ORDER ON DOCUMENT

The plaintiff has produced an unregistered General Power of Attorney dated 14.01.2008 executed on stamp paper of Rs.200/- and notarized before the Notary on 14.01.2008. At the time of marking the said GPA during the evidence of PW.1, the Learned Counsel for the defendant Nos.1 to 5 and 11 has raised objection that it is insufficiently stamped hence, it cannot be looked into.

2. I have heard the Learned Counsel for the parties and meticulously perused the material on record.

3. The points that would arise for consideration are:-

1. Whether the General Power of Attorney dated 14.01.2008 duly stamped and it can be marked?

2. What order?

4. My answer to the above said points are as follows:

Point No.1: In the Affirmative;

Point No.2: As per final order for the following:

REASONS

5. Before adverting to the points, it is worth to refer schedule of the Karnataka Stamp Act, 1957, particularly Article 41, which is being reproduced below:-

SCHEDULE STAMP-DUTY ON INSTRUMENTS	
Description of instrument	**Proper Stamp duty**
41. Powers of attorney,—(as defined by section 2(1)(P) not being a proxy,—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One hundred Rupees
(b) when authorising one person or more to act in a single transaction other than the case mentioned in Clause (a);	One hundred rupees
(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	One hundred rupees

(d) when authorising more than five but not more than ten persons to act Jointly and severally in more than one transaction or generally;	Two hundred rupees
(e) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance under Article 20(1) on consideration or on market value of the property (which is the subject matter of such power of attorney), whichever is higher. Provided that the duty paid on agreement for sale under Article 5(e) or instrument of sale or transfer as the case may be, is adjustable towards the duty payable on such power of attorney under Article 41(e), executed between the same parties and in respect of the same property.
(ea)	XXXX
(eb)	XXXX
(ec)	XXXX
(f)	XXXX
(g)	XXXX
(h)	XXXX
Clauses (e) and (ea) substituted by Act No.9 of 2009, w.e.f. 1-4-2009.	

6. **<u>Point No.1:</u>** It is the specific contention of the Learned Counsel for the defendant No.1 to 5 and 11 that the GPA in question was not executed within the family members and it is insufficiently stamped. Then ought to paid duty under Article 41(e) of the Karnataka Stamp Act,1957. Therefore, he is liable to pay deficient portion of the duty. Counter to that, the Learned Counsel for the

plaintiff vehemently argued that the stamp duty paid under the GPA is sufficient. Article 41(e) came into force on 01.04.2009 i.e., after execution of GPA in question. Therefore, stamp duty paid on the GPA is sufficient.

7. On carefully going through clause (e) of Article-41(e) of the Karnataka Stamp Act,1957 manifest that the stamp duty payable on a power of attorney is as that of a conveyance on the consideration or on the market value of the property. Clause (e) of Article 41 was introduced by way of amendment with effect from 01.04.2009. The General Power of Attorney in question was executed in the year 2008 i.e., much prior to the amendment brought to the Article 41 of the Karnataka Stamp Act,1957. A bare perusal of the recitals of the GPA would clearly indicate that it is a simple power of attorney and has not created any interest or title in favour of holder. Therefore, the above GPA does not falling under Article 41(e) of the Karnataka Stamp Act,1957. Hence, the stamp duty paid under the GPA is sufficient and it can be marked. In view of above, I answer point No.1 in the **'Affirmative'**

8. **<u>Point No.2:</u>** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

The Stamp Duty paid under the General Power of Attorney dated 14.01.2008 is sufficient and it can be marked in evidence.

Call on:

II Addl. Civil Judge & J.M.F.C.,
Karkala.