

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 16847 OF 2022 (GM-ST/RN)

BETWEEN:

MANAPPURAM FINANCE LTD.,
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT 1956
AND HAVING REGISTERED OFFICE
AT MANAPURAM HOUSE
A.O. VALAPAD, TRISSUR DISTRICT
KERALA
AND ITS BRANCH OFFICE AT 21/1
4TH FLOOR, JELITA TOWERS
MISSION ROAD
BENGALURU-560 027
REP. BY AUTHORISED SIGNATORY
LEGAL MANAGER-MR JUDE G.

...PETITIONER

(BY SRI.POORNA PRASAD K.R.,ADVOCATE)

AND:

- 1 . THE DEPUTY REGISTRAR
STAMPS AND REGISTRATION
DEPARTMENT
SHIVAJINAGAR,
4TH FLOOR
MONARC CHAMBERS NO.122/22
INFANTRY ROAD
BANGALORE-560 001.
- 2 . THE STATE OF KARNATAKA
BY ITS SECRETARY
REVENUE DEPARTMENT
DEPARTMENT OF FINANCE
VIDHANA SOUDHA

Digitally signed
by SUMA B N
Location:
HIGH COURT
OF
KARNATAKA

BENGALURU-560 001.

...RESPONDENTS

(BY SRI. MAHANTESH SHETTAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDERS DATED 08.04.2022 PASSED BY THE OFFICE OF THE DEPUTY REGISTRAR AT BENGALURU IN ANNEXURES-E, PASSED BY LXXXIV AC.C. AND SJ, COMMERCIAL COURT, BENGALURU IN COM EX.433/2021 AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 08.07.2026 FOR ORDER COMING ON FOR PRONOUNCEMENT THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

CAV ORDER

1. Petitioner, a non-banking financial company registered under the provisions of the Reserve Bank of India Act, 1934 is before this Court seeking following reliefs:

"1. Quash the impugned order dated 08.04.2022 passed by the office of the Deputy Registrar, at Bengaluru in Annexure-E, passed by the LXXXIV Additional District and Sessions Judge, Bengaluru, Execution Petition in Com. Ex.No.433/2021.

2. Direct the office of the Deputy Registrar to collect the stamp duty from the petitioner of the deficit amount only as the stamp duty has already been paid in the State of Maharashtra.

3. Pass such other order as this Hon'ble court deems fit in the facts and circumstance of this case."

2. Case of the petitioner is that it had initiated arbitration proceedings against the borrowers for recovery of the

loan amount. The said claim of the petitioner was allowed by the arbitrator in terms of the award dated 28.09.2018 as per Annexure-D, holding that the petitioner was entitled to recover a sum of Rs.9,09,752/- with interest 36% per annum from the date of the award till realization.

3. That the said award was passed by the Arbitrator at Mumbai, Maharashtra. Petitioner thereafter filed an Execution Petition in Com. Ex.No.433/2021 before the LXXXIV Additional District and Sessions Judge, Bengaluru, claiming an aggregate sum of Rs.18,91,989/- with accrued interest thereon.
4. That pursuant to the objection raised by the Registry of the Executing Court regarding the deficit payment of stamp duty, a sum of Rs.6,324/- was paid. By order dated 07.12.2021 time was granted to pay a penalty of Rs.63,230/-.
5. On 08.04.2022 the Petitioner filed a memo seeking withdrawal of the execution petition as not pressed. Accordingly, the Execution Petition was dismissed. Another memo was filed seeking return of the certified

copy of the arbitral award, which was dismissed on the premise of non-payment of penalty under Section 34 of the Karnataka Stamp Act, 1957. By the same order, the award passed by the sole arbitrator was impounded and the registry was directed to forward the same to the office of District Registrar of Stamps to collect the penalty of Rs.63,230/-. The District Registrar, by order dated 02.06.2022, directed the petitioner to pay the duty and penalty of Rs.63,230/-.

6. Being aggrieved by the aforesaid orders passed by the Executing Court as well as District Registrar, the petitioner is before this Court.

