



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.21815/2021 (GM-CPC)

BETWEEN:

1. SMT. MUTHARASAMMA
W/O LATE RANGAMUDDAIAH
AGED 78 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORTAGERE TQ, TUMKURU DIST
REP. BY HER PA HOLDER
SRI. G.R. RAMESH
S/O G.M. RANGASHAMMAIAH
AGED 34 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMKURUR DIST.

- 1(a) G.R. RAMESH
S/O G.M. RANGASHAMMAIAH
AGED ABOUT 38 YEARS
R/O. M. GOLLAHALLI VILLAGE
MAVATHUR POST
KOLALA HOBLI – 572121
KORATAGERE TALUK
TUMKUR DIST.

[AMENDED AS PER ORDER DTD:18.02.2026]

...PETITIONERS

(BY SRI. B.K. MANJUNATH, ADV., FOR PROPOSED LR'S
OF DECEASED PETITIONER)

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:41561
W.P. No.21815/2021

CNR: KAHC010450122021

AND:

1. SRI. KEMPANNA
AGED 67 YEARS.
2. SRI. RANGAPPA
AGED 61 YEARS.
3. SRI. CHANNIGARAMAIAH
AGED 51 YEARS.

ALL ARE SONS OF LATE RAMAIAH
AND R/AT M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE HOBLI
TUMKURU DIST.

4. SMT. THIMMAKKA
W/O NARASAPPA
D/O LATE RAMAIAH
AGED 66 YEARS.
5. SMT. RANGAMUTHAMMA
W/O THIRUPATHAIAH
AGED 56 YEARS.

R4 & R5 ARE R/O
VENGALAMMANAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

6. SMT. SAKAMMA
W/O LATE THIMMAIAH
AGED ABOUT 76 YEARS.
7. SRI. MUTHARAYAPPA
S/O LATE THIMMAIAH
AGED 56 YEARS.



NC: 2026:KHC:41561
W.P. No.21815/2021

CNR: KAHC010450122021

8. SRI. RANGAPPA G.T.
S/O LATE THIMMAIAH
AGED 49 YEARS.

9. SMT. LAKSHMAMMA
W/O MALLANARASIAH
D/O LATE THIMMAIAH
AGED 54 YEARS.

R6 TO R9 ARE R/O
M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

10. SMT. HANUMAKKA
W/O MARANNA
D/O LATE THIMMAIAH
AGED 51 YEARS
R/O BELLADAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

11. SMT. DODDAMUTHAMMA
W/O MUTHARAYAPPA
D/O LATE THIMMAIAH
AGED ABOUT 46 YEARS
R/O MALLEGOWDANAHALLI VILLAGE
SASALU HOBLI
DODDABALLAPURA TQ
BENGALURU RURAL DIST.

12. SMT. CHIKKAMUTHAMMA
W/O NARAYANAPPA
D/O LATE THIMMAIAH
AGED 44 YEARS
R/O VADERAHALLI VILLAGE
KOLALA HOBLI 572121



NC: 2026:KHC:41561
W.P. No.21815/2021

CNR: KAHC010450122021

KORATAGERE TQ
TUMAKURU DIST.

13. SMT. KAVALLAMMA
W/O LATE HULIRAMAIAH
AGED ABOUT 74 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

SRI. RAJKUMAR
DEAD BY LR'S.

14. SMT. VIJAYALAKSHMI
W/O LATE RAJKUMAR
AGED ABOUT 51 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST

15. SMT. KAVALLAMMA
W/O HULIRAMAIAH
MOTHER OF RAJ KUMAR
AGED ABOUT 71 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

16. SMT. RASHMI
W/O LAKSHMEESHA
D/O LATE RAJ KUMAR
AGED ABOUT 36 YEARS
R/O CHINNAHALLI VILLAGE
KOLALA HOBLI
KORATAGERE TQ.



