**IN THE COURT OF CIVIL JUDGE & J.M.F.C., AT SANDUR.**

**<u>Present</u> : Md. Shaiz Chouthai,**

**B.A.,LL.B. (Hons.), LL.M,(M.L.)**

**Civil Judge & JMFC, Sandur.**

**Dated: 23rd day of January, 2026**

**<u>O.S. No. 76/2019</u>**

**Plaintiff** : B.G. Raja Kanni,
S/o Late Bommanagoudru,
Aged about 33 years,
Agriculturist,
R/o Bhujanganagar village,
Sandur Taluk, Ballari District.

***(By Sri. A.V.K., Advocate)***

**V/S**

**Defendant/s** : 1. Smt. H.K. Kamalamma,
W/o Late H.K. Sadashivaiah,
Aged about 80 years,
Agriculturist,
R/o Bhujanganagar village,
Sandur Taluk, Ballari District.

2. Smt. H.K. Tejavathi,
W/o Late Shekharaiah,
Aged about 60 years,
Agriculturist,
R/o Bhujanganagar village,
Sandur Taluk, Ballari District.

***(By Sri. B.M., Advocate)***

## ORDER ON PAYMENT OF STAMP DUTY

1. The plaintiff has filed this suit against defendant No.1 and 2 for the relief of specific performance of contract for enforcement of Unregistered Agreement of Sale Dt. 28.02.1991.

2. It is the case of the plaintiff that the husband of defendant No.2 executed Unregistered Agreement of Sale Dt. 28.02.1991 agreeing to sell the suit property in favour of plaintiff's father for a sum of Rs.6,000/-. The entire sale consideration amount is paid to the husband of defendant No.2. In part performance of contract, he handed over the possession of the suit property to the father of plaintiff. It is alleged that the husband of defendant No.2 and the defendants have failed to execute Registered Sale Deed in favour of father of plaintiff. Hence this suit for specific performance of contract.

3. The plaintiff examined himself as PW1 and relied upon certain documents from Ex.P1 to Ex.P4. The Unregistered Agreement of Sale Dt. 28.02.1991 was not marked during the

evidence, due to objections from the other side for want of sufficient stamp duty on the said agreement.

4. Thereafter, this court has passed orders on 05.07.2023 and sent the copy of the said agreement to the Sub-Registrar, for calculation of stamp duty payable on the said document.

5. After receiving the report from the Sub-Registrar, Sandur, the plaintiff was called upon to pay deficit duty and penalty of Rs.3,245/- on the said document. The plaintiff sought time for about 2 years to pay the deficit duty and penalty till he submitted on 18.06.2025 that in view of the dictum in the case of ***T. Mohan Vs. Kannammal and Another*** reported in ***ILR 2002 KAR 3017***, he need not pay stamp duty on the Agreement of Sale Dt. 28.02.1991.

6. Thereafter, this court heard the plaintiff and perused the records and the judgment relied upon by the learned counsel for plaintiff.

7. Admittedly, the disputed agreement is Dt. 28.02.1991. Article 5(e)(i) of Karnataka Stamp Act, 1957 got amended and the said sub-clause (e) to (i) of Article 5 got substituted by the Act No.8/1995 with effect from 01.04.1995. The Hon'ble High Court in the above decision has clarified that before amendment a stamp duty for an agreement to sell was only Rs.5/- as per Article 5. The agreement in the said case was executed prior to the amendment Act of 1995, and therefore it held that the prescribed stamp duty was only Rs.5/- and there is no insufficiency in the stamp duty paid on the said document.

8. In the subsequent case of Hon'ble High Court of Karnataka between ***Smt. Pudumalar Murthy and Others Vs. Smt. Chikkamuniyamma and Another (W.P. No.63170/2016 Dt. 14.01.2022)***, the judgment in T. Mohan *(supra)* was followed and held as under:

> ‘7. The petitioners filed the suit for specific performance of contract. When the case was posted for petitioners' evidence and when the petitioners were about to mark the sale agreement, the

respondents filed an application in I.A.No.2 under Sections 33 and 34 of the Karnataka Stamp Act stating that the sale agreement is not executed on requisite stamp paper. The petitioners have produced the copy of sale agreement vide Annexure-B. From the perusal of the same, the agreement was executed on Rs.6/- stamp paper. The provision of the Stamp Act applicable in the present case is the pre-1995 Amendment Act. The Stamp Act was amended and Schedule was substituted provided in Article 5 thereof that an agreement or memorandum of an agreement in respect of which no specific provision regarding the denomination of the stamp to be paid has been made, the requisite denomination of the stamp would be Rs.5/-. As observed above, the petitioners have produced sale agreement which was executed on a Rs.6/- stamp paper. The agreement executed on the stamp paper is Rs.6/- and the stamp duty prescribed prior to 1995 was Rs.5/- only. Therefore, there is no insufficiency in the stamp duty paid on the sale agreement. The Trial Court has committed an error in recording a executed on finding an that the insufficient sale agreement stamp paper. The judgment relied upon by the learned counsel for petitioners is aptly applicable to the present case in hand. The Trial Court has committed an error in passing the impugned order. The impugned order passed by the Trial Court is perverse and arbitrary and same is liable to be set aside.’

9. Therefore, even in the instant case, the provisions of the Stamp Act applicable is Pre-1995 Amendment Act. The requisite denomination of the stamp would be Rs.5/-. The Agreement Dt. 28.02.1991 is executed on Rs.5/-. Therefore, there is no insufficiency in the stamp duty paid on the said agreement, though the possession of the property was handed over under the said agreement. The judgment relied by the learned counsel for the plaintiff is applicable to the facts in hand. As such, the plaintiff need not pay the stamp duty as calculated by the Sub-Registrar, Sandur. Hence, I proceed to pass the following;

**ORDER**

The plaintiff is not required to pay additional stamp duty on the Agreement of Sale Dt. 28.02.1991.

*(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 23rd day of January 2026)*

(**Md. Shaiz Chouthai**)
Civil Judge and J.M.F.C., Sandur.