

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1<sup>ST</sup> DAY OF OCTOBER 2021

BEFORE

THE HON'BLE MR. JUSTICE B. M. SHYAM PRASAD

WRIT PETITION No.16119/2021 (GM-CPC)

**BETWEEN :**

SRI. N. RAMESH  
S/O. SRI. D. NARAYANASHETTY,  
AGED ABOUT 59 YEARS,  
RESIDING AT NO. 2,  
DHARMARAYA TEMPLE STREET,  
NARASAPURA VILLAGE,  
VEMGAL HOBLI,  
KOLAR TALUK,  
KOLAR DISTRICT,  
PIN CODE-563 133.

... PETITIONER

(BY SRI. AJIT KALYAN, ADVOCATE)

**AND :**

1 . B. V. PADMANABHAIAH  
S/O. LATE K. VENKATAPPA,  
SINCE DEAD BY LRS.,

1(A) SHANTA PADMANABHAIAH,  
W/O. LATE PADMANABHAIAH. B.V.,  
AGED ABOUT 57 YEARS,

1(B) P. MANJUNATH  
S/O. LATE PADMANABHAIAH. B. V.,  
AGED ABOUT 40 YEARS,

1(A) AND 1(B) ARE  
RESIDING AT NO.1116,  
10<sup>TH</sup> D CROSS, 2<sup>ND</sup> STAGE,  
WEST OF CHORD ROAD,  
MAHALAXMIPURAM POST,  
BENGALURU-560 086.

1(c) P. MOHANA KUMARE  
D/O. LATE PADMANABHAIAH. B. V.,  
AGED ABOUT 38 YEARS,  
RESIDING AT NO. 119/120,  
1ST FLOOR, SATHYANARAYANA LAYOUT,  
3<sup>RD</sup> STAGE, 4<sup>TH</sup> BLOCK,  
BASAVESHWARANAGAR,  
BENGALURU-560 079.

1(D) P. MANGALA  
D/O. LATE PADMANABHAIAH. B. V.,  
AGED ABOUT 36 YEARS,  
RESIDING AT NO. 119/120,  
1ST FLOOR, SATHYANARAYANA LAYOUT,  
3<sup>RD</sup> STAGE, 4<sup>TH</sup> BLOCK,  
BASAVESHWARANAGAR,  
BENGALURU-560 079.

2. SRI. N. K. PRAKASH  
S/O. LATE V. KRISHNAPPA @  
LORRY KRISHNAPPA,  
RESIDING AT GANDRAGULIPURA,  
KASABA HOBLI,  
NELAMANGALA TALUK,  
BENGALURU DISTRICT.

... RESPONDENTS

(BY SRI. V.B.RAVISHANKAR, ADVOCATE FOR R1(A TO D)  
AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-A, THE ORDERS PASSED ON 07.04.2021 ON THE APPLICATION FILED U/S 151 OF THE CODE OF CIVIL PROCEDURE (I.A.NO.15) IN O.S.NO.24/2012 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE SRIRANGAPATNA AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

The first defendant in O.S.No.24/2012 on the file of the Additional Senior Civil Judge, Srirangapatna (for short, '*the civil Court*'), has impugned the civil Court's order dated 07.04.2021. The civil Court by this order has rejected the petitioner's application (I.A.No.15) under Section 151 of the Code of Civil Procedure, 1908 (for short, '*the CPC*') to impound the unregistered agreement on the sole ground that this document has been marked in evidence and once it is marked, the question of sufficiency of the stamp duty cannot be considered.

2. Sri Ajit Kalyan, the learned counsel for the petitioner urges that the petitioner is aggrieved by the impugned order because the civil Court has overlooked material circumstances inasmuch as the document is marked when the petitioner was placed *ex parte* and the suit is presently restored for re-consideration on merits on an application by the petitioner under Order IX Rule 13 of CPC in Mis.No.14/2015. As the document is marked when the petitioner was placed *ex parte*, the marking of the document cannot be held against the petitioner.

3. Sri Ajit Kaylan therefore contends that the civil Court must consider whether the stamp duty paid on the agreement is sufficient and if it is not sufficient, the plaintiffs – respondents must be called upon to pay such deficit stamp duty as also the ten times the penalty as is contemplated under the Karnataka Stamp Act, 1957.

4. Sri. V.B.Ravishankar, learned counsel for the respondents, submits that in the peculiar circumstances of the case he would not contest the grounds urged on behalf of the petitioner, but there must be an enquiry and if such enquiry is held, the respondents can demonstrate that the stamp duty payable as on the date of the execution of the agreement is paid and there is no deficiency. However, he submits that the suit has been pending consideration for almost ten years now and there must be a direction for expeditious disposal of the suit.

5. Sri. Ajit Kalyan, learned counsel for the petitioner, responding to this submission, submits that the petitioner would assist and co-operate with the civil Court for an expeditious disposal. In the light of these submissions, the petition stands disposed of by the following

**ORDER**

a) The impugned order dated 07.04.2021 in O.S.No.24/2012 on the file of the Additional Senior Civil Judge, Srirangapatna, is quashed directing the civil Court to impound the subject document *viz.*, the agreement dated 20.08.2010 and the civil Court is called upon to hold an enquiry as regards the sufficiency of the stamp duty paid on this document and to proceed further in accordance with law after due opportunity to both the petitioner and the respondents.

b) The civil Court is directed to dispose of the suit, which would be a long pending matter, expeditiously in the light of the directions issued by this Court for expeditious disposal of long pending matters. The civil Court shall take all necessary measures,

curbing requests for unnecessary adjournments, for disposal of the suit within a period of twelve [12] months from the date of receipt of a certified copy of this order.

**SD/-  
JUDGE**

RB