NC: 2026:KHC:41561
W.P. No.21815/2021

CNR: KAHC010450122021

17. SMT. SUSHMA
W/O RAGHU
D/O LATE RAJ KUMAR
AGED 31 YEARS
R/O DABBEGATTA VILLAGE
DODDERI HOBLI
MADHUGIRI TQ
TUMAKURU DIST.
18. SMT. SEEMA
D/O LATE RAJ KUMAR
AGED ABOUT 28 YEARS
R/O M. GOLLAHALLI VILLAGE
KOLALA HOBLI 572121
KORATAGERE TQ
TUMAKURU DIST.

...RESPONDENTS

(BY SRI. YASHWANTH NETHAJI, ADV., FOR
SRI. K.V. NARASIMHAN, ADV., FOR R2, R6 TO R12
R1, R3, R4, R5, R13, R14, R15, R16 ARE SERVED
V/O/DTD:04.06.2026 SERVICE OF NOTICE TO R17 & R18
IS H/S)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
IMPUGNED ORDER DTD. 22.10.2021 PASSED BY THE ADDL.
SENIOR CIVIL JUDGE, MADHUGIRI IN O.S.NO.102/2016 ON
ADMISSIBILITY OF DOCUMENT VIDE ANNEX-A & ETC.

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



CNR: KAHC010450122021

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

ORAL ORDER

This petition is filed challenging the order dated 22.10.2021 passed in O.S.No.102/2016 by the Additional Senior Civil Judge, Madhugiri (for short, '***the trial Court***').

2. Sri.B.K.Manjunath, learned counsel for the petitioner submits that the original petitioner-plaintiff had filed the suit for permanent injunction. In the said suit, petitioner produced a palupatti dated 20.12.1964, which is admittedly an unregistered document, to be marked in the evidence. However, the trial Court, ignoring the judicial pronouncements as well as proviso to Section 49 of the Registration Act, 1908, (for short, '***the Act***') refused to mark the said document stating that it is inadmissible by recording the reason that the palupatti is an unregistered document which is required to be registered under Section 17 of the Act.



3. Per contra, Sri.Yashwanth Nethaji, learned counsel for Sri.K.V.Narasimhan, learned counsel for the respondent Nos.2, 6 to 12 supports the impugned order of the trial Court and submits that admittedly the document in question is an unregistered document which is required to be registered under Section 17 of the Act and also the said instrument is insufficiently stamped, hence, the same is required to be impounded by the trial Court under Section 33 of the Karnataka Stamp Act, 1957, and on making good of the duty and penalty, the trial Court can consider the admissibility at a later stage. Hence, he seeks to dismiss the petition.

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

5. The parties to the proceedings are not in dispute that the petitioner-plaintiff had filed the suit in O.S.No.102/2016 seeking the relief of declaration that the plaintiff is the absolute owner in actual possession and



CNR: KAHC010450122021

enjoyment of the suit 'B' schedule property along with right in pathway, well, well water trees, etc. and relief of permanent injunction. The defendants filed the written statement as well as counter claim. The trial Court framed the issues, matter was posted for evidence. At that stage, the petitioner-plaintiff produced an unregistered Palupatti dated 20.12.1964 and sought to mark the same. The trial Court under the impugned order declined the same on the ground that the said Palupatti is an unregistered instrument and cannot be marked in the evidence and the same is inadmissible.

6. It would be useful to refer the decision of the Hon'ble Supreme Court in the case of ***Bipin Shantilal Panchal vs. State of Gujarat and Another***¹, in which in paragraph No.14 it is held as under:

"14. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence-taking stage regarding the

¹ (2001) 3 SCC 1



CNR: KAHC010450122021

admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the Judge or Magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed.)"

7. The Hon'ble Supreme Court in the case of **Ramratan (Dead) Thr LRS. v. Ramkali Bai & Ors.**² has reiterated the law laid on by the Hon'ble Supreme Court in the case of **Bipin Shantilal Panchal** referred supra.

