

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 906 OF 2026

Krushnadas Raghunath Patil And Another
VERSUS
Sakhubai Dilip Patil And Another

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Advocate for the Petitioners : Mr. Swanand H. Lathkar h/f Mr. Shah
Subodh P

Advocate for Respondents : Mr. Sharad Vijay Natu

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 27, 2026

PER COURT :-

1. Heard.
2. The petitioners takes exception to order dated 16.08.2023 passed by Joint Civil Judge Senior Division, Shahada below Exhibit-61 in Regular Civil Suit No.67 of 2019, to the extent of rejection of their prayer to read partition deed (Article A) in evidence and marking it as an exhibit.
3. The petitioners instituted Regular Civil Suit No.67 of 2019 seeking relief of declaration of title and injunction to protect their possession in respect of suit property i.e. 51/3B (southern portion of land Gat No.51/3). The contention of petitioners is that suit land is purchased by them from their cousin namely Dilip. However, instead of executing sale deed, transfer was effected under document Article-A titled as partition deed with a view to save stamp duty leviable on sale deed.

4. While recording of evidence in suit, petitioner made an application below Exhibit-61 seeking permission to lead secondary evidence of partition deed dated 27.05.2004 and sought it to be exhibited and read in evidence. The Trial Court declined petitioners prayer observing that unregistered document is not admissible in evidence.

5. Mr. Lathkar, learned advocate appearing for petitioners relying upon observations of Hon'ble Supreme Court in case of *Bondar Singh and Others Vs. Nihal Singh and Others* reported in *(2003) 4 SCC 161* contends that although document is unregistered, it can be admitted in evidence for collateral purpose to ascertain possession. He relies upon language of Section 49 of Indian Registration Act.

6. Per contra, learned advocate appearing for respondents relies upon observations of Hon'ble Supreme Court in case of *Yellapu Uma Maheswari and Another Vs. Buddha Jagadheeswararao and Others* reported in *(2015) 16 SCC 787* to urge that unregistered document cannot be admitted even for collateral purpose.

7. Having considered submissions advanced, it can be observed that petitioners claimed relief of declaration of ownership as well as perpetual injunction. Learned advocate for petitioners relies upon documents dated 27.05.2004 (marked as Article-A) in support

of his contention that it was a document of transfer of ownership and possession in favour of plaintiffs.

8. It is trite that if plaintiffs want to rely on document depicting transfer of title, such document needs to be registered. In absence of registration of document, plaintiffs would not be permitted to claim transfer of title to them as to suit property. However, if plaintiffs simply want to rely upon document for collateral purpose to establish transfer/delivery of possession unregistered document can be admitted in evidence for collateral purpose.

9. The reliance placed by petitioners on observations of Hon'ble Supreme Court in case of Bondar Singh (supra) particularly para 5 would be appropriate in facts of present case, wherein it is observed that :

“under the law a sale deed is required to be properly stamped and registered before it can convey title to the vendee. However, legal position is clear that a document like the sale deed in the present case, even though not admissible in evidence, can be looked into for collateral purposes.”

In the present case the collateral purpose is to ascertain nature of possession of the plaintiffs over the suit land.”

10. In the aforesaid factual and legal background, reliance of respondents on observations of Supreme Court in case of Yellapu (supra) would be misplaced. In that case, unstamped partition deed was sought to be relied upon and was admitted in evidence. In this

background, Supreme Court observed that an unstamped instrument is not admissible in evidence even for collateral purpose, until the same is impounded.

11. In present case, admissibility of document dated 27.05.2004 (Article-A) is already settled after clearing objection as to non-payment of stamp duty in earlier round of litigation. This Court had referred the document to Collector of Stamps who opined that stamp duty paid on document is sufficient. Therefore, question of admissibility of document for insufficiency of stamp duty does not survive for consideration.

12. In result, impugned order cannot be sustained in law and document in question needs to be exhibited for limited purpose i.e. collateral purpose to find out nature of possession of plaintiffs.

13. Hence, writ petition is partly allowed in terms of prayer clause (A) and (C).

(S.G. CHAPALGAONKAR, J.)