

**ORDERS ON DUTY AND PENALTY UNDER SECTION 34 AND
ARTICLE 5 OF THE KARNATAKA STAMP ACT**

The defendant produced one document styled as “agreement of sale” dated on 17.08.2000. Perused the same. It shows that the plaintiff and family member by name Hoovamma and Ullasa have executed an unregistered agreement of sale in respect of the suit property in favour of defendant for the market value about Rs.33,000/- (Rupees Thirty three thousand only) and the plaintiff has received full amount of Rs.33,000/-, but the said document written on Rs.50/- non judicial bond paper, and the said document not unregistered documents.

2. The plaintiff has filed this suit for permanent injunction in respect of suit property. It is contended by the defendant that the plaintiff and his family members have entered into an agreement of sale with defendant in respect of suit properties bearing Sy.No.86/23 total measuring 1.10 acres out of 0.55 acres situated at Kusburu Village, Somwarpet Taluk for total consideration of Rs.33,000/- and as on the date of said agreement of sale the plaintiff has received Rs. 33,000/-. Thereafter, the plaintiff handed over the suit property in favour of defendant till today the defendant is in possession and enjoyment of the same. The defendant requested the plaintiff to execute the registered sale deed but the plaintiff failed to execute the registered sale deed in respect of the suit property.

3. The agreement of sale which the defendant is relying is the agreement of sale for a consideration amount of Rs 33,000/- and as per the Article 5 of the Karnataka Stamp Act, the duty payable is 1% and defendant has paid an amount of Rs.850/- on the said Agreement and the amount payable is Rs.50/- and the difference amount is Rs.800/- into 10 times is Rs.8,000/- + Rs.800/- and the total amount payable is Rs.8,800/-.

4. As per the Karnataka Stamp Act 1957 Article 5 deals with Agreement or (its record or) memorandum of an agreement.

a) If relating to the sale of bill of exchange	one rupees for every thousand or part thereof
b) If relating to the purchase Or sale of government Security	one rupees for every Rupees 10,000/- or part thereof its purchase or subject to a Maximum of rupees 1000/-
e) If relating to sale of Immovable property where in part performance of contracts	The same duty as a Conveyance (No.20) on the market value of the property. (provided that, where a deed of cancellation of earlier agreement is executed by and between the same parties in respect of the same property and if proper stamp duty has been paid on such agreement, then the duty on such deed of cancellation shall not exceed rupees five hundred
1) Possession of the property is delivered or is agreed to be delivered (before) executing the conveyance	

2) Possession of the property is not delivered.

Ten paise every one hundred rupees or part thereof on the market value equal to the amount of consideration subject to a maximum of rupees five hundred.

[Provided that the duty paid on power of attorney under Articles 41(e) or 41(eb), as the case may be, is adjustable towards the duty payable on agreement for sale under Article 5(e) or instrument of sale or transfer, as the case may be, executed between the same parties and in respect of the same property.

5. The defendant has to pay the necessary stamp duty as required under the Karnataka Stamp Act, but the same was not paid and registered. Hence, the impounding the said agreement of sale and for collection of duty and penalty the plaintiff said to have agreed to execute the sale deed in respect of suit property for total consideration of Rs.33,000/-, the said agreement has been drafted on bond paper worth of Rs.50/-. And even he has disputed the agreement of sale itself. However, the defendant contended that he has been ready to pay stamp duty and penalty. When such being the facts, the defendant has not paid any consent to said document as duty and penalty. Accordingly, the defendant has to pay requisite stamp duty and penalty thereon as required under Article 5(b) of the Karnataka Stamp Act, without compliance of the same the agreement of sale relied on by the defendant is not

permissible and the same has to be impounded by this court.

6. Even though there is does not provide for impounding a document even though there is mistake in reference proviso this court is duty bound and can suo-moto go into examine the proper provision and order for collection of duty and penalty and for impounding the document as required under section 33 and 34 of the Karnataka Stamp Act, the moment when the insufficiently stamped agreement relied on by the parties came to knowledge of the court. Under the circumstances, agreement put forth by the counsel for defendant is not considered and the defendant is liable to be pay the duty and 10 times penalty, this court provides opportunity to the defendant to deposit duty and 10 times penalty on the agreement of sale which was prevailing as on the date of agreement. Under the circumstances, this court has come to the conclusion that the The defendant must written the said document on Rs.850/- non-judicial stamp paper, but the said agreement of sale written on only Rs.50/- non judicial bond paper. Hence, the defendant must pay Rs.800/- as duty and 10 times penalty about Rs.8,000/-, in total Rs.8,800/-. Accordingly, this court proceed to pass the following;

ORDER

The defendant is hereby directed to deposit deficit stamp duty and penalty on the suit agreement of sale by next date of hearing.

Office is directed to receive Rs.800/- as duty and 10 times penalty about Rs.8,000/-, in total

Rs.8,800/- the deficit stamp duty payable on the
suit agreement as on the date of agreement of sale.

For compliance of the order

[Dictated to the stenographer directly to the computer, typed by her in
computer, corrected and then, pronounced by me in the open Court this
the **27th day of February, 2025**]

Sd/-

(K. Gopala Krishna)
Prl Civil Judge & JMFC.,
Somwarpet