



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 10TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.16617/2021 (GM-CPC)

BETWEEN:

SMT. BHARATHI
D/O LATE RATHI SHETTY
AND THIMMAPPA SHETTY
AGED ABOUT 63 YEARS
R/AT. NEERALA KRUPADHAMA
BONDANTHILA VILLAGE
VIA VAMANJOOR
P O VAMANJOOR-575029
MANGALURU TALUK, D K.

REP. BY HER GPA HOLDER
SMT. NEETHA SHETTY
D/O SMT. BHARATHI
W/O SRI. RAMESH G
AGED ABOUT 40 YEARS
R/AT NEERALA, KRUPADHAMA
BONDANTHILA VILLAGE
VIA VAMANJOOR
P O VAMANJOOR-575029
MANGALURU TALUK, D K.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

...PETITIONER

(BY SRI. M. SUDHAKAR PAI, ADV.,)

AND:

1. SMT. KUSUMA
D/O LATE RATHI SHETTY
AND THIMMAPPA SHETTY
AGED ABOUT 73 YEARS



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

R/AT CASA-DA-MEMORIES
A R D'SOUZA LANE
LOWER BENDORE
KANKANADY POST
MANGALURU -575002, D K.

2. SRI. LOKESH
S/O LATE RATHI SHETTY
AGED ABOUT 69 YEARS.
3. SRI. PADMANABHA SHETTY
S/O LATE NARAYANA SHETTY
AGED ABOUT 59 YEARS.
4. SMT. RAJEEVI
D/O PADMANABHA SHETTY
AGED ABOUT 51 YEARS.
5. SMT. KALYANI SHETTY
W/O LATE VITTALA SHETTY
AGED ABOUT 84 YEARS.
6. SRI. RAMESH
S/O LATE VITTALA SHETTY
AGED ABOUT 68 YEARS.
7. SRI. RAGHURAMA
S/O LATE VITTALA SHETTY
AGED ABOUT 66 YEARS.
8. SRI. SADASHIVA
S/O LATE VITTALA SHETTY
AGED ABOUT 63 YEARS.
9. SMT. KAMALAKSHI
D/O LATE SANJEEVA SHETTY
AND SEETHA SHETTY
AGED ABOUT 63 YEARS.



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

R2 TO R9 ARE ALL R/AT
HITHLU MANE
KANNUR VILLAGE, P O PADIL
MANGALURU-575007, D K.

10. M/S. MANDОВI MOTORS
A REGISTERED COMPANY
REP BY ITS MANAGING DIRECTOR
MR. AROOR PRAKASH RAO
S/O LATE AROOR UMASHANKAR RAO
OFFICE AT OPP. HOTEL ROOPA
BALMATTA, MANGALURU-575001, D K.
11. SMT. VIJAYA BHARATHI B. RAI
W/O MR. K.B. BALAKRISHNA RAI
AGED ABOUT 48 YEARS
R/AT SRI NAVADURGA PRASAD
MANGALURU-BENGALURU ROAD
KANNUR VILLAGE, P O PADIL
MANGALURU-575007, D K.

...RESPONDENTS

(BY SRI. G. BALAKRISHNA SHASTRY, ADV., FOR R3 & R4
V/O/DTD:14.09.2021, NOTICE TO R1, R2, R5 TO R11
STANDS D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER DTD 10.08.2021 IN MISC.CASE NO.08/2021 AND ALSO
THE ORDER DTD 23.08.2021, BOTH IN O.S.NO.164/2017 ON
THE FILE OF PRL. SENIOR CIVIL JUDGE AND CJM,
MANGALURU, DK VIDE ANNEXURE-Q AND R RESPECTIVELY TO
THE WRIT PETITION & ETC.

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



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

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

ORAL ORDER

This writ petition is filed challenging the order dated 10.08.2021 passed in Misc.Case No.8/20221 and the order dated 23.08.2021 passed in O.S.No.164/2017 on the file of the Principal Senior Civil Judge and CJM., Mangaluru D.K., (for short, '***the trial Court***').

2. Heard Sri.M.Sudhakar Pai, learned counsel for the petitioner, Sri.G.Balakrishna Shastry, learned counsel appearing for respondent Nos.3 and 4 and perused the material available on record.

