

Order On Stamp Duty

While recording the chief examination of DW.1, learned counsel for plaintiff raised objection in respect of partition deed placed by the defendants and the case is adjourned on hearing on the said document.

On perusal of recitals of said document which is executed on blank papers without any stamp. Further the said document got executed on 05-04-1987. through the said document, effected partition in respect of tow property bearing Sy.22/1B measuring 05 acre 35 gunta and Sy.No.123 measuring 02 acre 37 gunta. Further in the said document one house property situated at Aremallapur village.

The recitals of the said document, further it is discloses that, the partition was got effected among the parties on the same date, therefore, the document is not memorandum of partition, but it is partition, which requires the stamp duty to execute the said document.

As per documents got executed on 05-04-1987. Therefore, prior to the execution of the said document as per Karnataka Stamp Act 1957 Article 39 reads as follows;

Art.39. Partition – Instrument of - as defined by clause (k) of sub-section (1) of section2.-

a) Where the property involved in the partition is converted for non agricultural purpose or is meant for non-agricultural use.

Description of Instrument	Proper stamp Duty
1) if the property is situated in the jurisdiction of Municipal share corporation or Urban Development Authorities or Municipal Councils or Town Panchayats.	Rupees one Thousand for each share
2) If the property is situated in the areas other than those mentioned in sub-clause(1) above.	Rupees five hundred for each share.
b) Where the property involved in the partition is agricultural land.	Rupees two hundred fifty for each share.
c) Where the property involved in the partition is movable or money.	Rupees tow hundred and fifty for each share.
d) Where the property involved in the partition belongs to any of the combinations of categories mentioned in sub-clauses (a), (b) and (c) above.	Maximum of the duties described in sub-clause (a), (b) or (c) above fo each share.

Provided always that,

a) When an instrument of partition containing an agreement to divide property in severalty is executed aforesaid a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than (fifty rupees);

C) Where a final order for effecting a partition passed by any revenue authority or any civil court, or an Award by an arbitrator directing a partition is stamped with the stamp required for the instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed (fifty rupees).

So on perusal of the above provision, if the house property not situated within the jurisdiction of Town Panchayat or Municipal Councils etc., then as per Article 39(a)(2) Karnataka Stamp Act the proper stamp duty is Rs.500/- of each share. The document discloses that the house property and vacant site situated at Aremallapura Grama Panchayat. Therefore, which does not fall under Art.39(a)(1) Karnataka Stamp Act. Therefore, the stamp duty is applied Rs.500/-.

There are two agricultural properties shown in the said partition deed. Therefore, as per Article 39(b) of the

Karnataka Stamp Act, the proper stamp duty is Rs.250/- for each share.

Therefore, the document ought to have executed on Stamp of Rs.1,000/-. But, it was executed on blank documents. Under such circumstances the said partition deed to be executed on Rs.1,000/- stamp, but not paid. Therefore, the said document is deficit stamp duty. The defendant ought to have pay Rs.1,000/- stamp and its ten time penalty which includes in total Rs.11,000/-. Therefore the defendant shall pay deficit stamp of Rs.11,000/- to get mark the said document. Till payment of the said stamp said document is impounded by this court.

For payment of stamp duty.

Call on 15-07-2025.

**II Addl. Sr. Civil Judge & JMFC,
Ranebennur.**