



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 47 OF 2023 (GM-CPC)

BETWEEN:

1. SRI. VENKATESH
@ ABHAY VENKATESH
S/O LATE RANGANNA
AGED ABOUT 51 YEARS
R/AT NO.52, SHANESHWARNAGAR
ANDHRAHALLI MAIN ROAD
BANGALORE-560058.

2. SMT RATHNAMMA
W/O SRI VENKATESH
D/O SRI SHANKARAPPA
AGED ABOUT 46 YEARS
R/AT MOODALAPALYA VILLAGE
MAGADI TALUK
RAMANAGARAM DISTRICT-562127

...PETITIONERS

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. K V SHYAMAPRASADA., ADVOCATE)

AND:

SRI. NANJE GOWDA
S/O LATE NANJUNDAIAH
AGED ABOUT 66 YEARS
R/AT SHETTIGERE VILLAGE
THEREDAGUPPE POST
KOTHAGERE HOBLI, KUNIGAL TALUK
TUMKUR DISTRICT-572130.

...RESPONDENT



(BY SRI.M MADHUSUDAN, ADVOCATE FOR
SRI V VISHWANATH SHETTY, ADVOCATE FOR
C/RESPONDENT)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE THE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR DIRECTION BY QUASHING OF ORDER PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AT BANGALORE RURAL DISTRICT BANGALORE IN OS.NO.2101/2008 DATED 18.10.2022 ANNEXURE-F AND PERMIT THE PETITIONERS HEREIN TO MARK THE ANNEXURE-C AND D AS EXHIBITS WITHOUT PAYING ANY STAMP DUTY AND PASS ANY OTHER RELIEF AS THIS HON'BLE COURT DEEMED FIT UNDER THE CIRCUMSTANCE OF THE CASE.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed by the defendants under Articles 226 and 227 of the Constitution of India, challenging the order dated 18.10.2022 passed by the III Additional Senior Civil Judge, Bengaluru Rural District, Bengaluru in O.S. No.2101/2008, whereby Exhibits C and D marked by the petitioners/defendants have been impounded by the trial Court and a direction has been



issued to pay stamp duty of Rs.1,58,980/- and a penalty of Rs.15,89,800/-, in all amounting to Rs.17,48,780/-.

2. The plaintiff has filed a suit for declaration and injunction. The petitioners/defendants, after entering appearance, have filed their written statement and also produced documents to be marked as Exhibits C and D. The trial Court has passed the impugned order impounding the said documents.

3. The Apex Court, in the case of **SEETHARAMA SHETTY vs. MONAPPA SHETTY** reported in **AIR 2024 SC 5327**, has held that the trial Court has no power to calculate the stamp duty and penalty. Under the said Act, the documents are required to be referred to the competent authority, i.e., the District Registrar. The relevant portion is extracted below:

" 21.8. The scheme does not prohibit a party to a document to first invoke directly the jurisdiction of the District Registrar and present the instrument before Court/Every Person after



complying with the requirement of duty and penalty. In such an event, the available objection under Sections 33 or 34 of the Act is erased beforehand. The quantum of penalty is primarily between the authority/court and the opposing party has little role to discharge.

22. Reverting to the circumstances of the case by keeping in perspective the steps summarised in the preceding paragraph, we notice that, before the stage of admission of the instrument in evidence, the respondent raised an objection on the deficit stamp duty. Therefore, it was the respondent who required the suit agreement to be impounded and then sent to the District Registrar to be dealt with under Section 39 of the Act. In this case, the respondent desired the impounding of the suit agreement and collect the deficit stamp duty and penalty. The trial court is yet to exercise its jurisdiction under Section 34 of the Act. On the contrary, the trial court has called for a report from the District Registrar, so for all purposes, the suit instrument is still at one or the other steps summed up in paragraph 21. Therefore, going by the request of the respondent, the option is left for the decision of the District Registrar. Contrary to these admitted circumstances, though the suit instrument is insufficiently stamped, still the penalty of ten



times under Section 34 of the Act is imposed through the impugned orders. The imposition of penalty of ten times at this juncture in the facts and circumstances of this case is illegal and contrary to the steps summed up in paragraph 21. The instrument is sent to the District Registrar, thereafter the District Registrar in exercise of his jurisdiction under Section 39 of the Act, decides the quantum of stamp duty and penalty payable on the instrument. The appellant is denied this option by the impugned orders. It is trite law that the appellant must pay what is due, but as is decided by the District Registrar and not the Court under Section 34 of the Act.

23. Hence, for the above reasons, the direction to pay ten times the penalty of the deficit stamp duty merits interference and accordingly is set aside. The trial court is directed to send the agreement of sale dated 29.06.1999 to the District Registrar to determine the deficit stamp duty and penalty payable. Upon receipt of the compliance certificate from the District Registrar, without reference to an objection under the Act, the suit document be received in evidence. All objections available to the respondents except the above are left open for consideration."



4. In view of the above, the impugned order passed by the trial Court is liable to be quashed.

5. Accordingly, the following order:

(i) The writ petition is allowed.

(ii) The impugned order dated 18.10.2022 passed by the III Additional Senior Civil Judge, Bengaluru Rural District, Bengaluru in O.S. No.2101/2008 is quashed.

(iii) The trial Court is directed to send the documents to the District Registrar for determination of the stamp duty and penalty payable. Upon receipt of the report from the District Registrar, the trial Court shall proceed further in accordance with law.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

CM
LIST NO.: 1 SL NO.: 41