



CNR: KAHC010020712020

NC: 2026:KHC:43816
W.P. No.1662/2020
C/W W.P. No.1343/2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.1662/2020 (GM-CPC)

C/W

WRIT PETITION NO.1343/2020 (GM-CPC)

IN W.P. No.1662/2020:

BETWEEN:

1. SRI. T.B. CHANDRASHEKAR
AGED ABOUT 41 YEARS
S/O LATE T.S. BASAVARAJU.
2. SRI. T.B. SANTHOSH
AGED ABOUT 39 YEARS
S/O LATE T.S. BASAVARAJU.

BOTH ARE R/AT ANUGRAHA
NO.699, 9TH CROSS
WEST OF CHORD ROAD
OPP. MODI EYE HOSPITAL
MAHALAKSHMIPURAM
BENGALURU-560086.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. N.G. SREEDHAR, ADV.,)

AND:

SRI. K. VASUDEVAMURTHY
AGED ABOUT 41 YEARS
S/O SRI. R. KEMPAIAH
R/AT BHYRAVESHWARA NILAYA



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DEVANNAPALYA, DASANAPURA
BANGALORE NORTH TALUK
BENGALURU-562162.

...RESPONDENT

(BY SRI. MAHALINGA BHAT, ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 06.01.2020 ON I.A.NO.32 IN O.S.NO.5149/2014 PASSED BY THE LEARNED XIV ADDL. CITY CIVIL JUDGE, AT BANGALORE (CCH-28) (ANNX-H) AS THE SAME IS NOT LEGAL, PROPER AND CORRECT AND CONSEQUENTIALLY, BE PLEASED TO DISMISS I.A. NO.32 IN O.S.NO.5149/2014 ON THE FILE OF THE LEARNED XIV ADDL. CITY CIVIL JUDGE, AT BANGALORE (CCH-28) THEREBY REQUIRING THE INSUFFICIENTLY STAMPED ALLEGED SALE AGREEMENT DATED 19.9.2013 TO BE IMPOUNDED FOR DETERMINING AND RECOVERY OF THE DUTY AND PENALTY PAYABLE THEREOF FROM THE RESPONDENT/PLAINTIFF & ETC.

IN W.P. NO.1343/2020:

BETWEEN:

1. SRI. T.B. CHANDRASHEKAR
AGED ABOUT 41 YEARS
S/O LATE T.S. BASAVARAJU.
2. SRI. T.B. SANTHOSH
AGED ABOUT 39 YEARS
S/O LATE T.S. BASAVARAJU.

BOTH ARE R/AT : ANUGRAHA
NO.699, 9TH CROSS
WEST OF CHORD ROAD
OPP. MODI EYE HOSPITAL
MAHALAKSHMIPURAM
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...PETITIONERS



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(BY SRI. N.G. SREEDHAR, ADV.,)

AND:

SRI. K. VASUDEVAMURTHY
AGED ABOUT 41 YEARS
S/O SRI. R. KEMPAIAH
R/AT BHYRAVESHWARA NILAYA
DEVANNAPALYA, DASANAPURA
BANGALORE NORTH TALUK
BENGALURU-562162.

...RESPONDENT

(BY SRI. MAHALINGA BHAT, ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 06.10.2020 ON IA NO.2 IN OS NO.5149/2014 PASSED BY THE LEARNED XIV ADDL. CITY CIVIL JUDGE AT BANGALORE (CCH-28) (ANNEXURE-F) AS THE SAME IS NOT LEGAL, PROPER AND CORRECT AND CONSEQUENTIALLY, BE PLEASED TO ALLOW IA NO.2 IN OS NO.5149/2014 ON THE FILE OF THE LEARNED XIV ADDL. CITY CIVIL JUDGE, AT BANGALORE (CCH-28) THEREBY REQUIRING THE INSUFFICIENTLY STAMPED ALLEGED SALE AGREEMENT DATED 19.09.2013 TO BE IMPOUNDED FOR DETERMINING AND RECOVERY OF THE DUTY AND PENALTY PAYABLE THEREOF FROM THE RESPONDENT/PLAINTIFF & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



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ORAL ORDER

WP.No.1662/2020 is filed challenging the order dated 06.01.2020 on IA.No.32 and WP.No.1343/2020 is filed challenging the order dated 06.01.2020 on IA.No.2 in OS.No.5149/2014 by the XIV Additional City Civil Judge, Bengaluru, (CCH-28), (for short 'the trial Court').

