

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 11TH DAY OF JULY, 2011

BEFORE

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

WRIT PETITION NO.24261/2011 (GM-ST/RN)

BETWEEN :

M/s. KSR Properties Private
Limited
Rep.by its authorised Signatory
K.Balakrishna
Having its Office at
No.2152/3, D-Block
KSR House, Sahakaranagar
Bangalore-92 .. PETITIONER

(By Sri R.Muralidhara, Adv.,)

AND :

1. The State of Karnataka
By Secretary
Dept. of Revenue
Vidhansoudha
Dr.Ambedkar Road
Bangalore-1
2. The Sub-Registrar
Bidarahalli, Bangalore

3. The District Registrar (DUS)
& The District Commissioner
No.2, 9th Main Road
Banaswadi
Bangalore-43

.. RESPONDENTS

(By Smt.Nagashree, HCGP)

This writ petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash/set aside the order passed dated 30.6.2011 vide Annexure-a, passed by the third respondent-authority, etc.

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

ORDER

The petitioner has sought for quashing the order at Annexure-A, dated 30.6.2011 passed by the 3rd respondent-District Registrar, directing the petitioner to pay deficit stamp duty plus registration charges of ₹18,84,810/-.

The said order is passed under Section 45-A(2) of the Karnataka Stamp Act, 1977 ('Act' for short).

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Since the order impugned is appealable under Section 45-A(5) of the Act, this Court declines to entertain the said prayer.

Accordingly, the writ petition stands dismissed in so far as the first prayer is concerned, in view of the availability of an alternative remedy of appeal to the petitioner.

Petitioner has also prayed for mandamus directing the 2nd and 3rd respondents to release the impounded joint development agreement dated 21.4.2011. Petitioner relies upon the judgment of the Division Bench of this Court in the case of ***M.K.Kuruvilla vs. District Registrar, Bangalore and another, reported in 1994(4) Kar.L.J.657.***

In the said judgment, the Division Bench has ruled that there cannot be retention of document by

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adjudicating authority for an in-definite period and in that context, the Division Bench directed the Deputy Commissioner to return the document to the petitioner therein, subject to the condition that the petitioner shall produce the same before the Deputy Commissioner, whenever is required.

In the matter on hand, the document is not retained for an indefinite period. The proceedings have commenced in the month of May 2011 and the impugned order is passed on 30.6.2011, which means, the document is not retained for a longer period. Aforementioned judgment of the Division Bench is not applicable to the facts of this case. As aforementioned, since it is open for the petitioner to file an appeal before the appellate authority, this Court refuses the second prayer relating to retention of the impounded document.

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It is open for the petitioner to file an appeal before the appellate authority within **four weeks** from today. If such an appeal is filed, the same shall be decided by the appellate authority on merits and in accordance with law, as early as possible, but not later than the outer limit of **four months** from the date of filing of the appeal.

Writ petition is ***dismissed*** with the aforesaid observations.

Sd/A.
Judge

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