



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.1024/2022 (GM-CPC)

BETWEEN:

K. KRISHNA SHETY
S/O LATE SRI. K. DOGU SHETTY
AGED ABOUT 70 YEARS
R/AT KRISHNA KUNJA
BEHIND URWA MARKET
MANGALURU-575006.

...PETITIONER

(BY SRI. PRADEEP NAIK K, ADV.,)

AND:

1. SRI. K. RAGHAVENDRA NAYAK
S/O LATE SRI. SURENDRA NAYAK
AGED ABOUT 43 YEARS
R/AT SATHYASHREE
DOOR NO.6-19-885/2
3 CROSS COMPOUND
BEHIND URWA MARKET
GANDHINAGARA POST
MANGALURU-575006.
2. MRS. SAVITHA MARTIS
D/O BAPTIST MARTIS
AGED ABOUT 42 YEARS
BEHIND URWA MARKET
MANGALURU-575006.





3. SHRI. PETER ANTHONY PINTO
S/O LATE SRI. FAREDRICK L. PINTO
AGED ABOUT 40 YEARS
R/AT NO.1205, FELICITY BLOCK-1
BEJAI NEW ROAD
MANGALURU-575004.
4. SRI. SANDESH KUMAR SHETTY
S/O SRI. KITTANNA SHETTY
AGED ABOUT 41 YEARS
R/AT NO.G-04, GLORY APARTMENTS
KOTEKANI ROAD, URWA
MANGALURU-575006.

...RESPONDENTS

(BY SRI. VIKESH B.G. ADV., FOR
SRI. P. KARUNAKAR, ADV., FOR R2 TO R4
R1 SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER WHICH IS AT ANNEXURE-A DTD.03.07.2021 PASSED ON IA NO.XV IN O.S.NO.517/2014 BY THE HONBLE V ADDL. CIVIL JUDGE AND JMFC MANGALURU D.K. & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed challenging the order dated 03.07.2021 passed on IA.No.15 in OS.No.517/2014 by the V Additional Civil Judge and JMFC, Mangalore, Dakshina Kannada (for short 'the trial Court').



2. Sri.Pradeep Naik, learned counsel for the petitioner submits that the petitioner is the second defendant in the suit filed by Respondent No.1 herein. In the said suit, defendant No.1 produced copies of the General Power of Attorney (for short 'GPA') which were marked as Exs.D1 to D3. Thereafter, the plaintiff/respondent No.1 herein filed an application seeking to impound the said exhibits which came to be allowed by the trial Court by directing the petitioner herein as well as the other defendants in the suit to pay duty and penalty which is impermissible under Section 34 of the Karnataka Stamp Act, 1957 (for short 'the Act'). It is submitted that the person who tenders the instrument for admission in evidence is liable to pay duty and penalty. Hence, the impugned order calls for interference. Accordingly, he seeks to allow the petition.

3. Per contra, Sri.Vikesh B.G., learned counsel for Sri.P.Karunakar, learned counsel appearing for respondent Nos.2 to 4 supports the impugned order of the trial Court



and submits that the trial Court taking note of the fact that the petitioner/defendant No.2 has also executed Ex.D3, has rightly ordered impounding of the instrument and directed to pay duty and penalty. Hence, he seeks to dismiss the petition.

4. I have heard the arguments of the learned counsel for the petitioner, the learned counsel for the respondents and meticulously perused the material available on record.

5. Respondent No.1 herein has filed a suit in OS.No.517/2014 seeking permanent injunction. In the said suit, defendant No.1 i.e. respondent No.2 herein has adduced the evidence. During the course of her evidence, she produced three GPAs which were marked as Exs.D1 to D3. Thereafter, the plaintiff in the suit filed an application under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') read with Section 33 of the Act seeking to impound Exs.D1 to D3 on the ground that the said



instruments were insufficiently stamped and therefore liable to be impounded along with payment of the requisite duty and penalty. The said application was opposed by the defendants. However, the trial Court under the impugned order directed impounding of Exs.D1 to D3 and further directed defendant No.1, defendant No.2/petitioner herein and defendant No.3 to pay the deficit stamp duty and penalty as specified therein.

6. It is not in dispute that defendant No.1 i.e. respondent No.2 herein produced the three GPAs during the course of her evidence, which were marked as Exs.D1 to D3. Later on, an application was filed to impound the said exhibits on the ground that they were insufficiently stamped. The trial Court considering the fact that the documents were executed by defendant Nos.1 to 3 in favour of defendant No.4/respondent No.4 herein passed the impugned order. However, it is admitted fact that the present petitioner, who is defendant No.2 did not tender the said instruments to be admitted in evidence before the



Court. Hence, the question of directing the petitioner/defendant No.2 to pay the deficit stamp duty and penalty does not arise.

7. The Co-ordinate Bench of this Court in the case of **Madireddy v. Chowdareddy and Others**¹ has held as under:

"4. In my opinion, direction to pay the stamp duty and penalty as contemplated under Section 34 of the Karnataka Stamp Act, 1957 ('the Act' for short) could be given only to the person who wants to tender an insufficiently stamped document to be admitted in evidence and if he is entitled to recover the duty and penalty so paid by him from any other person as per Section 43 of the Act, he may recover the same from the other person as provided in the said section. In the present case, as defendant Nos.1 and 3 did not tender the aforesaid agreement of sale dated 10.04.2006 to be admitted in evidence, the Trial Court's direction to them to pay the duty and penalty on the said document is unsustainable in law."

8. Keeping in mind the enunciation of law laid down by this Court, I am of the considered view that the trial Court has committed a grave error in directing the

¹ ILR 2017 KAR 2407



petitioner/defendant No.2 to pay stamp duty and penalty of Rs.9,52,675/- on Ex.D3 and the same is liable to be set aside. Accordingly, it is set aside. For the aforementioned reasons, the writ petition is ***allowed***. The impugned order dated 03.07.2021, insofar as it directs the petitioner/defendant No.2 to pay deficit stamp duty and penalty of Rs.9,52,675/- on Ex.D3 is hereby set aside. The defendant No.1 shall pay the duty and penalty as calculated by the trial Court on Ex.D3. No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 16