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

Present:

**Sri.Hanumanth Satwik., LL.M.,
Addl. Senior Civil Judge & JMFC., Magadi.**

DATED: THIS THE 18th DAY OF JANUARY 2023

O.S.No.336/2019

- Plaintiff** : 1. Mohammad Riyazulla,
S/o late Ali Jan,
Aged about 60 years.
2. Mohammed Nurulla,
S/o late Alijan,
Aged about 55 years.
3. Mohammad Chand Pasha,
S/o late Alijan,
Aged about 48 years.

All are R/at Sunnakallu Beedi,
Ward No.22, Magadi Town,
Ramanagara District.

{By Sri. **H.N.S.** Advocate}

V/s

- Defendants** : 1. Smt. Shameen @ Shameemtaj,
W/o late Shaffiulla,
Aged about 55 years.
2. Mohammad Mujamil,

S/o late Shaffiulla,
Aged about 28 years.

3. Smt. Najiya Bhanu,
D/o late Shaffiulla,
Aged about 27 years.

4. Smt. Ayesha Anjum,
S/o late Shaffi Ulla,
Aged about 25 years.

Defendant No.1 to 4 are R/at
New Masjid Mohalla,
B.K.Road, Magadi Town,
Ramanagara District.

5. Sri. J.P.Chandregowda,
S/o Puttarangaiah,
Aged about 38 years,
R/at Juttanahali Village,
Kempasagara Post,
Kasaba Hobli, Magadi Town,
Ramanagara District.

{By Sri. **R.S.** Advocate}

ORDER

The present suit is for declaration and for permanent injunction.

2. In the present case the question is about determination of stamp duty and penalty payable on the unregistered Partition Deed dated: 06.03.1967.

3. Heard counsel on duty and penalty.

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 Partition Deed dated: 06.03.1967?**
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;

REASONS

6. **Point No.1**:- Plaintiffs produced unregistered Partition Deed dated: 06.03.1967. I have perused the said Partition Deed and the case of the plaintiffs. Be it stated, the plaintiffs are claiming ownership on the properties allotted to the share of their father Alijan through the said partition deed dated: 06.03.1967.

7. Be it stated, the plaintiffs submit that their grand-father Abdul Sattar was enjoying 2 acres 15 guntas of land in Sy.No.28. After the death of Abdul Sattar his children by name Alijan and Amirjan

partitioned the properties through Partition Deed dated: 06.03.1967. In the said partition Alijan & Amirjan were each allotted 1 acre 7½ guntas of land in Sy.No.28. Subsequently, Amirjan executed Relinquishment Deed dated: 17.01.1972 in favour of Alijan. As such, Alijan was enjoying the properties acquired through partition deed and relinquishment deed.

8. Thus seen, for the purpose of calculation of stamp duty payable on the unregistered Partition Deed dated: 06.03.1967, I have perused the RTCs., of land bearing Sy.No.28. Be it stated, the said property claimed by the plaintiffs is held on revenue settlement. Thus, considering the RTC of the said property it is clear that the assessment value of the property is Rs.4.77 paisa. 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.119.25/-.

9. Be it noted, as per Art.39 of the Karnataka Stamp Act, 1957, the stamp duty payable on the partition instrument is the same duty as a bond (No.12) for the amount of the value of the separated share or shares of the property. On this touchstone, I have perused Art.12. Therefore, considering the above said materials I am of the view that

the stamp duty payable on the unregistered Partition Deed dated: 06.03.1967 is Rs.3/-. In this view of the matter, the stamp duty and penalty payable on unregistered Partition Deed dated: 06.03.1967 is Rs.33/-.

10. In these circumstances, having regard to the submissions of the learned counsel, the plaint and the unregistered Partition Deed dated: 06.03.1967, I am of the view that the plaintiffs are liable to pay a sum of Rs.33/- towards duty and penalty on the unregistered Partition Deed dated: 06.03.1967. Accordingly, point No.1 stands answered.

11. **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,

ORDER

**The plaintiffs are hereby directed to pay
Rs.33/- towards stamp duty and penalty on the
unregistered Partition Deed dated: 06.03.1967.**

(Dictated to the Typist directly on the computer, typed by her corrected by me and then pronounced in the open court on this the **18th day of January, 2023.**)

**(Hanumanth Satwik)
Addl. Senior Civil Judge & JMFC.,
Magadi.**