IN THE COURT OF ADDL. SENIOR CIVIL JUDGE, RAMANAGARA

:PRESENT:

Smt. K.Srividya, B.A.L., LL.M.,
Addl. Senior Civil Judge,
Ramanagara.

O.S. No.124/2015

DATED : THIS THE ... DAY OF JANUARY 2018

..Plaintiff : Sombamma.

- V/s -

Defendants : Hanumaiah and others. ..

* * * *

Orders on Stamp Duty on documents dated 19.01.2017, 23.11.2009 & 17.04.2010.

During the course of chief examination of DW1 the counsel for defendant No.3 raised objection on marking of documents dated 19.01.2007, 23.01.2009 and 17.04.2010. Hence, hearing on stamp duty on said documents was taken on board.

2. Inspite of giving sufficient opportunity to defendant No.3 they have failed to make their submission of stamp duty payable on documents dated

19.01.2007, 23.11.2009 and 17.04.2010. Hence, hearing by defendant No.3 was taken as heard. The counsel for plaintiff submitted that registered sale agreement already marked in evidence. Hence, said documents are sufficiently stamped.

3. Perused the records and the documents dated 19.01.2007, 23.11.2009 and 17.04.2010. 19.01.2007 is unregistered sale agreement where the suit property is said to be executed by defendants in favour of the plaintiff company for a valuable sale consideration of Rs.96,25,000/- and recitals of the said document does not indicate possession is delivered under the said document. Said document is endorsed on Rs.200/- stamp paper.

4. As per Article 5(e)(ii) Karnataka Stamp Act 1957, where possession of the property is not delivered under the agreement then, if the value of the property exceeds

Rs.50,000/- then, the stamp duty payable on such agreement is Rs.200/-.

5. Since, the sale agreement dated 19.01.2007 is endorsed on Rs.200/- stamp paper, this Court views that, it is sufficiently stamped.

6. The General power of attorney document dated 19.01.2007 is endorsed on Rs.100/- stamp paper. On perusal of the recitals in the said document it permits and authorises the developer to develop the property and form sites and sell the same to prospective purchasers. As per Article 5(f) of Karnataka Stamp Act, 1957 if the agreement is relating to giving authority or power to a developer by whatever name called, for construction or development of or sale or transfer (in any manner whatsoever) any immovable property then, the stamp duty payable on said document as per Karnataka Act No.8 of 2003 is Rs.1,000/-.

7. By relying on the above said provision to the General Power of Attorney document dated 19.01.2007 this Court views that, said document comes under Article 5(1) of Karnataka Stamp Act, 1957 and the Stamp duty payable on the date of execution of said document is Rs.1,000/-. The document produced by PW1 i.e., Power of Attorney document dated 19.01.2007 is endorsed on Rs.100/- Stamp paper. Hence, there is deficit of Rs.900/- on said document. By calculating 10 times penalty and deficit stamp duty on said document the plaintiff company has to pay Rs.9,900/- on said document.

8. Under the document dated 23.11.2009 the defendants have only received portion of the sale consideration. Hence, said document endorsed on Rs.200/- stamp paper is sufficiently stamped.

9. The document dated 17.04.2010 is power of Attorney given to Ashok Kumar Gandhi and

Ratanchand Gandhi to undertake certain transactions with reference to schedule property. On perusal of the said documents it is endorsed on Rs.200/- stamp paper. The recitals in the said document does not indicate the market value of the said document. Hence, to determine the stamp duty on the said document it is required to be referred to Sub-Registrar, Ramanagara. With this observation, proceed to pass the following ;

ORDER

Sale Agreement dated 19.01.2007 is duly stamped.

Document dated 23.11.2009 is hereby considered as duly stamped.

Plaintiff is directed to pay deficit stamp duty of Rs.900/- and 10 times penalty on Power of Attorney document dated 19.01.2007 i.e., directed to pay Rs.9,900/- as deficit stamp duty and 10 times penalty on document dated 19.01.2007.

Office is directed to refer xerox copy of Power of Attorney document dated 17.04.2010 produced by plaintiff to Sub-Registrar, Ramanagara to determine stamp duty and penalty on said document.

Addl. Senior Civil Judge,
Ramanagara.