2. Heard Sri.N.G.Sreedhar, learned counsel appearing for the petitioner, Sri.Mahalinga Bhat, learned counsel for the respondent and meticulously perused the material available on record.

3. The respondent herein filed a suit in OS.No.5149/2014 seeking the relief of specific performance of the contract i.e. agreement of sale dated 19.09.2013, against the petitioners herein. In the said suit, the petitioners filed an application in IA.No.2 under Section 33 of the Karnataka Stamp Act, 1957 (for short 'the Act'), seeking to impound the agreement of sale dated 19.09.2013 on the ground that the plaintiff had suo motu



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calculated the stamp duty payable and paid the deficient duty after 9 months from the date of the agreement, which is impermissible under law. Hence, the agreement in question was liable to be impounded and the plaintiff be directed to make good the deficit stamp duty along with 10 times the penalty on such duty. Thereafter, the plaintiff filed an application in IA.No.32 under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC'), seeking leave of the Court to reopen the evidence of PW1 for the purpose of producing the agreement of sale dated 19.09.2013 and for permission to mark the same. The trial Court, under the impugned orders, dismissed IA No.2 filed by the petitioners/defendants seeking impounding of the instrument and allowed IA.No.32 filed by the respondent/plaintiff.

4. The primary contention of the learned counsel for the petitioners is that the agreement of sale was admittedly executed on a stamp paper of Rs.400/-, which,



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according to the plaintiff himself, was insufficiently stamped; hence, the plaintiff suo motu approached the authority and on 26.06.2014, paid a sum of Rs.19,600/- by way of demand draft, which was acknowledged by the Sub-Registrar. Considering the said aspects, the trial Court rejected the application seeking impounding of the document.

5. It is to be noticed that the issue of payment of alleged deficit stamp duty at a later stage is impermissible and the said issue is no longer *res integra*. This Court, in the case of **Smt.Dyavamma Alias Sanna Mukkamma v. Smt.Balamma and Others¹** at paragraph Nos.7 to 14 has held as under:

"7. *Under the Act, all duties with which any instruments are chargeable shall be paid by means of stamps and such payment shall be indicated on such instruments (Section 10).*

8. *Payment of stamp duty by cash is permissible, in the manner provided under Section 10A.*

¹ ILR 2010 KAR 3280



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9. *The Act prescribes the time of stamping instruments under Section 17, the same reads as follows:*

"17. Instruments executed in the State of Karnataka, — All instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution.

(Provided that nothing in this Section shall apply to an instrument in respect of which stamp duty has been paid under Section 10-A).

10. *From a plain reading of the above Section — the subsequent payment of duty to avoid the document being impounded by the Court, when the same is sought to be relied upon for the purposes of the suit, does not render the document as being one which is "duly stamped" under the provisions of the Act. The expression "duly stamped" as defined under 2(1)(c) of the Act, read with Section 17 would render it an insufficiently stamped document.*

11. *The conduct of the petitioner would indicate that the parties were not doubtful of the actual duty payable — for it has been determined in accordance with the schedule by the petitioner himself, and is paid.*

12. *The said document having been produced in Court it ought to have been impounded under Section 33 of the Act, notwithstanding the payment of deficit stamp duty, by the petitioner; Further, in terms of Section 34 of the Act the petitioner can be permitted to rely on the same, for any purpose, only on payment of penalty as prescribed under*



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Section 34. The Section is extracted for ready reference.

"34. Instruments not duly stamped inadmissible in evidence, etc., — No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped."

(emphasis supplied)

Provided that -

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13. *It is clear from the above that not only is the document inadmissible in evidence — the Court cannot also act upon it. For instance, the Court cannot on the basis of the same consider any interim reliefs by way of temporary injunction or attachment before judgement etc., — till such time both duty and penalty are paid.*

14. *There are no provisions either under the Act or the Karnataka Stamp Rules, 1958, which enabled the petitioner to pay the deficit stamp duty at his will, long after the execution of the document."*

6. The learned Single Judge of this Court, in the case of **Gnyaneshwar Sindol v. Smt. Sumitra Bai**² at paragraph Nos.15 and 16 has held as under:

² WP No.206589/2015 and connected writ petition disposed of on 11.10.2017



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"15. Section 17 prescribes the time for stamping instruments which specifies that all instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution. Thus, the subsequent payment of duty or penalty paid by the persons in order to avoid the document being impounded by the Court when required to be tendered in evidence to make it as duly stamped as defined under Section 2(1)(c) of the Act cannot be accepted.

