners decided to form and register co-operative housing Society Ltd. under whose banner the suit land was to be developed and construct buildings thereon and sell the flats and shops or commercial premises to the prospective purchasers as provided under Maharashtra Ownership Flats Act. Therefore they formed and registered two societies by names (1) Shrikanti Co-op. Hsg. Society Ltd. and (2) Shripal Co-op. Hsg. Society Ltd., bearing Registration Nos.TNA/HSG/809 of 1971 and TNA/HSG/805 of 1971 respectively. Subsequent to the formation and registration of the societies, the suit land was transferred in the name of Societies under two Deeds of Conveyances both dated 29/031/1972. In 1988 deeds of confirmation dated 12/05/1988 and 11/05/1988 respectively were executed in favour of Shrikanti C.H.S. and Shripal C.H.S. In 2004 a Deed of Rectification was executed on

> 02/04/2004 with respect to the land bearing Gat No.63(P) which was wrongly mentioned as Gat No.62/1 in the Agreement with Shrikant C.H.S."

31. I find it difficult to accede to the submission of Mr. Jagtiani. The assertions in the said paragraph are required to be read as a whole. The purpose of execution of those unregistered Deeds of Conveyance and the animus of the parties thereto, precedes the affirmation that subsequent to the formation and registration of the Societies, the suit land was transferred in the name of Societies under two Deeds of Conveyance both dated 29th March, 1972.

32. It is fairly crystallized that the nature of the possession and the jural relationship which the parties intended to arrive at under the unregistered instrument, can be construed as collateral transaction.

33. Deeds of Conveyance, in question, explicitly referred to the fact that the vendors along with other promoters had promoted the proposed Housing Co-op. Societies, namely, Shrikanti and Shripal Co-op. Hsg. Societies; those societies were registered under the Indian Co-operative Societies Act, on 11 October 1971 and the vendors transferred the title to the suit land to the societies upon receipt of consideration. The last part i.e. conveyance of title is clearly hit by the bar contained in Clauses (a) and (c) of Section 49

of the Registration Act, 1908. However, to the extent the Deeds of Conveyance referred to the arrangement between the parties whereby the vendors along with the other promoters formed co-operative societies, got it registered and, thereafter, agreed to transfer the suit lands to the said societies and formed by themselves (as distinguished from conveyance of title) pertained to antecedent transactions which are not required to be effected by registered instrument. The jural relationship thereby intended to be formed and the nature and character of the possession of the parties over the suit lands, thereafter, in my considered view, can form the "collateral purposes" for which Deeds of Conveyance can be permitted to be let in evidence. From this standpoint, unregistered Deeds of Conveyance could not have been discarded as inadmissible even under the later part of the proviso to section 49.

34. On the aspect of the admissibility of the Deeds of Conveyance in question on the ground of insufficient stamp duty, the learned Civil Judge was within his rights in observing that the defendants No. 11 to 13 were not entitled to bank upon the Notification dated 30th October, 1972 as the said Deeds were executed on 29th March, 1972. The submission of Mr. Vakil that there was a prior Notification of the year 1939, need not be considered by this Court as the said notification was not placed on the record of the trial

Court and the learned Judge has had no opportunity to delve into the said aspect of the matter.

35. With regard to the objection of insufficient stamp duty, the defendant Nos. 11 1to 13 are required to surmount another impediment. What the defendant Nos. 11 to 13 have produced are copies of the Deeds of Conveyance and not the original instrument. Albeit, they have been permitted to adduce secondary evidence of those instrument. Yet, it is trite law that a copy of an instrument which is chargeable with duty, cannot be impounded.

36. In the case of Jupudi Kesava Rao V/s. Pulavarthi Venkata Subbarao[8], in the context of the provisions contained in section 35 of the Indian Stamp Act, the Supreme Court expounded the legal position in clear and explicit terms that Section 35 of the said Act deals with original instrument and not copies and thus Section 36 of the said Act cannot be so interpreted as to allow secondary evidence of an instrument to have its benefit. The observations in para Nos.14 and 15 are instructive. They read as under :

> *"14. If Section 35 only deals with original instruments and not copies Section 36 cannot be so interpreted as to allow secondary evidence of an instrument to have its benefit. The words "an instrument" in Section 36 must have the same meaning as that in Section 35. The legislature only relented from the strict provisions of Section 35 in cases where the original instrument was admitted in*

8 AIR 1971 SC 1070

evidence without objection at the initial stage of a suit or proceeding. In other words, although the objection is based on the insufficiency of the stamp affixed to the document, a party who has a right to object to the reception of it must do so when the document is first tendered. Once the time for raising objection to the admission of the, documentary evidence is passed, no objection based on the same ground can be raised at a later stage. But this in no way extends the applicability of Section 36 to secondary evidence adduced or sought to be adduced in proof of the contents of a document which is unstamped or insufficiently stamped.

15. The above is our view on the question of admissibility of secondary evidence of a document which is unstamped or insufficiently stamped, as if the matter were res-integra. It may be noted however that the course of decisions in India in the Indian High Courts,barring one or two exceptions, have consistently taken the same view."

37. The aforesaid aspect of the matter is also required to be examined by the trial Court, if it is found that the Deeds of Conveyance were chargeable with stamp duty and the exemption from stamp duty, pursuant to the Notification issued under section 42 of the Maharashtra Cooperative Societies Act, 1960, was not available.

38. So far at the Confirmation Deeds and Rectification Deed, which are duly registered, once it is found that unregistered Deeds of Conveyance could have been admitted in evidence, by invoking the proviso to section 49 of the Registration Act, 1908, the principal

objection to the admissibility of these documents based on inadmissibility of the unregistered Deeds of Conveyance falls through. Even otherwise, in my view, the Confirmation Deeds and Rectification Deed, which are duly executed and registered, cannot be completely eschewed from consideration. The evidentiary value of those Confirmation Deeds and Rectification Deed is an altogether different matter. What consequences emanate from those Confirmation Deeds and Rectification Deed are the matters for adjudication. However, those instruments, cannot be said to be per se inadmissible.

39. The defendants could have been thus permitted to tender those Confirmation Deeds and Rectification Deed in evidence keeping open the issues of their legality, validity and binding efficacy on the rights and liabilities of the parties, or for that matter, the impact of those instruments on unregistered Deeds of Conveyance.

40. The upshot of the aforesaid consideration is that the petition deserves to be partly allowed.

Hence, the following order.

ORDER

1 }The petition stands partly allowed.

2} The unregistered Deeds of Conveyance dated 29th March, 1972 are held to be admissible in evidence only as evidence of collateral transaction not required to be effected by registered instrument.

3} The question of admissibility of the unregistered Sale Deed for being insufficiently stamped is, however, left open to be determined by the learned Civil Judge in the light of the observations in this judgment.

4} Confirmation Deeds and Rectification Deed are declared to be admissible in evidence.

5} The legality, validity and evidentiary value of those Confirmation Deeds and Rectification Deed are, however, kept open for adjudication.

6} Rule made absolute to the aforesaid extent.

7} No costs.

(N. J. JAMADAR, J.)