OS 24/2017

ORDERS ON STAMP DUTY

The Defendant intending to produce an unregistered partition deed dated 10.01.1990 which is insufficiently stamped. He wants to tendor the said document in his evidence. On perusal of the said document one Sri. Marigowda S/o Singrigowda had divided the properties among his children on 10.01.1990 through unregistered partition deed. Said document is not duly stamped. Hence, said document is not admitted in evidence for any purpose unless it is duly stamped. Section 34 of Karnataka Stamp Act puts a complete embargo and bar against admissibility of this document which is not duly stamped. Hence, the plaintiff has to pay deficit duty and penalty on this document.

2. As already stated above this document is came into effect on 10.01.1990. Hence, court has to fall-back under Section of 3, article No.39 of the Karnataka Taxation and certain other laws (amendment) act 1979. relevant part of the above section with respect to partition deed read as follows;

3. Amendment of Karnataka Act 34 of 1957:-

For the Schedule to the Karnataka Stamp Act, 1957 (Karnataka Act 34 of 1957), the following Schedule shall be substituted, namely:-

Article 39:- Partition-instrument of as defined by Section 2(1)(k): The same duty as a (Bond No.12) 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 severally 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 three rupees;

(b) When 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 twenty-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 the 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 three rupees.

3. A plain reading of the above said article (b) it is clear that when land is held on revenue settlement, the duty of the document shall be calculated at twenty-five times of the annual revenue. In the instant case the DW-1 is intending to produce the insufficiently stamped document which is contain revenue lands. Hence, court has to calculate the revenue assessment at twenty-five times to ascertain the duty on this document. The Defendant has furnished RTC of the properties bearing Sy.No.9 measuring 1 acre situated at Haleattiguppe Village, Santhebachahalli Hobli, K R Pete Taluk, property bearing Survey No.

13/1 measuring 1 acre 26 guntas situated at Haleattiguppe Village, Santhebachahalli Hobli, K R Pete Taluk, property bearing Survey No. 12/4 measuring 25 guntas situated at Haleattiguppe Village, Santhebachahalli Hobli, K R Pete Taluk, which are cover under the unregistered partition deed. He has furnished manual RTC extract of the property bearing Survey No.12/1, 13/1 and 12/4. On the other hand plaintiff also furnished 30 years RTC extracts for perusal of this court and on perusal of the said RTC extracts it appears that land revenue assessed for survey No.9 is 159.53, for survey No.12/1 is 5.31, for survey No.13/1 is 28.62 and survey No.12/4 for Rs. 9. Total land revenue is 5.31+28.62+159.53+9=202.46 p.a. Hence, said assessment shall be calculated at twenty-five times to determine the duty on unregistered partition deed.

202.46X25=5061.50 paise

4. As per above said calculation the plaintiff has to pay duty on unregistered partition deed Rs.5061.50/-. On perusal of the said document it is written on paper having no value. Hence, deficit stamp duty is Rs.5061.50/- is the deficit stamp duty on unregistered partition deed.

5. According to Section 34(a) of Karnataka Stamp Act, the plaintiff has to pay penalty sum equal to ten times to deficit duty calculated by this court. Accordingly the plaintiff has to pay Rs.5061.50X10=50615

+deficit stamp duty 5061.50=55676.5/- as duty and penalty on unregistered partition deed. Accordingly, court proceed to pass the following;

ORDER

The Defendant is hereby directed to pay duty and penalty of Rs.55676.5/- on unregistered partition deed dated 10.01.1990.

To pay duty and penalty by the DW-1/ the defendant and further chief examination of DW-1 by 03.07.2026.

I Addl. Senior Civil Judge & JMFC,
K R Pete.