² Civil Appeal No.3593/2025 (SLP (C) No.31014/2016) DD.04.03.2025



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

8. The co-ordinate Bench of this Court in the case of ***Sri.Prabhu and others v. Smt.Shanta and others***³ in paragraph Nos.8 to 15 held as under:

"8. The short question that would arise for consideration of this Court is:

"Whether a document though compulsorily registrable not having been registered, can be objected to at the time of marking during the course of evidence?"

9. There is no dispute as regards the document being unstamped or unregistered. In fact the claim of defendant No.2 is that, she had purchased the property under an unregistered sale deed. The trial Court also finding that the said sale deed was not properly stamped, by exercising powers under Section 34 of the Karnataka Stamp Act, 1958 has impounded the same and levied penalty.

10. Sri. Anil Kale, learned counsel for respondent No.2 has submitted that respondent No.2/defendant No.2 has no objection to make payment of penalty levied.

11. The Hon'ble Apex Court in the case of Yellapu Uma Maheswari & another Vs. Buddha Jagadheeswararao & Others reported in 2015 AIR SCW 6184, at paragraph 18 has held as under:

³ W.P.No.109727/2016 DD 30.03.2022



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

"18. Then the next question that falls for consideration is whether these can be used for any collateral purpose. The larger Bench of Andhra Pradesh High Court in Chinnappa Reddy Gari Muthyala Reddy Vs. Chinnappa Reddy Gari Vankat Reddy, AIR 1969 A.P. (242) has held that the whole process of partition contemplates three phases i.e. severancy of status, division of joint property by metes and bounds and nature of possession of various shares. In a suit for partition, an unregistered document can be relied upon for collateral purpose i.e. severancy of title, nature of possession of various shares but not for the primary purpose i.e. division of joint properties by metes and bounds. An unstamped instrument is not admissible in evidence even for collateral purpose, until the same is impounded. Hence, if the appellants/defendants want to mark these documents for collateral purpose it is open for them to pay the stamp duty together with penalty and get the document impounded and the Trial Court is at liberty to mark Exhibits B-21 and B-22 for collateral purpose subject to proof and relevance."

12. The Hon'ble Apex Court in the case of Shyam Narayan Prasad Vs. Krishna Prasad and Others reported in AIR 2018 SC 3152 at paragraphs 22 and 23 has held as under:

"22. It is clear from the above judgment that the best evidence of the contents of the document is the document itself and as required under Section 91 of the Evidence Act the document itself has to be produced to prove its contents. But having regard to Section 49 of the Registration Act, any



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

document which is not registered as required under law, would be inadmissible in evidence and cannot, therefore, be produced and proved under Section 91 of the Evidence Act. Since Exhibit P2 is an unregistered document, it is inadmissible in evidence and as such it can neither be proved under Section 91 of the Evidence Act nor any oral evidence can be given to prove its contents. Therefore, the High Court has rightly discarded the exchange deed at Exhibit P2"

13. This Court in **Mahadeva Vs. The Commissioner, Mysore City Corporation and Others** reported in **2003 (1) Kar.L.J.518** at para 9 and 10 has held as under:

"9. The proviso to Section 34 prescribes the conditions subject to which a document which is not duly stamped can be admitted in evidence. It inter alia provides for payment of the duty with which the same is chargeable or in the case of an instrument insufficiently stamped, the amount which is required to make up such duty together with the prescribed penalty. Suffice it to say that there is no conflict between what is permitted by the proviso to Section 49 of the Registration Act on the one hand and Section 34 of the Karnataka Stamp Act, 1957, on the other. The demand of duty and penalty in terms of the proviso to Section 34 before the document could be marked in token of its having been admitted in evidence did not therefore suffer from any error of law to warrant interference. As a matter of fact, whenever an objection regarding the admissibility of an instrument on the ground of its being unstamped or insufficiently stamped is raised, the Court is required to determine the



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

objection before proceeding any further, unlike other cases where an objection to the admissibility of a document on any other ground may be examined at a later stage and the document tentatively marked to avoid delay in recording of the evidence. The decisions of the Supreme Court in Ram Rattan (dead) by L.Rs v. Bajrang Lal and Ors., and Bipin Shantilal Panchal v. State of Gujarat and Anr., AIR 2001 SC 1158: (2001)3 SCC 1: 2001 Cri. L.J. 1254 (SC), and that of a Single Bench of this Court in Riyaz Khan, and Ors. v. Modi Mohammed Ismail and Ors., 2002(3) Kar. L.J. 551: ILR 2002 Kar. 3369, clearly settle the legal position in this regard.

