

3.6.2024.

Orders on IA NO.3 U/O 47 R/w Sec.151 of CPC.

The plaintiff has filed this application U/O 47 of CPC and sought to review of the orders of this court dated 4.12.2023.

2. The plaintiff has sworn to an affidavit in support of IA and stated that this court calculated deficit stamp duty but the same is not in accordance with provisions of Article 5 e(ii) of Karnataka Stamp Act. The stamp duty is Rs.10 Paise per 100 rupees and it comes to Rs.15,500/- and already Rs.500/- is paid. Accordingly deficit stamp duty is only Rs.15,000/-. Hence, prays to allow the IA.

3. The defendants have filed objections to IA and contended that the application is not maintainable. If the plaintiff is aggrieved by the order of this court he is at liberty to approach appropriate Appellate Court. The reasons shown in support of IA are incorrect. Hence, prays to dismiss the IA.

4. Perused the records. Heard arguments.

5. In this case the unregistered agreement of sale dated 29.8.2022 shows that on the said agreement already stamp duty of Rs.500/- is paid and under the said agreement possession of the suit property was not handed over. Therefore as per Article 5 (e) (ii) Amending Act 16 of 2011 of Karnataka Stamp Act the minimum amount of stamp duty payable for unregistered agreement of sale, where, possession is

not delivered will be Rs.0.10/- for every 100 rupees or part thereof on the market value equal to the amount of consideration. Earlier the maximum court fee for agreement of sale without possession was Rs.200/-. But by way of 2009 amendment it was enhanced to Rs.0.25 rupees for every 100 rupees and by way of 2011 Amendment it was reduced to Rs.0.10/-.

6. But this court on 4.12.2023 passed orders looking the provisions of Article 5 e(ii) of Karnataka Stamp Act (Amended Act) 2009 and not Amended Act 2011. This error was caused due to oversight and rush of work. The same discloses that there is error apparent on the record in the order dated 4.12.2023 passed by this court. Therefore, the said order needs to be reviewed.

7. In this case the total sale consideration amount is Rs.1,55,00,000/-. Accordingly the plaintiff is required to pay an amount of Rs.15,500/-. In this case the plaintiff has already paid stamp duty of Rs.500/- on the agreement of sale dated 29.8.2022. Accordingly the deficit stamp duty is Rs.15,000/-. Further as per the provisions of Section 34 of Karnataka Stamp Act the plaintiff is also liable to pay penalty of 10 times the deficit stamp duty i.e., 10 times of Rs.15,000/-. Therefore, the plaintiff is required to pay deficit stamp duty of Rs.15,000/- and its 10 times penalty of Rs.1,50,000/-. Hence, the following:

ORDER

The application filed by the plaintiff U/O 47 R/w Sec.151 of CPC is hereby allowed.

The plaintiff is directed to pay deficit stamp duty of

Rs.15,000/- and penalty of Rs.1,50,000/-, in total Rs.1,65,000/- on or before 20 days from today.

The CMO has to receive the deficit stamp duty and penalty of Rs.1,65,000/- and after receipt of the same make endorsement on the original agreement of sale dated 29.8.2022 as to payment of deficit stamp duty and penalty and write a letter to the District Registrar intimating the receipt of stamp duty and penalty and annex photocopy of the agreement to the said letter.

For payment of duty and penalty call on 18.6.2024.

Senior Civil Judge & JMFC, Sedam.

