KARN410000012010

IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C., AT : MAGADI.

Present:
Sri. Sandeep S. Reddy, B.A., LL.B.,
Addl. Senior Civil Judge & JMFC., Magadi.

DATED: THIS THE 14th DAY OF FEBRUARY 2024

O.S.No.754/2014

Plaintiff : Sri. R. Suresh,
S/o. Ramanjaneya,
Aged about 47 years,
R/at: Opp. Nirmala Theatre,
Kalyagate, Magadi Town,
Ramanagara District.

(By **Sri. C.S.A.** Advocate)

---V/s---

Defendant : Sri. B. J. Puttaswamy,
S/o. Late. Javaregowda,
Aged about 50 years,
R/at: Hulikatte, Madabal Hobli,
Chakrabavi Post, Magadi Taluk,
Ramanagara District.

(By **Sri. C.B.H.** Advocate)

ORDER

The plaintiff has filed the aforesaid suit for declaration, possession, permanent injunction and consequential reliefs against the defendants.

2. The plaintiff has produced the copy of Gift Deed dated: 13.12.2002. The plaintiff has produced the copy of registered Gift Deeds through the memo for calculation of stamp duty. The stamp duty for the gift deed is calculated as per Article 28 of Karnataka Stamp Act and the gift is amongst the relatives.

3. Heard learned Advocate for plaintiff and defendants.

4. Considering the submissions of the counsel, following points arise for my consideration.

1. **What is the stamp duty and penalty payable on the unregistered Gift Deed dated: 13.12.2002?**
2. **What order?**

5. My findings for the above points are as under.

Point No.1 : As per the discussion
Point No.2 : As per final order
For the following;

<u>R E A S O N S</u>

6. **<u>Point No.1</u>**:- The defendant no.1 & 2 have produced unregistered Gift Deed dated: 13.12.2002. On perusal of the said Gift Deed, the property was gifted by father to son.

7. Thus seen, for the purpose of calculation of stamp duty payable on the unregistered Gift Deed dated: 13.12.2002. I have perused the Gift Deeds registered at the similar time in the Office of Sub-Registrar with respect to the same village. I have calculated the stamp duty as per Article 28 of Karnataka Stamp Act. In this background, if value for the purpose of duty is calculated as per Art.39 of the Karnataka Stamp Act, 1957, it will be Rs.2050/-.

8. Therefore, considering the above said materials I am of the view that the stamp duty payable on the unregistered Gift Deed dated: 13.12.2002 is Rs.2050/-. Already stamp duty of Rs.50/- is paid. Hence, in this view of the matter, the stamp duty and penalty payable on unregistered Gift Deed dated: 13.12.2002 would be is Rs.2050/-.

9. Since plaintiff has already paid Rs.50/-, the deficit stamp duty of Rs.2,000/- along with penalty of 10 times needs to be paid by the plaintiff. Hence, the total amount would come to Rs.22,000/-. Accordingly, point No.1 stands answered.

10. **Point No.2**:-In view of reasons on point No.1 and in the interest of justice and equity, I proceed to pass the following,

O R D E R

Plaintiff is hereby directed to pay Rs.22,000/- towards stamp duty and penalty on the unregistered Gift Deed dated: 13.12.2002.

Call on for payment of stamp duty and penalty by 01.03.2024.

(Dictated to the Typist directly on the computer, typed by her corrected by me and then pronounced in the open court on this the **14th day of February, 2024.)**

(Sandeep S. Reddy)
Addl. Senior Civil Judge & JMFC.,
Magadi.

11. A combined reading of Sections 33, 34, 35, 37 and 41 of the Karnataka Stamp Act requires the following procedure to be adopted by a Court while considering the question of admissibility of a document with reference to the Stamp Act, (a) When a document comes up before the Court, it has to examine and determine whether it is properly stamped. When the other side objects to it, the Court should consider such objection and hear both sides; (b) After hearing, the Court comes to the conclusion that the document has been duly stamped, it shall proceed to admit the document into evidence: (c) on the other hand, if the Court comes to the conclusion that the document is not stamped or insufficiently stamped, it shall pass an order holding that the document is not duly stamped and determine the stamp duty/deficit stamp duty and penalty to be paid and fix a date to enable the party who produces the document to pay the Stamp duty/deficit Stamp duty plus penalty; (d) If the party pays the duty and penalty the Court shall certify that proper amount of duty and penalty has been levied and record the name and address of the person paying the said duty and penalty and then admit the document in evidence as provided under Section 41(2); and the Court shall send an authenticated copy of the instrument to the District Registrar together with a Certificate and the e amount collected as duty and penalty, as provided under Section 37(1); (e) If the party does not pay the duty and penalty, the Court will have to pass an order impounding the document and send the instrument in original, to the District Registrar for being dealt in accordance with law as per Section 37(2) of the Karnataka Stamp Act.