

ORDER ON MEMO

The defendants have filed a memo contending that the plaintiffs have instituted the present suit seeking the relief of declaration and injunction. It is their contention that the plaintiffs claim ownership over the plaint schedule property on the basis of an *Oppige Patra* dated 24.02.2009, which, according to them, is insufficiently stamped and unregistered, and therefore cannot be admitted in evidence.

Heard both sides.

The present suit is filed by the plaintiffs seeking a declaration that the suit schedule property is the joint family property of the plaintiffs and defendant No.1, and for consequential relief of injunction. It is the case of the plaintiffs that during the lifetime of one C. Subbashetty, the husband of defendant No.1, an *Oppige Patra* dated 24.02.2009 was executed, wherein he agreed and consented to

allot a share in Sy. No. 354, i.e., the suit schedule property, in favour of his brothers (plaintiffs), in the event of TT land not being allotted to them.

On perusal of the said document, it appears that the same is in the nature of a memorandum or family arrangement reduced into writing and does not, by itself, create, extinguish, assign, or limit any right, title, or interest in immovable property. Hence, this Court is of the view that the said document does not compulsorily require registration.

Insofar as the contention of the defendants regarding insufficiency of stamp duty is concerned, since the document is only a memorandum recording a prior arrangement and does not effect any transfer or creation of rights in present, it does not attract stamp duty as an instrument of conveyance or partition. Therefore, the objection raised on

the ground of insufficiency of stamp duty is not sustainable at this stage.

That apart, this Court has already, by order dated 05.02.2026, permitted the plaintiffs to mark the said Oppige Patra dated 24.02.2009 as secondary evidence, subject to proof and admissibility. Accordingly, the memo filed by the defendants is hereby answered.

Call on for further chief examination of PW-1 by 30.06.2026.

**Sr. Civil Judge & JMFC,
Mudigere.**