

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 29TH DAY OF JUNE 2011

BEFORE

THE HON'BLE MR. JUSTICE B.S.PATIL

WRIT PETITION NO.18250/2011 (GM-CPC)

BETWEEN

Gopala Shetty
Aged about 49 years
S/o late Smt.Lachamma Shedthy
Yerukone, Kodlumane,
Ragihaklu P.O. Heroor Village,
Kundapura Taluk. PETITIONER

(By Sri.K.Shrihari, Adv. for M/s.Lex Justicia, Advs.)

AND

1. Smt.Jayashree Shetty,
Aged about 46 years,
W/o Seetharam Shetty
Kakthota Vanasuma,
No.11, Ulloor Village,
Kundapura Taluk.
2. Smt.Jalajamma Shedthy
Aged about 42 years
W/o late Y.Gopala Shetty
3. Shashidhara Shetty
Aged about 24 years
S/o late Y.Gopala Shetty
4. Sharath Shetty
Aged about 21 years
S/o late Y.Gopala Shetty

5. Shilpa Shetty
Aged about 19 years
D/o late Y.Gopala Shetty

Respondents 2 to 5 are
R/a Kadrimane, Mallikatte,
Hosadu Village,
Kundapura Taluk.

... RESPONDENTS

This writ petition is filed under Article 226 and 227 of the Constitution of India praying to quash the order dated 22.3.2011 passed by the Civil Judge (Sr.Dn.), Kundapura vide Annexure-A and etc.

This writ petition coming on for preliminary hearing this day, the court made the following:

ORDER

1. Application filed by the plaintiff-petitioner under Sections 33 and 34 read with Article 41(e) of the Karnataka Stamp Act to impound documents Exs.D1 and D2 and to direct the defendants-respondents herein to pay the proper stamp duty having been dismissed, this writ petition is filed.

2. Admittedly, the petitioner has not objected for marking of the said documents in evidence. The said



documents have been already exhibited without any objection from the plaintiff. Thereafter, the present application is filed by the plaintiff seeking the aforementioned relief.

3. The Court below has dismissed the same referring to the legal position as declared in the judgment in the case of **JAVER CHAND v. PUKHRAJ SURANA (AIR 1961 SC 1655)** and **SHYAMAL KUMAR ROY v. SUSHIL KUMAR AGARWAL [JT 2006 (9) SC 483]**. The other procedural defect pointed out is also repelled by the Court below inasmuch as in the light of the documents having been permitted to be marked without raising any objection, plaintiff was held not entitled to maintain such an application.

4. Upon hearing the learned counsel for the petitioner and on perusal of the impugned order, I find no apparent illegality or error of jurisdiction in the order passed. The Court below has followed the proposition of law laid down by the Apex Court in the matter in question. Hence, no



case is made out for interference in exercise of the writ jurisdiction. Therefore, the writ petition is dismissed.

Sd/-
JUDGE

VP

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