



CNR: KAHC010028682022

NC: 2026:KHC:46826
W.P. No.1355/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 29TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.1355/2022 (GM-CPC)

BETWEEN:

1. MRS. SAVITHA MARTIS
D/O MR. BAPTIST MARTIS
AGED ABOUT 41 YEARS
R/AT. BEHIND URWA MARKET
MANGALORE-575006.
2. MR. K. KRISHNA SHETTY
S/O LATE SRI. K. DOGU SHETTY.

[DELETED V/C/O DTD:25.08.2022]
3. MR. PETER ANTHONY PINTO
S/O LATE SRI. FREDRICK L. PINTO
AGED ABOUT 39 YEARS
R/AT NO.1205, FELICITY BLOCK I
BEJAI NEW ROAD
MANGALORE-575004.
4. MR. SANDESH KUMAR SHETTY
S/O SRI. KITTANNA SHETTY
AGED ABOUT 40 YEARS
R/AT NO.G 04, GLORY APARTMENTS
KOTEKANI ROAD
URWA, MANGALORE-575006.

...PETITIONERS

(BY SRI. KARUNAKARA P, ADV.,)

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



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AND:

1. MR. K. RAGHAVENDRA NAYAK
S/O LATE SRI. K. SURENDRA NAYAK
AGED ABOUT 42 YEARS
R/AT. "SATHYASHREE", D.NO.6-19-885/2-3
CROSS COMPOUND, BEHIND URWA MARKET
GHANDHINAGAR, MANGALORE-575003.
2. STATE OF KARNATAKA
BY SECRETARY TO GOVERNMENT
DEPARTMENT OF REVENUE
M.S. BUILDING, BENGALURU-01.

[AMENDED AS PER ORDER DTD:08.03.2022]

...RESPONDENTS

(BY SRI. SANTOSHRAJ C. DESHMUKH, AGA FOR R2
P2 DELETED V/C/O DTD:25.08.2022
R1 SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER
DTD.3.7.2021 PASSED ON IA NO.XV IN O.S.NO.517/2014 BY V
ADDITIONAL CIVIL JUDGE AND JMFC MANGALURU PRODUCED
AT ANNEXURE-A & ETC.

THIS PETITION, 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

This petition is filed challenging the order dated 03.07.2021 passed on IA.No.XV in OS.No.517/2014 by the V Additional Civil Judge and JMFC, Mangaluru (for short 'the trial Court').

2. Sri.Karunakar P., learned counsel appearing for the petitioners submits that in the suit filed by the respondent seeking an injunction, the defendants got marked Exs.D1 to D3, which are General Power of Attorneys (GPAs) dated 10.07.2013. The said instruments were impounded by the trial Court for payment of duty and penalty by calculating the duty and penalty under Article 41(eb) of the Karnataka Stamp Act, 1957 (for short 'the Act'). However, the trial Court failed to take note of the fact that the GPAs were executed for the purpose of developing the property, and, therefore, the duty payable



would be under Article 41(e)(a) of the Act. Hence, he seeks to allow the petition.

3. Learned AGA appearing for respondent No.2 supports the impugned order and submits that the GPAs indicate the creation of a right to sell the property. Hence, the trial Court has rightly ordered to pay the duty and penalty, and the same does not call for interference. Accordingly, he seeks to dismiss the petition.

4. I have heard the arguments on both sides and perused the material available on record.

5. The respondents filed a suit in OS.No.517/2014 seeking the relief of injunction. In the said suit, the plaintiffs filed an application under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') read with Section 33 of the Act, seeking to impound Exs.D1 to D3, the alleged GPAs produced by the defendants. The trial Court, after considering the rival submissions, allowed the



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application. Consequently, Exs.D1 to D3, the GPAs dated 10.07.2013, were impounded by directing the defendants to pay the duty and penalty as referred in the order.

6. It is to be noticed that this Court, in WP.No.1024/2022 filed by defendant No.2, set aside the order directing defendant No.2 to pay the duty and penalty on Ex.D3 by further observing that defendant No.1 is liable to pay the duty and penalty as calculated by the trial Court.

7. The trial Court under the impugned order while impounding the instruments and further calculating the duty and penalty, had placed reliance on Article 41(e) of the Act and directed the defendants to pay the duty and penalty.

8. The contention of the learned counsel for the petitioner is that the GPAs were executed in furtherance of the Joint Development Agreement between the parties.



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Hence, the duty and penalty, if any, would be leviable under Article 41(e)(a) of the Act. It is further contended that the petitioner is entitled to claim benefit as per explanation to Article 5(f) of the Act, if the duty is paid under the Joint Development Agreement, then there is exemption provided for payment of duty on the GPAs or in vice versa. The said contention is kept open to be urged before the trial Court.

9. Considering the said aspect, I am of the considered view that the trial Court is required to consider the said aspect by permitting the parties to place the material before it, as to whether the GPAs at Exs.D1 to D3 were executed in pursuance to the Joint Development Agreement and what duty and penalty is liable to be levied. Hence, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.



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- ii. The impugned order dated 03.07.2021
passed on IA.No.XV in OS.No.517/2014
by the V Additional Civil Judge and
JMFC, Mangaluru is hereby set aside.
- iii. The trial Court is directed to reconsider
the payment of duty and penalty as
observed supra.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 21