

ORDERS ON MARKING OF DOCUMENTS

The present suit has been filed by the plaintiff against the defendant for recovery of an amount of Rs. 85,500/- based on the agreement dated: 04-12-2010.

2. In pursuant to the summons issued to him, the defendant put his appearance and filed written statement by denying all the averments made in the plaint and further contended that the document which is relied by the plaintiff is insufficiently stamped and void ab-intio and there is no legal sanctity to said document. Hence it is inadmissible in evidence.

3. There after issues have been framed by this court and the plaintiff entered into the witness box and filed affidavit in lieu of his chief examination, but during the further chief examination of P.W-1, the learned counsel for the defendant has raised objection to marking the said alleged document. Hence further chief of P.W-1 was deferred and matter was posted for hearing on documents.

4. The learned counsel for the defendant has strongly objected the said document by stating that the alleged document is insufficiently stamped and it is void ab-intio and there is no sanctity to that document and it is inadmissible in evidence. In support of his contention, he relied on the decision reported in 1985 ILR 1742 KAR (Nagabhushanappa V/s Lakshminarayana). Further, the learned counsel for the defendant has drawn the attention of this court regarding the provision of article 12(1)(a) of Karnataka Stamp Act and also he raised objection with regard to limitation to file this suit.

5. Per contra, the learned counsel for the plaintiff has denied all the allegations made by the defendant and submitted that the defendant has borrowed a loan of Rs. 50,000/- from the plaintiff and executed the said agreement. Hence it is permissible under law and sufficient court fee has been paid by the plaintiff. Hence the said document has to be marked and is admissible in evidence.

6. Having heard on both sides and perused the materials on record, it found that the plaintiff has filed the present suit for recovery of money based on alleged agreement dated: 04-12-2010. On careful reading of the aforesaid decision, the Hon'ble High Court has made some observation regarding 'Bond' and 'simple mortgage'. Further the learned counsel for the defendant has argued that the alleged document is come under the definition of 'Bond' as defined under section 2(1)(a) of Karnataka stamp act and as per article 12 of Karnataka stamp act, the stamp duty has to paid on said document.

7. It is pertinent note here that whether the alleged document is a bond or loan agreement ? And whether it has evidencery value or not ?. These aspects can not be considered at this juncture, it can be considered only at time of judgment and at this juncture, the court has to look into whether said document is sufficiently stamped or not?. It is pertinent note that the alleged document is drawn on two rupees paper, hence as per the provision of Karnataka stamp Act, the plaintiff has to pay deficit stamp duty and penalty on said document. Hence in view of the above discussion, this court proceeds to pass the following :

ORDER

The alleged agreement dated: 04.12.2010 is hereby impounded for the collection of stamp duty and penalty.

The plaintiff is directed to pay the deficient stamp duty and penalty.

Office is directed to send the copy of the alleged agreement to the District Registrar, Kolar for collection of stamp duty and penalty.

(DEEPU B.C)
Addl. C.J. & JMFC, Bangarpet.