



CNR: KAHC010411422022

NC: 2026:KHC:46825  
W.P. No.17971/2022

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 29<sup>TH</sup> DAY OF AUGUST, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**  
**WRIT PETITION NO.17971/2022 (GM-CPC)**

**BETWEEN:**

ABDUL MAZEED  
S/O LATE AZEEZ SAB .G  
AGED ABOUT 66 YEARS  
AGRICULTURIST  
R/AT. SHIRALAKOPPA TOWN  
SHIKARIPURA TALUK -577 428  
SHIVAMOGGA DISTRICT.

...PETITIONER

(BY SRI. GURUPRASAD HEGDE, ADV., FOR  
SRI. S.V. PRAKASH, ADV.,)

**AND:**

MOHAMMED IQBAL  
S/O HASSAN SAB  
SINCE DEAD BY HIS LR'S.

1. SMT. MAHAZABEEN  
W/O MOHAMMED IQBAL  
AGED ABOUT 73 YEARS.
2. MUDASEER  
S/O MOHAMMED IQBAL  
AGED ABOUT 55 YEARS.
3. NASIR  
S/O MOHAMMED IQBAL  
AGED ABOUT 53 YEARS.
4. PARVEEZ  
S/O MOHAMMED IQBAL  
AGED ABOUT 50 YEARS.

Digitally signed  
by RUPA V  
Location: HIGH  
COURT OF  
KARNATAKA



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5. GULNAZ  
D/O MOHAMMED IQBAL  
AGED ABOUT 40 YEARS.

6. AZAZ  
D/O MOHAMMED IQBAL  
AGED ABOUT 38 YEARS.

R1 TO R6 ARE  
R/AT KABARSTAN KERI, HALLUR  
SHIRALAKOPPA -577428  
SHIKARIPURA TALUK.

...RESPONDENTS

(R1 TO R6 ARE SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DTD 18.06.2022 PASSED BY THE COURT OF I ADDITIONAL CIVIL JDUGE, SHIKARIPURA IN O.S.NO.114/2014 VIDE ANNEX-D TO THE W.P. AND CONSEQUENTLY DIRECT THE PETITIONER/PLAINTIFF TO PAY THE PENALTY AT LESSER SIDE & 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**

**ORAL ORDER**

This petition is filed challenging the order dated 18.06.2022 passed in OS.No.114/2014 by the I Additional Civil Judge, Shikaripura (for short 'the trial Court').



2. Heard Sri.Guruprasad Hegde, learned counsel appearing for Sri.S.V.Prakash, learned counsel for the petitioner and perused the material available on record.

3. Despite the service of notice, there is no representation for the respondents.

4. The petitioner filed a suit in OS.No.114/2014 seeking the relief of specific performance of the agreement of sale dated 13.01.2006. In the said suit, the trial Court vide order dated 25.04.2018, noticing the objections raised by the defendants that the agreement of sale dated 13.01.2006 was insufficiently stamped, ordered the Sub-Registrar, Shikaripura, to calculate the required stamp duty and penalty on the said agreement of sale. Again, vide order dated 07.11.2019, ignoring the earlier order, the trial Court directed the office to send a copy of the agreement of sale dated 13.01.2006 to the District Registrar, Shivamogga to calculate the duty and penalty on the said agreement.



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5. The order sheet dated 20.11.2021 indicates that an office note was made recording that the District Registrar, Shivamogga had sent a report pursuant to the direction issued by the trial Court. However, the trial Court, under the impugned order dated 18.06.2022, without referring to the report of the District Registrar, ordered the petitioner to pay deficient stamp duty of Rs.6,510/- with ten times the amount as penalty, amounting to Rs.65,100/-.

6. It is to be noticed that the trial Court exercised its discretion and referred the instrument to the competent authority to calculate the duty and penalty. When the said discretion has been exercised, the trial Court would have considered the said report and based on such report, ought to have ordered the payment of duty and penalty. Without there being any reference to such report, and without assigning any reasons in the impugned order, ordering to pay the duty of Rs.6,510/- and ten times penalty on the said amount of Rs.65,100/-



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is improper. Hence, the impugned order dated 18.06.2022 passed in OS.No.114/2014 by the I Additional Civil Judge, Shikaripura is hereby set aside.

7. The trial Court is directed to consider the report of the District Registrar, Shivamogga, and, if the District Registrar has calculated the duty and penalty payable on the instrument, direct the petitioner/plaintiff to pay the said amount. If the District Registrar does not calculate the duty and penalty payable, then it is open to the trial Court to calculate the requisite duty and penalty in accordance with law and direct the petitioner/plaintiff to pay the said amount. With the aforesaid observations, the writ petition is ***disposed of***.

Sd/-  
(VIJAYKUMAR A. PATIL)  
JUDGE

ABK  
List No.: 1 Sl No.: 26