ORDER ON DOCUMENT

The plaintiff has produced an unregistered Agreement of Sale dated 19.09.2019 executed on stamp paper of Rs.50/- and notarized before the Notary. At the time of marking of said Agreement of Sale during the course of chief-examination of PW.1, the said document found insufficiently stamped. Hence, matter was adjourned for hearing on document.

2. I have heard the Learned Counsel for the plaintiff and defendant No.2 and meticulously perused the material on record.

3. The points that would arise for consideration are:-

1. Whether the Agreement of Sale dated 19.09.2019 duly stamped and it can be marked?

2. What order?

4. My answer to the above said points are as follows:

Point No.1: In the Negative;

Point No.2: As per final order for the following:

REASONS

5. Before adverting to the points, it is worth to refer schedule of the Karnataka Stamp Act, 1957, particularly Article 5, which is being reproduced below:-

SCHEDULE STAMP-DUTY ON INSTRUMENTS	
Description of instrument	**Proper Stamp duty**
41. Agreement or its records or its records or Memorandum of an Agreement—	
(a) XXXXX	xxxxx
(b) XXXXX	xxxxx

(c) xxxxx	xxxxx
(d) xxxxx	xxxxx
(da) xxxxx	xxxxx
(e) xxxxx	xxxxx
(e) (i) xxxxx	
(e) (ii) possession of the property is not delivered	Ten paise for every one hundred rupees or part thereof on the market value equal to the amount of consideration subject to a maximum of rupees twenty thousand but not less than rupees five hundred:

6. **<u>Point No.1:</u>** It is the specific case of the plaintiff that the deceased defendant No.1 has entered into an agreement of sale dated 19.09.2019 with plaintiff agreeing to sell the suit schedule property bearing Sy. No.20/*/3 measuring 1.27 acres of Guddada Devalapura Village, Kushtagi Taluk for a total sale consideration of Rs.2,70,000/-. He has received advance sale consideration of Rs.2,50,000/- under the said agreement. He has agreed to execute sale deed in favour of the plaintiff by receiving balance sale consideration amount of Rs.20,000/-. But, he has failed to execute the registered sale deed infavour of the plaintiff.

7. On careful going through clause (e) (ii) of Article-5 of the Karnataka Stamp Act,1957 manifest that the stamp duty payable on a agreement, if possession of the

property is not delivered as ten paise for every one hundred rupees or part thereof on the market value equal to the amount of consideration subject to a maximum of rupees twenty thousand but not less than rupees five hundred. A bare perusal of the recitals of the agreement of sale in question, the possession of the suit schedule property was not delivered. It is worth to reproduce the said term for better appreciation, which reads that **"ಇಂದಿನ ಯೋಗ್ಯ ಬೆಲೆಗೆ 2,70,000/-ಗಳಿಗೆ ನಿಮಗೆ ದಕ್ಕ ಖರೀದಿಗೆ ಕೊಟ್ಟೆರುತ್ತೆನೆ. ಸದರಿ ಖರೀದಿ ವ್ಯವಹಾರ ಅದರ ಪೈಕಿ ರೂ.2,50,000/-(ಎರಡು ಲಕ್ಷದ ಐವತ್ತು ಸಾವಿರ) ರೂಪಾಯಿಗಳನ್ನು ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ನಾನು ನಿಮ್ಮಿಂದ ಪಡೆದುಕೊಂಡು ಸದಗಿ ಜಮೀನು ಇನ್ನುಳಿದ ಹಣ ರೂ.20,000/-(ಇಪತ್ತು ಸಾವಿರ) ರೂಪಾಯಿಗಳನ್ನು ಒಂದು ತಿಂಗಳ ಆದ ನಂತರ ನಿಮಗೆ ಕೊಟ್ಟು ಜಮೀನು ಕಬ್ಜ ಕೊಡುತ್ತೇನೆ."** In view of above, clause (e) (ii) of Article-5 of the Karnataka Stamp Act,1957 is aptly applicable to the case on hand. On the other hand the learned counsel for the plaintiff submitted that the plaintiff is ready to pay deficit stamp duty and penalty as determined by this Court.

8. Now, let me examine deficit stamp duty and penalty payable under the agreement of sale in question. The calculation of deficit stamp duty and penalty are mentioned in a tabular as follows:

CALCULATION OF DEFICIT STAMP DUTY AND PENALTY		
Sl. No.	Particulars	
1.	Total Sale Consideration fixed under the agreement of sale dated 19.09.2019	Rs.2,70,000/-
2.	Total earnest money paid under the agreement of sale	Rs.2,50,000/-
3.	Total stamp duty paid	Rs.50/-
4.	Minimum stamp duty payable under the agreement of sale as per Article-5 (e) (ii) (**Subject to a maximum of rupees twenty thousand but not less than rupees five hundred):-**	Rs.500/-
5.	Total deficit stamp duty payable under the agreement of sale	Rs.450/-
6	Actual stamp duty and penalty payable (Deficit stamp duty X 10 times penalty)	Rs.4,950/-

9. In view of above calculation, the plaintiff is required to pay deficit stamp duty and penalty of Rs.4,950/-. Hence, the stamp duty paid under the agreement of sale is insufficient and accordingly, agreement of sale dated 19.09.2019 is impounded under

Section 34 of the Karnataka Stamp Act,1957. In view of above, I answer point No.1 in the **'Negative'**

10. **Point No.2:** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

Acting under Section 34 of the Karnataka Stamp Act, 1957 agreement of sale dated 19.09.2019 is impounded.

Consequently, the plaintiff is directed to pay deficit stamp duty and penalty of Rs.4,950/-.

Consequently, office is to receive the same and remit the same in the stamp head. Further, office is to endorse the receipt of the deficit stamp duty and penalty on the impounded agreement of sale dated 19.09.2019.

After compliance, office is to send the certified copy of the receipt of deficit stamp duty and penalty with certified copy of impounded agreement of sale dated 19.09.2019 to the District Registrar, Koppal.

Call on:

Addl. Civil Judge & JMFC.,
Kushtagi.