

ORDERS

The record shows that the learned counsel for the Plaintiff has requested this Court to mark the sale deed dated 05.11.1985 as an exhibit. At that point of time, the learned counsels for the defendant has raised the objections for marking the said sale deed dated 05.11.1985, as an exhibit, on the ground that the same is unregistered document and the same is not affixed with proper stamp duty.

2. As far as the objection with reference to registration is concerned, I would like to cite a decision reported in ILR-2002-Karnataka-Page 3613 between Anjaneyashetty v/s Rangaiahshetty. In the Anjaneyashetty's case, the Hon'ble High Court of Karnataka has concluded that whenever a document is sought to be marked, but, the other side objects for the marking of the same, then, it is the duty of the Court to record the objections raised by the opposite side, and mark the said document, as an exhibit, subject to the objection of the other side. Besides, the Hon'ble High Court of Karnataka also concluded that at the time of passing judgment on the main matter, the Court has to consider the objection raised by the opposite side, with reference to admissibility of the document in evidence, and shall give findings on that question. Besides, the Hon'ble High Court of Karnataka also concluded that in the ultimate analysis if the

Court comes to the conclude that the document which was sought to be marked, but, objected to by other side, is admissible in evidence, then, the Court has to consider the corresponding oral evidence also. Besides, it is also laid down by the Hon'ble High Court of Karnataka that in the ultimate analysis if the Court comes to conclusion that such document is not admissible in evidence, then, the Court has to eschew the corresponding oral evidence also. However, the Hon'ble High Court of Karnataka also made the position very clear that such a liberty is not applicable to the court where the marking of the document is disputed on the ground of insufficiency of stamp duty. Besides, the Hon'ble High Court of Karnataka also concluded that the dispute with reference to sufficiency or otherwise of the stamp duty has to be decided then and there itself.

3. Keeping in view the law declared in the aforesaid Anjaneyashetty's case, again I repeat, the objection raised by the counsels for the Defendants for marking this sale deed dated 05.11.1985 is two fold. The first one is with reference to registration of this document and the second one is with reference to insufficiency of stamp duty. In view of the law declared in the aforementioned decision, it is the duty of this Court to record the objections of the advocates for the Defendants, with reference to registration of this document, in the deposition sheet of the Plaintiff itself and the Court may proceed to mark this document subject to the objection of the

other side. But, in view of the law declared in the aforementioned decision, it is the duty of this Court to decide the sufficiency or otherwise of the stamp duty paid on this sale deed dated 05.11.1985 now itself.

4. Again I repeat, in the said sale deed dated 05.11.1985. But, neither the value nor the tax or revenue of that properties is mentioned in the said sale deed dated 05.11.1985. Thus, I am of the opinion that with the help of available materials on record it is difficult to determine the stamp duty payable in respect of properties of said sale deed dated 05.11.1985. Therefore, I am of the opinion that the proper course would be, to send the details of the said properties, which is subject matter of said sale deed dated 05.11.1985, to the jurisdictional sub-registrar to furnish the probable value of properties which was existing or prevailing during the year 1985 or 1986. With this specific observation, I pass the following-

O R D E R

The office is directed to send the details of the property, which is the subject matter of sale deed dated 05.11.1985, to the jurisdictional sub-registrar to determine the probable or approximate or if possible the exact value, which was prevailing in the year 1985 or 1986 of property and to compute the duty and penalty regarding said sale deed dated 05.11.1985 and returnable by 13.02.2024.

**Addl. Civil Judge & JMFC.,
Gundlupet.**