10. The only other question that was argued by Mr. Shetty was whether the amount of duty and penalty on the sale deed relied upon by him could be determined by the Court itself or a reference to the Registrar of Stamps was necessary. There is no provision in the Karnataka Stamp Act, 1957, nor has Mr. Shetty brought any to my notice which would envisage a reference to the Registrar of Stamps for determining the duty payable on any instrument. The scheme of Section 34 of the Karnataka Stamp Act, 1957, also does not envisage any such reference being made before the document could be marked. The amount of duty payable on the sale deed (in the absence of any material to show that the property had been undervalued) is relatable to the consideration that was paid and received by the parties to the transaction. The penalty amount leviable on the instrument also didn't require or call for any enquiry which could possibly call for a reference to the Registrar. The Court below was therefore justified in holding that the duty payable on the instrument as also the penalty



CNR: KAHC010450122021

had to be calculated by the Court and not by the Registrar as argued by the plaintiff."

14. A perusal of the above paragraphs in the aforesaid decisions would clearly indicate that, if an unregistered document is brought up for marking during the course of evidence, in the event of the said document not being stamped adequately, or the stamping being improper, the said Court can impound the document and levy penalty. It is only after the penalty is paid upon the impoundment, that the Apex Court as also this Court have held that, the document can be marked in evidence. However, the admissibility thereof is to be decided subsequently.

15. In view of the above, the point framed for determination in this case is no longer res integra. The Hon'ble Apex Court has clearly laid down the law relating to the same. Hence I answer the point raised by holding that, even if a document is not registered, the said document can be marked in evidence, admissibility being left upon for consideration at appropriate stage."



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

9. It would be useful to refer the decision of this Court in the case of ***Kuberappa and Others vs. T.C.Gopal and Others***⁴ at paragraph Nos.5 to 11 has held as under:

"5. Sec.34 of Karnataka Stamp Act (for short, Stamp Act) specifies that an insufficiently stamped document cannot be admitted in evidence unless duty and penalty is paid. I had the occasion to consider the scope of Sec.34 of the Stamp Act in C.K. Ravi Prasanna v. T.K. Gowramma [AIR 2007 Karnataka 2807.] and I held as under:—

"7. Section 34 of the Karnataka Stamp Act mandates that no document shall be admitted in evidence for any purpose, unless it is duly stamped. Section 34 of the Act puts a complete embargo and bar against admissibility of such a document which is not stamped or which is not duly stamped and the same cannot be used for any purpose. In the instant case, under the agreement of sale dated 27.11.2004, the petitioner 's possession and enjoyment of the schedule property is in part performance of the agreement. Therefore, the agreement of sale in question falls under Article 5E. Therefore, the stamp duty is payable as per the conveyance specified in Article 20. Admittedly, the agreement of sale dated 27.11.2004 is insufficiently stamped. Therefore, the agreement of sale cannot be admitted in evidence unless duty and penalty is paid. Hence the impugned order passed by the Trial Court is in accordance with law".

⁴ ILR 2009 KAR 3182



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

6. Therefore, the partition deed dated 25.04.1987 relied on by the defendants 1 to 3 is insufficiently stamped and the same is inadmissible in evidence unless duty and penalty is paid on this document. In the event of defendants 1 to 3 pays duty and penalty on this partition deed, then the Trial Court shall admit the same in evidence.