3. The petitioner herein had filed a suit in O.S.No.53/2015 seeking the relief of partition and other reliefs. The said suit came to be withdrawn. Later a suit in O.S.No.164/2017 is filed seeking relief of partition and other reliefs. In the said suit, defendant No.4 has produced a receipt dated 03.04.2017 which was opposed by the plaintiff. The defendant No.4 filed a memo



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

indicating that he is ready to pay ₹5,000/- towards the stamp duty on the receipt. The trial Court vide Order dated 23.03.2021 accepted the memo filed by the defendant No.4 and permitted him to pay the stamp duty of ₹5,000/- on the receipt dated 03.04.2017 and as per the permission, the defendant No.4 had paid the said amount and a memo to that effect was also filed.

4. It is to be noticed that the petitioner-plaintiff filed an application seeking review of the order dated 23.03.2021 and consequential acceptance of the memo filed by defendant No.4. The trial Court numbered the said review application as Misc.Case No.8/2021 and on hearing both sides, vide order dated 10.08.2021, rejected the said review application by accepting the contention of the defendant No.4. Further, the trial Court vide order dated 23.08.2021 permitted the defendant No.4 to mark the receipt as exhibit. Thus, the orders dated 10.08.2021 and 23.03.2021 are challenged in this petition.



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

5. The primary contention of the learned counsel for the petitioner-plaintiff is that the receipt which the defendant No.4 intends to mark as Exhibit in support of his contention is a relinquishment of right and the defendant No.4 is liable to pay the stamp duty and penalty as per Article 45A of the Karnataka Stamp Act, 1957.

6. The learned counsel for the respondent Nos.3 & 4-defendant Nos.4 & 5 contented that the amount received by the plaintiff is in the form of compensation for withdrawal of the suit.

7. It is the contention of the learned counsel for defendant No.4 that after withdrawal of the suit, the plaintiff has approached the defendant No.4 by contending that she has withdrawn the suit as she has no right over the suit schedule property and claimed that she has incurred expenditure towards the litigation and on such statement, a payment is made and the said payment is



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

recorded in the form of receipt and placed before the Court, hence, the same cannot be termed as relinquishment deed.

8. On perusal of the orders under challenge before this Court, it is noticed that the trial Court without considering the nature of the document, at the first instance, accepted the payment made by defendant No.4 as the actual duty payable on the receipt which is an error. In my considered view, the trial Court is required to first ascertain the nature of the document placed before it as to whether the said document is only a receipt as contented by the defendant No.4 or a relinquishment deed as contented by the plaintiff and thereafter come to a conclusion whether the said instrument is liable to be charged with a duty or penalty, if any. In the absence of any such finding, by mere accepting the stand of the defendant No.4 and coming to a conclusion that the document is required to be marked may not be



CNR: KAHC010330372021

appropriate. The trial Court has already marked the said document. The marking of said document has to be considered as a tentative marking subject to the trial Court recording the finding with regard to the nature of instrument first and its admissibility and the said finding is required to be recorded by framing appropriate issue and the said issue can be considered along with the other issues.

9. It is needless to observe that if the trial Court comes to a conclusion that the receipt in question is a relinquishment deed or a receipt, acknowledgment, then the trial Court can always calculate the duty payable on it, if attracted and the penalty as well, and order to pay the same at the time of passing the final decree. Hence, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned orders dated 10.08.20221 passed Misc.Case No.8/20221 and the order



CNR: KAHC010330372021

NC: 2026:KHC:42206
W.P. No.16617/2021

dated 23.08.2021 passed in O.S.No.164/2017
on the file of the Principal Senior Civil Judge
and CJM., Mangaluru D.K., are hereby set
aside.

- iii. The trial Court is directed to frame an issue
as to whether the receipt dated 03.04.2017
produced by defendant No.4 is a receipt or a
relinquishment deed and record its finding
and thereafter, if duty is payable, direct the
defendant No. 4 to pay the duty and penalty
as per the provisions of the Karnataka Stamp
Act, 1957.
- iv. It is made clear that this Court has not
expressed any opinion on the merits of the
document/receipt dated 03.04.2017.
- No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE