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THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C., H.D.KOTE

Present: **Mahesh.B.T.,** B.Com., LL.M.,
Senior Civil Judge & J.M.F.C.,
H.D.Kote.

O.S. No.86/2018

Dated : On this the 17th July, 2026

Plaintiff : Sri. G.Puttaswamy @ Puttaswamy Gowda

V/s

Defendants : Smt. Rajamma & Others

ORDER ON I.A.No.XIX

Applicants/Defendants: Smt. Rajamma & Others

-V/s-

Opponents/Plaintiff: Sri. G.Puttaswamy @ Puttaswamy Gowda

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IA.No.19 FILED BY THE DEFENDANT U/S 151 OF CPC

The Applicants/Defendant Nos.1 to 3 files application praying to order for sending the documents that are marked before this court on behalf of the defendants i.e., Ex.D2 registered gift deed dated 02.08.2006 in respect of the suit schedule property & Ex.D3 order passed by the District **Registrar, Commissioner, Mysuru, District, dated 14.09.2006 in respect of the** suit schedule property to enable the Sub-Registrar, H.D.Kote or District Registrar/Mudranka Upa-Ayuktharu, in the event of impounding, Mysuru District, Mysuru, in the event of impounding in respect of unregistered gift deed, dated 24.12.2003 of schedule property, which was produced by the defendant No.1 to 3 before the court, to enable to fix the stamp duty/penalty etc., or not, by the said officers to enable said officers to peruse the same, in the interest of justice and equity.

2. In the accompanied affidavit, the defendant No.2 stated that, the plaintiff has filed the suit for the relief of declaration of title over the suit schedule property and his alleged possession over the suit schedule property by them. Further it is stated that, defendant No.2 and his father were put into possession of the suit schedule property by the original owner i.e., the defendant No.4 under the unregistered gift deed dated 25.12.2003 and delivered possession of the suit schedule property to his father on that day itself. Subsequently, the defendant No.4 executed a registered gift deed as per Ex.D2 on 02-08-2006 in

respect of the suit schedule property, mentioning the delivery of possession of suit schedule property on the basis of unregistered gift deed, dated 25-12-2003 in favour of his father. At that time, registering authority sent the said gift deed Ex.D2 for District Registrar/Mudranka Upa Ayuktharu, Mysuru, by issuing notice to the concerned parties. The District Registrar visit the suit schedule property on 14-09-2006 and conducted enquiry and also imposed deficit stamp duty from the date of possession of the suit schedule property by my father, since 25-12-2003 i.e., from the date of Unregistered Gift deed. Hence stamp duty has been paid by my father to the tune of Rs.48,695/- as per Ex.D3. Hence, if this court is pleaded to impound the unregistered gift deed, which is already produced by him, which is due for making through his, send the Ex.D2 & D3 to consider the Unregistered Gift Deed, dated 25-12-2003. Hence the accompanying application. If the accompanying application is not allowed, we will be put to greater hardship and loss. Those exhibits are material evidence to fix the stamp duty by the said Authorities. Hence, he is prayed to allow the application.

3. The plaintiff has filed objection to the application is that, the application filled by the defendant Nos.1 to 3 and 7 are neither maintainable nor tenable either

in eye of law or on facts and same is liable to be dismissed in limine. The registered gift deed dated 02-08-2006 is already marked as Ex.D2 and D3 (the gift deed dated 02-08-2006 is incomplete, it is marked as D2, the certified copy of gift deed dated 02-08-2006 marked as D2(a). the Ex.D3 is the certified copy of the order passed by the district register Mysuru District Mysuru dated 14.09.2006. The Question of sending the unregistered gift deed dated 24.12.2003 as prayed in the application does not arise. Both the gift deed are created and concocted by the above said defendants for the purpose of Knock of the suit schedule property. That fact is elicited in the cross examination, the matter already posted for defendant side argument, thereafter an after thought the defendants filed the application for re-call and re-open the case for the chief-examination of DW-1 to mark the document. The alleged unregistered gift deed dated 24.12.2003 cannot be marked as exhibit at any purpose it is not create or extinguish the right, title over the suit schedule property. If the application is dismissed no injury or hardship caused to the defendant No.1 to 3 and 7 on the other hand if the application is allowed the plaintiff will be put to great hardship and injustice. Hence, it is prayed to dismiss the application.

4. I have heard the counsels on both the application.

5. The points that arise that consideration of this court are as under;

<u>P O I N T S</u>

1. Whether the defendants has made out sufficient grounds to allow the application?

2. What order?

6. My findings on the above points are as under:

Point No.1: In the Negative

Point No.2: As per final order,

for the following:

<u>7. Point No.1:</u> The plaintiff has filed the suit against defendants for the relief of declaration of title over suit schedule property. Instant application filed by the counsel for the defendant No.1 to 3 praying to send Ex.D2 and D3 along with the unmarked documents i.e., unregistered gift deed dated 24.12.2003 to Sub-Registrar, H.D.Kote or District Registrar/Mudranka Upa-Ayuktaru, Mysuru District to enable them to fix the stamp duty and penality. Further it is to be noted here that, very same defendants have filed the I.A.No.17 and 18 praying to recall and reopen and permit to adduce further evidence of DW1 when stage stood for the arguments and same was allowed by this court. Thereafter, defendant No.1 to 3 have come with the unregistered gift deed to mark before the court and also admit to pay the stamp duty and penalty. Meantime, instant application was moved by the defendant No.1 to 3 praying to send Ex.D2 and 3 along with the unregistered gift deed, for calculation of stamp duty and penalty. It is to be noted here that, since the unregistered gift deed dated 24.12.2003 brought by the defendants they have to pay deficit stamp duty along with the penalty separately. Hence, sending of Ex.D2 and D3 will not necessitate to calculate of stamp duty and penalty. Hence, for the following:

O R D E R

The application I.A.No.19 has filed by the defendants U/sec.151 of CPC is hereby rejected.

Sd/-
Senior Civil Judge & JMFC,
H.D.Kote