



CNR: KAHC010540452019

NC: 2026:KHC:51416
WP No. 3878 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 3878 OF 2020 (GM-CPC)

BETWEEN:

1. MR. NISAR AHMED SHA
SINCE DECEASED BY LR'S

1(A). SHAHJAHAN BEGUM
AGED ABOUT 55 YEARS

1(B). AFZAL PASHA
AGED ABOUT 38 YEARS

1(C). NOOR AYESHA
AGED ABOUT 32 YEARS

1(D). IDRESS PASHA
AGED ABOUT 30 YEARS

1(E). NOOR AFSA
AGED ABOUT 28 YEARS

1(F). AFSHAN PASHA
AGED ABOUT 26 YEARS

NO.1 BEING WIFE AND OTHERS
ARE CHILDREN OF LATE
MR. NISSAR AHMED SHA

Digitally
signed by
ANNAPURNA
G
Location:
High Court of
Karnataka





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ALL R/ATNO.51, 2ND CROSS
3RD MAIN ROAD,
RAM MANDIRA KALYANA MANTAPA STREET,
YESHWANTAPURA, BENGALURU - 560 032.

...PETITIONERS

(BY SRI. RAGHUNATH M.D AND LEGAL AXIS, ADVOCATE)

AND:

1. SMT. GANGAMMA
W/O LATE CHIKKANNA C,
AGED ABOUT 68 YEARS,
2. SRI. C. MUNIRAJU
S/O LATE CHIKKANNA C,
AGED ABOUT 47,

SL NO.1 AND 2 ARE
RESIDING AT NO.22, III MAIN,
RAM MANDIR ROAD,
MOHAN KUMAR NAGAR,
YESHWANTHPUR POST,
BENGALURU - 560 022.

3. SRI. LAKSHMAIAH
S/O LATE VENKATESH
AGED ABOUT 61
4. SMT. JAYALAKSHMI M
W/O SRI. LAKSHMAIAH,
AGED ABOUT 57 YEARS,



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SL NO. 3 AND 4 ARE
RESIDING AT NO.3, 'A' CROSS,
PIPELINE ROAD, B.B. NAGAR,
JALAHALLI,
BENGALURU - 560 013.

...RESPONDENTS

(BY SRI. V. LAKSHMAIAH, ADVOCATE FOR R3;
R3 - LAKSHMAIAH - SERVED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO ALLOW THE WRIT
PETITION WITH COSTS QUASH THE ORDERS PASSED BY XXVI
ADDL.CITY CIVIL JUDGE, MAYO HALL UNIT, CCH.NO.20,
BENGALURU IN O.S.NO.942/2011 DATED 21.11.2019 ON I.A
U/S 37/2 OF KARNATAKA STAMP ACT AT ANNEXURE-E AND
ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned writ petition is filed by the plaintiff assailing
the order passed by the learned Judge on an application filed
by the plaintiff under Section 37(2) of the Karnataka Stamp
Act, 1957 (for short, "the Act"), seeking impounding of the
document and reference of the same to the District Registrar



for determination of the deficient stamp duty and penalty payable thereon. The learned Judge, while considering the said application, has determined the deficient stamp duty and penalty payable by exercising the power under Section 13 of the Act. Aggrieved by the same, the present writ petition is filed.

2. The grievance of the petitioner is that the suit has been instituted for specific performance on the basis of an agreement to sell dated 12.12.2004 and, when the said document was tendered in evidence, the petitioner sought its impounding and reference to the District Registrar under Section 37(2) of the Act for determination of the deficient stamp duty and penalty. According to the petitioner, the learned Judge ought to have confined the order to impounding the document and referring the same to the competent authority, instead of himself determining the deficient stamp duty and penalty.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the



respondents. Perused the impugned order and the material on record.

4. The contention urged by the petitioner cannot be accepted. Sections 33 and 34 of the Act contemplate a specific procedure where an instrument chargeable with duty is produced or tendered in evidence before a Court. The power to impound an insufficiently stamped instrument is not confined to the revenue authorities, but is also vested in the Court before which such instrument is produced in the course of the proceedings. Consequently, when an instrument is tendered in evidence before the Civil Court and is found to be insufficiently stamped, the Court is competent to impound the instrument and determine the duty and penalty payable in accordance with the provisions of the Act.

5. It is true that, insofar as the quantum of penalty is concerned, the power of the Civil Court is circumscribed by Section 34 of the Act, whereas the competent authority exercising jurisdiction under Section 37 of the Act has the power to consider whether the penalty levied requires to be



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affirmed or reduced in accordance with law. However, the mere availability of such discretion with the competent authority does not denude the Civil Court of its statutory power to impound the instrument and determine the deficient stamp duty and penalty when the document is tendered before it.

6. Therefore, the contention that the learned Judge was required only to impound the document and mandatorily refer the same to the District Registrar for determination of the deficient stamp duty and penalty is contrary to the scheme of Sections 33 and 34 of the Act. The impugned order, whereby the learned Judge has determined the deficient stamp duty and penalty payable on the instrument, cannot, therefore, be said to be without jurisdiction or contrary to the provisions of the Act.

7. There is yet another aspect of the matter which assumes significance. Even where the Civil Court, upon impounding the instrument, levies the penalty contemplated under Section 34 of the Act, the statutory remedy available



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to the petitioner under Section 37 of the Act is not thereby taken away. In terms of Section 37, where an instrument has been impounded by a Civil Court in the course of civil proceedings, upon payment of the duty and penalty determined under Section 34, the instrument is required to be dealt with in the manner prescribed under the said provision and the competent authority is empowered to examine the levy of duty and penalty in accordance with law.

8. Thus, the order passed by the learned Judge determining the deficient stamp duty and penalty does not foreclose the petitioner's statutory remedy under Section 37 of the Act. The petitioner is entitled to avail such remedy in accordance with law, including seeking reduction of the penalty, if otherwise permissible under the statutory scheme.

9. Viewed from any angle, the impugned order does not suffer from any jurisdictional infirmity, illegality or procedural irregularity warranting interference under Articles 226 and 227 of the Constitution of India. The grievance of the petitioner is, therefore, untenable.



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10. Accordingly, the writ petition being devoid of merits, stands ***dismissed***. It is, however, made clear that dismissal of this petition shall not preclude the petitioner from availing such remedy as may be available under Section 37 of the Karnataka Stamp Act, 1957, in accordance with law.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**