7. Learned counsel for the petitioner, taking this Court through the records, submitted;

(a) that in terms of sub-section (1) of Section 36 of the Arbitration and Conciliation Act, 1996 the award is required to be executed as a decree under Code of Civil Procedure and nowhere is there any express provision providing for payment of stamp duty on the Arbitral Award.

(b) that Section 17 of the Karnataka Stamp Act, 1957 provides for timing of stamping of the instrument. In terms of which, 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.

(c) That, as per Section 19(a), the amount of duty chargeable on such instrument shall be amount of duty chargeable within the State of Karnataka. If the stamp duty has already been paid outside the State of Karnataka, and the document is received within the State of Karnataka for the first time, and if it becomes chargeable with a higher duty, the amount already paid on such instrument shall be taken into consideration.

(d) Stamp duty, as provided under Article 11 of the Schedule to the Karnataka Stamp Act, 1957 is required to be paid on the Arbitral Award, which is sought to be executed. That as per the amendment to Article 11(b) in the Schedule, the proper stamp duty required to be paid on the award is 3/4% of the value of the Arbitral Award, i.e., 0.75% of the value of the Arbitral Award.

(e) that the Executing Court has not appreciated this aspect of the matter even while directing payment of 10 times of the penalty and the value to the award amount. Since the stamp duty has already been paid in Mumbai and the arbitral award was sought to be executed, the Executing Court was not justified in passing the impugned order.

(f) He also relies upon the judgment of the Co-ordinate Bench of this Court in the case of **SRI. DILLI BABU V. STATE OF KARNATAKA AND OTHERS**¹ in support of his submissions.

Hence, seeks for allowing of the petition.

8. Learned AGA appearing for the respondents referred to the judgment of the Apex Court in the case of **N.M. THEERTHETGOWDA VS. Y.M. ASHOK KUMAR AND OTHERS**² to contend that the Executing Court was within its power and jurisdiction in passing the order directing the petitioner herein to pay 10 times of the penalty on the award, as the deficit stamp duty was not paid.

¹ 2015 (5) KLJ 177

² 2024 SCC ONLINE SC 2319

9. Referring to the judgment of the Apex Court in the case of **SHAKEEL PASHA AND OTHERS V. M/S CITY MAX HOTELS INDIA PVT. LTD³**, wherein the Apex Court has held that the trial Court has no power to direct for payment of penalty, he submitted that, in the light of the aforesaid two judgments of the Apex Court regarding the power of the Courts to impose penalty, a clarification is required.
10. He also brings to the notice of this Court the order dated **23.10.2024** passed by the Co-ordinate Bench of this Court in **W.P.No.29299/2013** in the case of **MAHINDRA & MAHINDRA FINANCIAL SERVICES LTD. VS. K.V.CHANDRASHEKAR AND ANOTHER**, wherein the Co-ordinate Bench of this Court has held that in the case of an Arbitral Award involving monetary claims there is no requirement of paying the stamp duty.
11. Heard. Perused the records.
12. Article 11 of the Karnataka Stamp Act, 1957, deals with payment of stamp duty on the subject matter of the award. It has classified the subject matter of the award

³ Civil Appeal No.2139-2140/2024

into immovable property and movable property. If the subject matter of the award is immovable property, the stamp duty payable is the same duty as conveyance under Article 20(1) on the market value of the immovable property or the consideration, whichever is higher. If the subject matter of the award is movable property, slabs have been provided, namely:

(i) if the amount or market value of the property subject matter of the award does not exceed Rupee Fifty Lakhs, stamp duty payable would be $\frac{3}{4}\%$ of the amount or the market value.

(ii) if the amount or market value of the property subject matter of the award exceeds Rupees Fifty Lakhs but does not exceed Rupees Five Crores, stamp duty payable would be Rupees Thirty Seven Thousand and Five Hundred plus $\frac{1}{2}\%$ of the amount or the market value exceeding Rupees Fifty Lakhs;

(iii) if the amount or market value of the property subject matter of the award exceeds Rupees Five Crores, stamp duty payable would be Rupees Thirty Seven Thousand and Five Hundred plus Rupees Two

Lakhs and Twenty Five Thousand plus ¼% of the amount or the market value exceeding Rupees Five Crores.

