

Suit is filed for recovery of four crore ten thousand rupees with interest.

Defendants resisted the suit by filing written statement.

After completion of pleadings and settlement of issues; trial was commenced; plaintiff examined himself as Pw1 & documents Ex.P1 to P53 were marked.

Heard both side regarding marking of document styled as agreement.

It is well settled that; the recitals of the document plays a pivotal role in determining the true intention of the parties to the

document and not the nomenclature of the document.

In the case at hand the document in question is named as agreement executed on 1st March, 2019 in between the partners of M/S Sealine Trading Partnership Firm (defendants) **and** Siraj Ummar (plaintiff), wherein it is indicated that; the first party and the second party carried on partnership under the Admission cum Retirement/Reconstitution Deed of Partnership dated 26th April 2018. By mutual agreement and consent, the second party has expressed his willingness to retire from the said Deed of Partnership and the first party have accepted for the same, and they have also entered into separate Deed of Retirement of Partner from Partnership Deed of M/s Sealine Trading on this day for the same. In view of Retirement of second party from the Partnership Deed of M/s Sealine Trading, by mutual agreement and consent of both the parties, the first party have agreed to repay a sum of Rs.2,85,00,000/- (Rupees Two Crores Eighty-Five Lakhs only) to the Second Party as his investment in the Partnership

Deed of M/s Sealine Trading. Therefore, this Agreement is entered into between the parties on the following terms and conditions.

It is worth to note that; Section 4 of the Negotiable Instruments Act, 1881 defines "promissory note" as an instrument in writing (not being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person to the bearer of the instrument.

The essential requisite of a promissory note is certainly as to the person to make the payment, the person to receive it, the time and place of payment, the conditions of liability and also as to the amount to be paid. No particular form of words is essential to constitute a promissory note. It may be in the form of a letter or in any other form of words which satisfy the requirements of Section 4 of the Act.

The question whether an instrument is a promissory note or not has to be ascertained by the words used in the document. It cannot

be said that the absence of the word "promise" is sufficient to declare that the document is not a promissory note. Any form of expression or recitals in the concerned document from which it can be deduced that there was an undertaking to pay a certain sum is sufficient to construe the document as a promissory note. It has to be ascertained whether the words used in an instrument import an unconditional undertaking to pay the amount. The unconditional undertaking to pay a specified amount is the sine qua non in a promissory note.

If the above essentials required to constitute a document as a promissory note compared with the recitals of document in question one can say without any hesitation that the document is nothing but a promissory note and at no stretch of imagination it cannot be construed as a Bond as defined under Section 2(a) & (b) of the Karnataka Stamp Act, 1957. Disputed document is scribed on a stamp Paper of Rs.2,000/-. By this it can be said that the sufficient stamp duty is paid. Hence, proceeds to pass the following;

ORDER

The document in question i.e., agreement dated 01.03.2019 is sufficiently stamped.

For further chief of PW1 by
05.07.2025.

**II Addl. District & Sessions Judge,
Udupi.**