

**ORDERS ON MARKING OF
AN UNREGISTERED
MORTGAGE DEED IN THE
EVIDENCE OF DW1**

The defendant No.6/DW2 is intending to mark an unregistered mortgage deed dated 08-12-1995.

When the case was posted for further chief examination of DW1, the plaintiffs' counsel has objected for marking of an unregistered mortgage deed in the evidence of DW1. I have carefully gone through the recitals of original copy of said mortgage deed. The mortgage deed produced by the defendant No.6 is an unregistered as well as not duly stamped as prescribed under law. As such, the court heard the learned counsels for the defendants and plaintiffs on the said unregistered and unstamped mortgage deed. Since the defendants are contesting the case of plaintiffs by taking some probable defence as such the defendants can be permitted to produce the said unregistered mortgage deed by collecting requisite duty and

penalty and **after collecting the duty and penalty the said document will be marked only for the purpose of collateral transaction.**

Perused the mortgage deed and its recitals, there is recitals regarding the delivery of possession of the property in the said mortgage deed.

As per Schedule-1- Article 5 (e) (i) of the Karnataka Stamp Act:- possession of the property is delivered or is agreed to be delivered without executing the conveyance.

“Same duty as a conveyance (No.20) on the market value of the property”.

As per the above article, the mortgage deed which is involved in the present case is written for Rs.20,000/- (Twenty thousand rupees only) and under this document the delivery of the said property was also delivered as such, the mortgagee would have to be paid stamp duty on the market value of the said property.

Section 33 of the Karnataka Stamp Act cast duty on the court to impound the document which is produced before the court, which is not duly stamped.

Section 34 of the Karnataka Stamp Act stipulates that no instrument chargeable with duty shall be admitted in evidence or shall be acted upon unless such instrument is duly stamped.

As per the decision of Hon'ble High Court of Karnataka Division Bench reported in 2013(1) KCCR 853 (DB) in the case of Miss. Sandra Lesley Anna Bartels Versus Miss. T. Gunavathi at para No. 11 & 12, it is held that the moment it is come to the notice of the court about the insufficiently stamped document is produced, it is the duty of the court to impound the said document immediately whether the same would be relied upon the party or not.

Keeping in mind the above relied judgment of Hon'ble High Court of Karnataka and

also the provisions of section 33 & 34 coupled with article 5(e) of the Karnataka Stamp Act, the document relied by the defendant No.6 as mortgage deed dated 08-12-1995 is require to be impounded now only in order to avoid the loss which may occur to the State Exchequer.

Hence by considering the nature of the suit, facts and circumstance, I proceed to pass the following:-

ORDER

An unregistered mortgage deed dated 08-12-1995 produced by the defendant No.6 is hereby impounded and the defendant No.6 is hereby directed to pay the deficit stamp duty which is occurred on the said document along with 10 times penalty.

Office is hereby directed to send the photostat copy of an unregistered mortgage deed dated 08-12-1995 to the District Registrar, Ramanagara for calculation of stamp duty and 10 times penalty with a direction to

submit the report on or before
06-12-2025.

Call on 06-12-2025.

Sd/-
Prl., CJ and JMFC.,
Kanakapura.