

**Orders on stamp duty on GPA
dated 04.05.1984 and unregistered
sale deed dated 06.03.1986**

This is a suit filed by the plaintiff for permanent injunction claiming possession over the suit schedule property on the basis of General Power of Attorney (Hereinafter called as GPA), the Affidavit executed by the GPA holder before the Court and the the unregistered sale explanation deed executed by defendant No.1. During the course of evidence, when the plaintiff intends to mark the unregistered sale explanation deed and the GPA along with the affidavit that has been objected as the said documents are not properly stamped. Hence, heard the parties on the stamp duty on these documents.

As the Court is unable to find out the Sub Registrar's guidelines value of the year 1984 or 1986, the Court directed the parties to produce the Sub Registrar's guidelines value of the suit schedule property of the year

1984 and 1986. The parties to the case have not produced any such guidelines value in respect of the suit schedule property. However, the plaintiff has produced two sale deeds of the same village dated 05.11.1984 and 30.05.1986 and prayed to calculate the stamp duty and market value of the property on the basis of the said sale deeds.

The defendants have not produced any documents regarding market value of the suit schedule property or the Sub Registrar's guidelines value of the year 1984 and 1986.

On the basis of the above, the Court has to consider the market value of the property and the stamp duty to the said market value.

As stated earlier, this case is filed by the plaintiff for permanent injunction on the basis of the GPA and Affidavit. The claim made by the plaintiff is that the GPA holder of the defendant No.1 agreed to sell the suit schedule property in his favour and after the receipt of sale consideration

amount, the GPA holder of the defendant No.1 has executed the GPA as well as affidavit as on 04.05.1984. As per the affidavit, the defendant No.1 through his GPA holder agreed to sell the suit schedule property measuring 15 X 40 i.e., 600 Square feet for a total sale consideration of Rs.4,200/-. However, the unregistered sale explanation deed has been executed in the stamp paper issued on 06.03.1986 by the defendant No.1 and 2. Hence, it has to be accepted that the suit schedule property has been sold by executing the GPA and the affidavit on 04.05.1984 and thereafter unregistered sale explanation deed has been executed as on 06.03.1986.

Undisputedly till the year 1995 the stamp duty of conveyance is 10% of the sale consideration amount. The said fact is not in dispute. As such, the only fact to be considered in this case is the actual market value fixed by the Government. As stated earlier, the parties to the case have not produced any Sub Registrar's guidelines value of the year 1984 or 1986 in respect of the

suit schedule property. The defendant No.1 and 2 have executed the unregistered sale explanation deed in favour of plaintiff in view of the GPA and Affidavit executed by the GPA holder of the defendant No.1 in favour of the plaintiff. Therefore in this case, the sale transaction has been happened through the execution of GPA and affidavit executed by the GPA holder of defendant No.1. In the affidavit executed by the GPA holder of the defendant No. 1 in favour of plaintiff stated that there was a bar to execute the registered sale deed in respect of the site, as such, the GPA holder of defendant No. 1 has executed the GPA in respect of the suit schedule property in favour of the plaintiff along with affidavit. Therefore, in this case, the GPA executed in favour of plaintiff by the GPA holder of defendant No. 1 is coupled with interest. Hence, the stamp duty to the GPA has to be calculated as conveyance. The unregistered sale explanation deed has been executed by the defendant No. 1 and 2 in furtherance of the execution

of the aforesaid GPA and affidavit executed by the GPA holder of defendant No.1. As stated earlier the recital of the GPA, the suit schedule property has been sold. Hence, the GPA relied by the plaintiff is coupled with interest. In view of the settled principle of law the stamp duty on a GPA coupled with interest is to be calculated as a percentage of the market value or the consideration amount, whichever is higher.

As per the recitals in the affidavit and the unregistered sale explanation deed, there was a bar to execute the registered sale deed. Hence, GPA and unregistered sale explanation deed has been executed. Now coming to the market value of the property, the Court has to rely on two sale deeds produced by the plaintiff as the parties have not produced any guidance value of the property issued either by the Government or Sub Registrar for the relevant years i.e., 1984 to 1986. Hence, the court is relying on the two sale deeds produced by the plaintiff to calculate the market

value of the schedule property. The first sale deed produced by the plaintiff is dated 05.11.1984 in respect of the property measuring 1200 Sq. feet and sale consideration of the said property is Rs. 15,000/-. If that has been calculated per Sq. feet then the market value for the property is Rs. 12.5 per Sq. feet. Similarly as per the sale deed dated 30.05.1986 the sale consideration is Rs. 13.33 per Sq. feet. Hence, it can be safely inferred that the market value of the suit schedule property when the GPA and unregistered sale explanation deed has been executed was Rs. 12.5/- per Sq. feet. The total extent of the property involved in this case is 600 Sq. feet. If the stamp duty is calculated to 600 Sq. feet at Rs. 12.5/- per Sq. feet, it will come to Rs. 7,500/- and 10% of the said sale consideration amount is Rs. 750/-. Hence, the stamp duty on the GPA is to be accepted as Rs. 750/-. The GPA has been executed at 22/- rupees stamp paper. Hence, that has to be deducted from the stamp duty. Hence, it has to be accepted that the

deficit stamp duty is Rs. 728/- and 10 times penalty has to be imposed on the deficit stamp duty and if that is calculated that will amount to Rs. 7,280/-.

The unregistered sale explanation deed has been executed in furtherance of the aforesaid GPA and affidavit by defendant No. 1 and 2. As the sale transaction between plaintiff and the defendants has been already completed this document is the continuation of GPA and affidavit and party cannot be directed to pay stamp duty twice on the same conveyance. Hence certainly the plaintiff cannot be directed to pay additional stamp duty on the unregistered sale explanation deed in view of imposing of stamp duty and penalty on the GPA. As such, the plaintiff is liable to pay deficit stamp duty as well as penalty on the GPA which is coupled with interest. Accordingly the Court proceed to pass the following:

ORDER

Plaintiff is directed to pay deficit

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stamp duty of Rs.728/- along with penalty of Rs. 7280/- in total Rs. 8008/- towards GPA coupled with interest dated 04.05.1984.

For payment of deficit stamp duty and penalty by 04 .07.2025

(PADMA PRASAD)
II Addl. City Civil and Sessions
Judge, & Spl. Judge, Bengaluru.