

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 19th OF JANUARY, 2026

MISC. PETITION No. 7597 of 2025

DINESH GUPTA AND OTHERS

Versus

CHHAJJURAM BAMBA

.....
Appearance:

Shri Om Prakash Dwivedi - Advocate for the petitioners.
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ORDER

By way of present petition challenge is made to the order dated 08.12.2025 passed by the trial court whereby the application under Section 33 of Indian Stamp Act filed by the present petitioner/plaintiff has been rejected by the trial court.

2. The further challenge is made to the refusal of the trial court on deposition sheet to exhibit the photocopy of questioned agreement to sale.

3. It is the case of the plaintiff/plaintiff that a suit has been filed for declaration and permanent injunction on the basis of an agreement to sale and earlier an application was filed under Section 65 of Indian Evidence Act which was allowed by the trial court on 22.10.2024 permitting the petitioner/plaintiff to lead secondary evidence of agreement to sell on the basis of its photocopy. However, when the said document was sought to be exhibited in evidence an objection was taken by the defendant that the said document is insufficiently stamped and therefore, it cannot be admitted in

evidence in view of the Section 35 of Indian Stamp Act. At about the same time the petitioner filed an application under Section 33 of Indian Stamp Act for adjudication of proper stamp duty on the agreement to sale which has been rejected vide impugned order dated 08.12.2025 on the ground that the adjudication of the deficit stamp and impounding of document cannot be made on photocopy of the document and it can only be made on original of the document and since the original of the document is not before the Court and therefore, photocopy cannot be impounded.

4. Counsel for the petitioner before this Court had vehemently argued that the trial Court could not go behind its own order dated 22.10.2024 when it had allowed application under Section 65 of Indian Evidence Act and permitted to lead secondary evidence of contents of the photocopy to agreement to sale.

5. Upon hearing counsel for the petitioner an on perusal of the documents placed on record, the aforesaid contention of counsel for petitioner is not found to be substantiated. This is because when on 22.10.2024 the trial court permitted to lead secondary evidence of agreement to sale on the basis of its photocopy, then the question of it being sufficiently stamped or not was not brought to the attention of the court. It was only when the said document was sought to be exhibited and the objection was being raised as to the said document being insufficiently stamped then the petitioner filed an application under Section 33 of Stamp Act, seeking therein that the said document be impounded and deficit stamp duty to be adjudged on the said document.

6. The trial court rejected the said application on the ground that deficit stamp duty cannot be assessed on photocopy of a document and it can only be assessed on original of the document and therefore, refused to impound photocopy to agreement to sale. It is settled in law that photocopy can not be impounded and impounding can only be made on original of the document.

7. As per Section 35 of the Indian Stamp Act, a document not duly stamped is inadmissible in evidence and the trial court could not have admitted the document in evidence once it was undisputedly insufficiently stamped. Even the petitioner is not even entitled to benefit of Section 49 of Registration Act because the said provision would only relieve the requirement of registration of the document, and not it to be properly stamped.

8. Therefore, no relief cannot be granted in the present petition. The same fails and is dismissed.

(VIVEK JAIN)
JUDGE

MISHRA