13. The aforesaid aspect of the matter had fallen for consideration before the Co-ordinate Bench of this Court in the case of **MAHINDRA & MAHINDRA** (supra). The Co-ordinate Bench of this Court, after analyzing the provisions of law as well as the pronouncements made by the Apex Court and the other Co-ordinate Bench of this Court on the issue, while allowing the said writ petition, at paragraphs 16 and 21 has held as under;

"16. The ratios enunciated in the above decisions of this Court and other High Courts can be summarized as follows -

i. An arbitral award transcends all territorial barriers and is equated with a decree of the jurisdictional court which may have passed the decree for the sole purpose of enforcement only.

ii. The stamp duty payable is to be calculated and payable as on the date of the execution of the instrument, i.e., the date of the passing of the arbitral award and that directions to the award holder to pay balance stamp duty at the time of enforcement of the award in accordance with the provisions of State stamp acts is erroneous.

iii. An arbitral award involving monetary claims, such as damages or recovery of monies advanced as loans cannot be construed to be a movable property for purpose of Article 11 under the Karnataka Stamp Act, 1957 as the

said Article envisages only tangible properties as movable properties.

iv. Courts cannot fill in gaps in the law that the legislature has left out when exercising their powers of judicial.

21. An arbitral award should not be subject to any stamp duty under the broad provisions of Section 3(b) when read with Sections 19(a) and (b) due to its unique intangible nature and legislative oversight, which distinguishes an award from other instruments enumerated in the Schedule of the Act, which, if executed outside the State of Karnataka and then enforced in the State, would typically incur the stamp duty".

14. The facts and issue involved in the present case are thus squarely covered by the aforesaid order of the Co-ordinate Bench of this Court.
15. In the case of **SHAKEEL PASHA AND OTHERS** (supra) the Apex Court was dealing with the power of the Executing Court to be exercised under Sections 33 and 34 of the Stamp Act for directing payment of penalty on account of non-payment of stamp duty on the arbitral award. The Apex Court has thus held that Courts have no power to direct payment of penalty, which is to be exercised by the appropriate authorities under the Karnataka Stamp Act.

16. As regards the reliance placed on by the learned AGA on the judgment of the Apex Court in the case of **N.M. THEERTHETGOWDA** (supra), it is to be noted that the said matter involved the payment of stamp duty on an agreement of sale concerning immovable property. The Apex Court, referring to its earlier judgment in Civil Appeal No.10039-40/2024 (@ SLP (C) Nos.7249-50/2022) was considering the twin points of collection of deficit stamp duty and penalty. Taking note of the appellant therein having agreed to pay proper/sufficient stamp duty and penalty on the certified copy of the agreement of sale, the Apex Court held that the appellant therein had invited the Court to decide the issue under Section 34(1) of the Stamp Act. It is under those circumstances that the Apex Court had held that the appellant therein, having exercised the option under Section 34 of the Act, would not subsequently be entitled to express his willingness to exercise the option under Section 37(2) of the Stamp Act, which was impermissible; as such, it was held the trial Court was justified in imposing 10 times penalty. The facts and the law enunciated thereunder are not applicable to the facts of the present case. Inasmuch as the issue involved in the case at hand is regarding payment of

stamp duty on an Arbitral Award, which is covered under Article 11 as noted above.

17. The judgments of the Apex Court passed in the case of **SHAKEEL PASHA** (supra) and in the case of **N.M. THEERTHEGOWDA** (supra) are under completely different and distinct facts and circumstances.
18. Since the issue involved in this matter, as already noted above, is covered by the order of the Co-ordinate Bench of this Court in the case of **MAHINDRA & MAHINDRA** (supra), the petitioner herein who is similarly situated is entitled for the similar relief.
19. Accordingly, the following;

ORDER

- (i) Petition is **allowed**.
- (ii) The impugned order dated 08.04.2022 passed by LXXXIV Additional City Civil and Session Judge, Commercial Court, Bangalore, in Com.Ex.No.433/2021 as per Annexure-E is quashed.

(iii) Consequently, the order dated 02.06.2022 passed by the respondent No.1 as per Annexure-F is also quashed.

**SD/-
(M.G.S. KAMAL)
JUDGE**

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