

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 21<sup>st</sup> DAY OF FEBRUARY, 2008

BEFORE

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

WRIT PETITION NO.20344 OF 2007 (GM-ST/RN)

BETWEEN:

1 KARSAN HIRAJI PATEL  
S/O. LATE HIRAJI PHANAJI PATEL  
AGED 78 YEARS  
R/O. PLOT NO.34, NEW TIMBER YARD  
UNKAL, HUBLI - 580 031  
DHARWAD DIST  
REP BY GPC HOLDER H.K. PATIL.

... PETITIONER

(By Sri: N R KRISHNAPPA,ADV. )

AND :

1 THE DISTRICT REGISTRAR OF STAMPS  
DHARWAD DISTRICT  
DHARWAD.  
2 THE SUB REGISTRAR  
HUBLI, DHARWAD DISTRICT.  
3 THE REGIONAL COMMISSIONER  
BELGAUM DIVISION  
BELGAUM - 590 002.

... RESPONDENTS

(By Sri :B.VEERAPPA, AGA FOR RESPONDENTS )

THIS WP FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO - QUASH THE INTIMATION DT. 10.9.2007 ISSUED BY THE RS INTIMATING THAT AFTER DEPOSITING THE AMOUNT OF RS.24,85,898.00 AS STAMP DUTY AND RS.4,32,330.00 AS REGN. FEES BY THE PETITIONER THE APPEAL FILED BY THE PETITIONER WILL BE CONSIDERED, THE COPY OF THE INTIMATION IS PRODUCED AT ANNEXURE E.

This Petition coming on for Preliminary hearing this day, the Court made the following:

ORDER

The petitioner herein is questioning the legality and correctness of Annexure-G issued by the Regional Commissioner, Belgaum Division, Belgaum dt.10.9.2007, wherein the petitioner has been called upon to deposit 50% of the Stamp duty and registration fees determined by the District Registrar to entertain the appeal filed by the petitioner and the petitioner is also requesting this Court to issue a Writ of Mandamus directing the 3<sup>rd</sup> respondent to dispose of the appeal

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filed by him without insisting for the payment of 50% of the amount determined by the District Registrar.

2. Heard the counsel for the petitioner and the Government Advocate for the respondents.

3. It is not in dispute that pursuant to a decree obtained by him in a Civil suit, the petitioner has obtained the sale deed. The said document has been referred to the District Registrar under Sec.45-A of the Karnataka Stamp Act. The District Registrar has determined the Stamp duty payable by him by holding that the documents presented for registration was not filed properly. Thereafter the order of the District Registrar was challenged by the petitioner by filing the Writ Petition before this Court in W.P.No.4750/2007 which petition came to be dismissed on 23<sup>rd</sup> March 2007 directing the

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petitioner to approach the Appellate Authority and exhaust the statutory appeal provided under the Act. Subsequently, the petitioner has filed an appeal before the Regional Commissioner, Belgaum Division without depositing 50% of the amount determined by the District Registrar. Therefore, the Regional Director has issued a Notice as per Annexure-G dt.10.9.07 calling upon the petitioner to deposit the amount in terms of the provisions of the Karnataka Stamp Act. This order is called in question in this Writ Petition.

4. According to the petitioner, there is no necessity to deposit the amount since the petitioner has obtained a sale deed by filing a suit for specific performance. As a matter of fact, the petitioner challenged the order passed by the District Registrar by filing a Writ Petition earlier and this Court had directed to approach the Appellate Authority.

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When the appeal is filed by the petitioner, the petitioner is bound to comply with the requirements of law. When the appeal cannot be entertained by the Regional Commissioner without depositing 50% of the amount awarded by the District Registrar, this Court cannot interfere with Annexure-G.

5. Accordingly, the petition is rejected. Liberty is given for the petitioner to deposit the amount within three months from today. If such amount is paid, the Appellate Authority shall consider the appeal on merits and in accordance with law.

Sd/-  
Judge

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