

OS 40/2023

**ORDER ON PAYMENT OF
STAMP DUTY.**

While cross examining the PW.1 by defendants No. 7 and 8, on 29.10.2024, upon confrontation and admission to PW.1, Ex.D.1 a unregistered agreement for sale document being marked subject to payment of requisite stamp duty and its proof in accordance with law.

2. The counsel for defendants No. 7 and 8 submits that when the unregistered sale agreement being culminated into register sale deed by paying necessary stamp duty and registration fee, there is no need to pay additional deficit stamp duty on the unregistered sale agreement. Admittedly as per Ex. D.1, the registered sale deed being executed as per Ex P.3 and in support of his claim, relied upon a decision of Hon'ble High Court of Karnataka, Dharwad Bench in WP No.

105278/2018 dated 25.07.2024 and prayed to consider the Ex. D.1 as there is no necessity of paying requisite deficit stamp duty.

3. The counsel for plaintiff argued that Ex. D.1 is silent about the property details which contains in Ex. P.3. Wherefore Ex. P.3 was not executed on the basis of Ex. D.1 since Ex. P.3 is silent about Ex.D.1 and prays to impugned Ex. D.1 having not paid the proper stamp duty.

4. Heard both parties. Perused the records. It is noticed that in the decision so relied upon the defendants No. 7 and 8 as referred above, the Hon'ble High Court of Karnataka, clearly held that when the unregistered sale agreement ended in registered sale deed by paying proper stamp duty and registration fee, there is no need for recovering the deficit stamp duty as per Article 5(e) and (I) of Stamp Act. In the present case also, even though Ex. P.3 is silent

about Ex. D.1 followed the property description the PW.1 at cross admits that as per oral saying, the defendants executed Ex. P.3 registered sale deed. Since the PW.1 admits at cross by virtue Ex. D.1, Ex. P.3 a registered sale being executed, in view of above decision, there is no need to pay deficit stamp duty by the defendants No. 7 and 8 even though Ex. D.1 is not duly stamped. With these observations, the objections raised by the plaintiff about deficit stamp duty in respect of Ex. D.1 is hereby over ruled.

Call on for further evidence of plaintiff by 18.03.2025.

Sr. C. J. and JMFC, Cng.,