ORDERS ON IA NO.XI

The applicant / 1st defendant has filed IA No.XI, U/S 33 of Karnataka Stamp Act R/w Sec.151 of CPC seeking to impound to unregistered settlement deeds dated 01.02.1996 said to have been executed by the plaintiff and sought to leave of the court to permit the 1st defendant to pay proper stamp duty and penalty on the said documents as per the Karnataka Stamp Act. The learned counsel for the plaintiff has submitted the no objections.

Heard and perused the case records.

The plaintiff has instituted this suit seeking for the relief of partition and separate possession with respect to the suit schedule properties. It is the claim of the 1st defendant that under the aforesaid settlement deeds, the plaintiff has already taken his share of 0.20 guntas in the suit schedule property, out of its total extent and by way of cash of Rs.10,000/- and in that regard the plaintiff had executed two acknowledgment as well as settlement deed in his favour. Under the present application, the 1st defendant sought to impound the document in question and to permit him to pay the deficit stamp duty and penalty.

On reference to the documents sought to be impounded, it is noticed that the first document dated 01.02.1996 is referred to as ‘Hisse Kararu Patra’ ಹಿಸ್ಸೆ ಕರಾರು ಪತ್ರ and the second document of the same date is referred to as ‘Raji Kabuli Patra’ ರಾಜೀ ಕಬೂಲಿ ಪತ್ರ. Irrespective of the nomenclature, the recitals under the aforesaid documents assumes importance in order to determine the stamp duty applicable. On a meticulous reference to the documents styled as ‘Hisse Kararu Patra and Raji Kabuli Patra’, it go to show that under the said instrument, the plaintiff said to have relinquished his rights with respect to property in Sy.No.119 of Hulikere Village, Sakharayapatna as described therein. Since, the plaintiff said to have relinquished his rights in the family property in favour of 1st defendant, who is none other than his owner brother, the provision under Article-45(b)(2) is applicable to the case on hand and on each instrument the applicable stamp duty is Rs.3,000/-. Under both the instruments, the stamp duty of Rs.40/- each has already been paid. Therefore, the deficit stamp duty is Rs.2,960/- on each instrument.

The 1st defendant who intends to rely upon the aforesaid documents is required to pay 10 times penalty on each instrument on the deficit stamp duty. Therefore, the 1st defendant is required to pay deficit stamp duty of Rs.2,960/- + Rs.29,600/- = 32,560/- on each instrument. The 1st defendant under this application has already undertaken to pay the deficit stamp duty and penalty and therefore he shall be permitted to pay the deficit stamp duty as calculated above.

It is made clear that the validity of the documents in question is subject to the provisions of Sec.17 and 49 of the Registration Act. Hence, the following:-

ORDER

IA No.XI filed by the applicant / 1st defendant, U/S 33 of the Karnataka Stamp Act R/w Sec.151 of CPC is allowed.

The applicant / 1st defendant shall pay a sum of Rs.32,560/- on each instrument being the deficit stamp duty and penalty on the ‘Hisse Kararu Patra’ and ‘Raji Kabuli Patra’ dated 01.02.1996.

Call on for payment of deficit stamp duty and penalty by:

Sd/-

Senior Civil Judge,
Kadur.