ORDERS ON STAMP DUTY

The appellant has produced an unregistered Partition deed dated 10.03.1952 which is insufficiently stamped. On perusal of the said document it *prima-facie* reveals that sons of Sri.Suregowdana Thimmarayigowda namely Sri.Thimmegowda, Sri.Girigowda and Sri.Marchigowda have entered into partition with respect to properties bearing Sy. Nos. 60/18, 60/35, 45/20 of Hemmanahalli village and Sy. Nos. 15/2, 15/3, 17/2, 18/B, 16 of Nagenahalli village and some other properties said document is not duly stamped.

2. The partition deed is not admitted in evidence for any purpose unless it is duly stamped. As already stated above said partition deed is came into effect prior to enforce of Karnataka Stamp Act 1957. Hence, court has to fall-back the Indian Stamp Act 1899 to determine the stamp duty and penalty.

3. On perusal of the document it prima facie recited that brothers of the Marchigowda have divided the properties through said partition deed. Hence, it is relevant to note here Article 45 of the Indian Stamp Act read as follows:

45. PARTITION—Instrument of [as defined by s. 2 (15)]	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. N.B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller

than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(a) when an instrument of partition containing an agreement to divide property in severalty is executed and 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 eight annas;

(b) where land is held on revenue settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;

(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 an 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 eight annas.

4. A plain reading of the above said article is clear that, when partition effected through the same document the amount of the value is as bond under Article 15 of the Act. On perusal of the Article 15 of the Indian Stamp Act it appears that where value of the property exceeds 1000 then stamp duty is 2 rupees 8 annas. In case on hand both the parties have not furnished exact value of the property or they have not furnished 30 years RTC extract to assess the land revenue. On perusal of the documents it appears that it exceeds Rs. 1000/- in the year 1952. Hence, it is just and proper to consider that property exceed 1000 in the year 1952 and stamp duty is 2 rupees 8 annas.

5. In this case partition deed written on stamp papers having value of Rs.5/-. Hence, it appears that stamp duty paid on the said document is sufficient. Because Rs.5/- is more than actual stamp duty of 2 rupees 8 annas. Hence, I am of the opinion that stamp duty paid on the partition deed is sufficient.

For further chief examination of PW-1.

by: 11.12.2025.

I Addl. Sr.CJ & JMFC,
K.R.Pete.