

IN THE COURT OF ADDL. CIVIL JUDGE & JMFC, HUNSUR

Dated this the 24th day of June, 2025

:Present:

**Smt. Namrata S Hosmath, B.A., LL.B.,
Addl. Civil Judge & JMFC,
Hunsur.**

O.S./144/2010

PLAINTIFF : Lalithakumari and another

// Vs //

DEFENDANT : Nirmalashanthakumari and others

PARTIES TO I.A. NO.XXII

APPLICANT : Lalithakumari

// Vs //

DEFENDANTS : Nirmalashanthakumari and others

ORDERS ON I.A. NO.XXII

The plaintiff has filed the present application U/Sec. 33 and 34 of the Karnataka Stamp Act, seeking to direct the defendants to pay the deficient stamp duty along with the penalty.

2. It is stated in the memorandum of facts that during the course of evidence, the document marked as Ex.D1 was confronted to PW1 and marked accordingly. It is now submitted that the said

document is insufficiently stamped and, therefore, inadmissible in evidence under the provisions of the Karnataka Stamp Act. It is further averred that this fact came to the notice of the plaintiff's counsel while preparing for final arguments. Hence, the plaintiff prays that the document be impounded in accordance with law and appropriate directions be issued to the defendants for payment of the deficient stamp duty and penalty.

3. The defendants have filed their objections opposing the application. The only contention raised by them is that the document in question was marked during the cross-examination of PW1 upon his admission. Therefore, the responsibility to pay the deficient stamp duty, if any, lies with the plaintiff and not with the defendants. On this ground, the defendants contend that the application is not maintainable and hence, liable to be dismissed.

4. Heard and perused the materials on record.

5. Now the points that arise for consideration are as follows;

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

2. What order?

6. My answer to the above points are as hereunder:

Point No.1: In the affirmative.

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

REASONS

7. **Point No.1:-** Upon perusal of the material on record, it is noted that neither of the counsels disputes the fact that the document in question is insufficiently stamped, nor do they object to the payment of the deficient stamp duty and penalty. The only issue that arises for consideration is as to who is liable to pay the deficient stamp duty and penalty.

8. As per the settled legal position, the deficient stamp duty and penalty is to be borne by the person who has produced the document before the Court. In other words, the responsibility lies with the party who seeks to rely upon the document in support of their case. Accordingly, it is to be construed that the person intending to rely on such a document is liable to pay the requisite stamp duty and penalty as prescribed under law.

9. This view is fortified by the Judgment of the Hon'ble High Court of Karnataka in **Madireddy v. Chowdareddy, ILR 2017 Kar 2407**, wherein it has been held that:

"Who could be directed to pay the stamp duty and penalty under Section 34 of the Karnataka Stamp Act, 1957? This is the short question that calls for an answer in this case.

Direction to pay the stamp duty and penalty as contemplated under Section 34 of the Act could be given only to the person who wants to tender an insufficiently stamped document to be admitted in evidence and if he is

entitled to recover the duty and penalty so paid by him from any other person as per Section 43 of the Act, he may recover the same from the other person as provided in the said Section.....”

10. In the present case, the document Ex.D1 though marked upon confrontation to PW1, it was produced and relied upon by the defendants. Therefore, the responsibility for payment of deficient stamp duty and penalty lies upon them, in accordance with the provisions of the Karnataka Stamp Act. Accordingly, point No.1 is answered in the Affirmative.

11. **Point No.2**:- In view of the above discussion, I proceed to pass the following:

ORDER

IA No. 22 filed by the plaintiff under section 33 and 34 of the Karnataka stamp Act is hereby allowed.

Ex.D1 document is impounded.

The defendants are directed to pay stamp duty and penalty on Ex.D1.

Office is hereby directed to refer the same to the Deputy Registrar, Mysore. If PF paid.

(NAMRATA S HOSMATH)
Addl. Civil Judge & JMFC.,
Hunsur.