16. On repeated question put to the learned counsel for the petitioners to point out any provisions under the Act or the Rules, which enabled the petitioners to pay deficit stamp duty after the long gap of 7 years no positive answer is forth coming. The sequence of events as narrated above, in filing the application, passing of the order and collecting the stamp duty and penalty on the same day would raise suspicion in the mind of the Court regarding genuineness of such an order passed by the District Registrar. As aforesaid, the District Registrar is not vested with any power to receive the deficit stamp duty and penalty at the whims and fancies of the parties and to certify the same. Thus, it can be held that the basis of the arguments in as much as the certification of the Deputy Registrar for having paid the deficit stamp duty and penalty is without authority of law and the same is unsustainable."



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7. Another Co-ordinate Bench of this Court, in the case of **Mr. Vinod Kumar v. Sri R. Loka Kumar and Others³** at paragraph Nos.10 to 12 has held as under:

"10. Section 34 of the Act deals with the instrument not duly stamped inadmissible in evidence etc. Section 39 of the Act deals with the power of the Deputy Commissioner to stamp instruments impounded under Section 33 or receives any instrument sent to him under sub section (2) of Section 37 of the Act.

Section 17 of the Act prescribes time for stamping instruments which specifies that all the instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution.

11. Thus it is clear that subsequent payment of duty and penalty paid by the person in order to avoid the document being impounded by the Court when required to be tendered in evidence to make it as 'duly stamped' as defined under Section 2(1)(c) of the Act, cannot be accepted. Further though the document came to be executed on 12.6.2016 and the petitioner has paid a stamp duty on 21.12.2016 and certificate came to be issued by the District Registrar on 21.12.2016, the petitioner has not paid the stamp duty as on the date of execution of the agreement of sale.

*12. This Court in **Smt.Dyavamma Alias Sanna Mukkamma vs. Smt.Balamma and Others** reported in ILR 2010 KAR 3280 has*

³ WP No.27094/2017 dated 11.01.2022



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held that the stamp duty cannot be paid as per the whims and fancies of the parties. It has to be paid as on the date of execution of the agreement of sale. It is also further held that there are no provisions either in the Act or Karnataka Stamp Rules 1958 which enabled the petitioner to pay the deficit stamp duty at his will, long after the execution of the document.

*The Co-ordinate Bench of this Court in **Gnyaneshwar Sindol and Ors. v. Sumitra Bai and Ors.** (W.P.Nos.206589/2015 & 202161-62/2017 dated 11.10.2017) relying upon the **Dyavamma** supra, has also reiterated the same principle and consequently directed the petitioner to pay the duty and penalty."*

8. Keeping in mind the enunciation of law laid down by this Court in the aforesaid decisions, I am of the considered view that the trial Court has committed a grave error in understanding the scheme of the Act. It is further to be noticed that there is no provision either under the Act or the Rules made under the Act to enable the party to pay the deficient stamp duty at his will.

9. In the case on hand, admittedly, the agreement of sale is dated 19.09.2013, whereas the alleged deficit stamp duty was paid by the plaintiff on 26.06.2014, which



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is impermissible. Hence, I am of the view that the marking of the document by the trial Court should be considered as a tentative marking, subject to the trial Court calculating the stamp duty and penalty payable on the said instrument, and upon making such payment by the plaintiff, the document can be considered for its admissibility. For the aforementioned reasons, I proceed to pass the following:

ORDER

- i. The writ petitions are ***allowed***.
- ii. The impugned orders dated 06.01.2020 on IA.No.32 and IA.No.2 in OS.No.5149/2014 by the XIV Additional City Civil Judge, Bengaluru, (CCH-28), are hereby set aside. Consequently, IA.No.2 filed by the petitioners is allowed. The IA.No.32 filed by the respondent/plaintiff renders infructuous in view of the



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document having already been marked.

- iii. The trial Court shall impound the document in question, calculate the stamp duty and penalty payable on it and direct the plaintiff to make good of the same, and on such payment of the stamp duty and penalty, the trial Court shall consider the same for its admissibility in the evidence in accordance with law.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 20