

ORDERS ON IA NO. 4 FILED BY PLAINTIFF

This application is filed at the stage of further chief-examination of PW1. Plaintiff by invoking Section 151 of CPC is seeking for return of original sale agreement dated 20.07.1988 and GPA dated 18.07.1988 for the purpose to pay deficit stamp duty before the District Registrar.

2. Learned counsel for defendants has submitted that he has got no objections to this application.

3. Heard and perused.

4. By way of the present application, plaintiff is seeking for return of documents for the purpose of payment of deficit stamp duty before the District Registrar. Hon'ble Apex Court in the case of **Seetharama Shetty Vs Monappa Shetty** in **2024 SCC OnLine SC 2320** was pleased to laid down procedure for impounding, collecting duty and penalty on the insufficient stamped instruments. In the very decision, Hon'ble Apex Court was also pleased to hold as under:

"21.8. The scheme does not prohibit a party to a document to first invoke directly the jurisdiction of the District Registrar and present the instrument before Court/Every Person after complying with the requirement of duty and penalty. In such an event, the available objection under Sections 33 or 34 of the Act is erased beforehand. The quantum of penalty is

primarily between the authority/court and the opposing party has little role to discharge."

5. On careful reading of above decision, it could be understood that the instrument insufficiently stamped shall have to be sent to District Registrar for adjudicating duty and penalty and before that option, the party to document can invoke such jurisdiction of District Registrar directly before producing the document before the Court. Herein the case, the plaintiff is seeking for return of documents for the purpose of payment of deficit stamp duty before the District Registrar. The documents sought for such return is not marked in evidence. The decision referred supra is aptly applicable to the instant circumstance of the case. Hence the following:

ORDER

IA No.4 filed by the plaintiff is hereby allowed.

Office to return original sale agreement dated 20.07.1988 and GPA dated 18.07.1988, to the plaintiff for the purpose to pay deficit stamp duty before the District Registrar.

Such return of documents shall be on proper identification, in accordance with law and by retaining copy thereof, which shall be furnished by plaintiff in the due course.

For further chief examination of PW1
by: 16.01.2025.

Sd/-

(Vishwanath.A)

C/c Addl. Civil Judge & JMFC
Mudigere