7. The Trial Court on going through the averments in the partition deed dated 25.04.1987 held that a division had taken place in respect of immovable properties. The defendants 1 to 3 do not dispute the fact that the value of the immovable properties partitioned in the deed dated 25.04.1987 was more than Rs. 100/-. Sec.49 of the Registration Act specifies that no document required registration under Sec. 17 of the Registration Act if not registered shall not be received as evidence of any transaction affecting such property unless it has been registered. But the proviso to Sec.49 of the Registration Act further specifies that an unregistered document affecting immovable property may be received as evidence of a contract in a suit for specific performance under Chapter 2 of the Specific Relief Act or for any collateral transaction not required to be effected by registered instrument. Thereby it is clear from the proviso to Sec.49 of the



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

Registration Act that an unregistered document which requires compulsory registration under Sec. 17 of the Act can be received in evidence to prove collateral transaction which do not required registration.

8. *The word 'collateral transaction' mentioned in the proviso to Section 49 of the Registration Act means and include that a transaction between the parties in a deed which do not require registration. All and every transactions between two parties do not require registration. In such of the transactions specified under Section 17 of the Act are compulsorily registrable. There may be transactions between the parties in a particular deed which requires compulsory registration under Section 17 of the Act and there may also be transactions which do not require registration. Therefore an unregistered document require compulsory registration under Section 17 of the Act can be received in evidence to prove collateral transactions which do not require registration. Say for example, status of a party, the relationship between the parties, the nature of properties, severance of status among members of the family are all transactions between which do not require registration.*



CNR: KAHC010450122021

NC: 2026:KHC:41561
W.P. No.21815/2021

9. *The word 'collateral transaction' mentioned in the proviso to Section 49 of the Registration Act came up for consideration before the Supreme Court in Roshan Singh and Others v. Zile Singh and Others [AIR 1988 SC 881.] and it is held as under:—*

"It is well settled that the document though unregistered can however be looked into for the limited purpose of establishing a severance in status, though that severance would ultimately affect the nature of the possession held by the members of the separated family as co-tenants. The document Ex.P12 can be used for the limited purpose and a collateral purpose of showing that subsequent division of the properties allotted was in pursuance of the original intention to divide".

10. *A division bench of this Court in Umakant Rao v. Lalita Bai and Others [1988 (2) KLJ 155.] held that:*

"a document contains matters relating to the relationship between the parties, the nature of properties, the severance of status of members of joint family are all collateral in nature which do not require registration"

11. *In view of the law declared by the Apex Court and this Court in the decisions referred to supra, the partition deed dated 25.04.1987 though unregistered is admissible in evidence for limited and collateral purpose of showing the severance of status between the parties to the suit. The Trial Court without examining the scope of Sec.34 of Stamp Act and*



**NC: 2026:KHC:41561
W.P. No.21815/2021**

CNR: KAHC010450122021

Sec.49 of the Registration Act committed an illegality in passing the impugned order. Therefore, the impugned order is liable to be quashed."

10. In view of the law laid down by the Hon'ble Supreme Court and this Court in the aforesaid decisions, I am of the considered view that the trial Court has committed a grave error in refusing to mark the Palupatti dated 20.12.1964, it is made clear that the marking of the unregistered Palupatti dated 20.12.1964 is subject to payment of duty and penalty as per the provisions of the Karnataka Stamp Act, 1957. As held by the Hon'ble Supreme Court in the aforesaid decision, the admissibility of the Palupatti dated 20.12.1964 is required to be considered at the time of finally deciding the suit on merits. Hence, I proceeded to pass the following:

ORDER

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



NC: 2026:KHC:41561
W.P. No.21815/2021

CNR: KAHC010450122021

- ii. The impugned order dated 22.10.2021 passed in O.S.No.102/2016 by the Additional Senior Civil Judge, Madhugiri, is hereby set aside.
- iii. The trial Court is directed to mark Palupatti/unregistered partition deed dated 20.12.1964 subject to compliance of payment of duty and penalty as per the provisions of the Karnataka Stamp Act, 1957.
- iv. The question of admissibility of the said document shall be considered along with main matter.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 SI No.: 22