

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 20TH DAY OF JULY, 2011

BEFORE

THE HON'BLE MR.JUSTICE K.SREEDHAR RAO

WRIT PETITION NO: 18931/2009 (GM-CPC)

BETWEEN:-

Pathanna,
S/o. late Mallappa,
Rep. by his GPA holder,
Sri Hanumantharaya,
S/o. late Hanumanthappa,
Aged about 50 years,
R/at R.D. Roopa,
Y.N. Hosakote Hobli,
Pavagada Taluk,
Tumkur District.

Petitioner

(By Sri Harish H.V., Advocate)

AND:-

1. Smt. Muddamma,
W/o. Ananthappa,
Aged about 61 years,

Hanumappa,
S/o. Doddahanumappa,
Dead by LR's
2. Gopala,
S/o. Yallamma,
Aged about 35 years.



3. Nagaraju,
S/o. Yallamma,
Aged about 32 years,

Respondents 1 to 3 are
R/at R.D. Roopa,
Y.N. Hosakote Hobli,
Pavagada Taluk,
Tumkur District.

4. Yashodamma,
D/o. Yallamma,
W/o. Mahalingappa,
Aged about 36 years,
R/at Kalidasanagara,
Y.N. Hoskote,
Pavagada Taluk.

5. Rathnamma,
D/o. Yallamma,
W/o. Karebajjaiah,
Major,
R/at Durdakunta,
Kalyanadurga Taluk.

6. Lakshmi Devi,
D/o. Yallamma,
W/o. Hanumantharaya,
Major,
R/at Hallapura, Kundurpi Post,
Kalyanadurga Taluk.

7. Mallanna,
S/o. K. Yallappa,
Major,

8. Eshwarappa,
S/o. late Hanumakka,
Aged about 37 years,



R7 and R8 are
R/at R.D. Roopa,
Y.N. Hosakote Hobli,
Pavagada Taluk,
Tumkur District.

9. Vijayamma,
D/o. late Hanumakka,
Aged about 42 years,
R/at Sriramapura,
Nagalandike Hobli,
Pavagada Taluk.
10. Parvathamma,
W/o. Hanumantharayaa,
Aged about 35 years,
R/at Sriramapura,
Nagalandike Hobli,
Pavagada Taluk.
11. Sathyabhama,
D/o. late Hanumakka,
Aged about 27 years,
R/at R.D. Roopa,
Y.N. Hosakote,
Pavagada Taluk.
12. Shantha Kumar,
S/o. late Hanumakka,
Aged about 32 years,
R/at R.D. Roopa,
Y.N. Hosakote,
Pavagada Taluk.
13. Lakshmakka,
D/o. Dodda Lakshamma,
W/o. Neelakantappa,
Major,
R/at Kalidasa Nagar,
Pavagada Taluk.



Respondents

(By Sri A.V. Gangadharappa, Advocate for R2 to R12)
(R-13 – served)
(R-1 – petition abated)

This W.P. is filed under Articles 226 & 227 of the Constitution of India with a prayer to set aside the order dated 11.03.2009 passed in O.S.No.140/2002 on the file of the Civil Judge (Sr.Dn.) & JMFC, at Madhugiri vide Annexure-A and grant stay the impugned order dated 11.3.2009 in O.S.No.140/2002 on the file of Civil Judge (Sr.Dn.) & JMFC, Madhugiri vide Annexure-A.

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

ORDER

The petitioner is the plaintiff who filed suit for specific performance. The plaintiff has produced the agreement of sale. At the stage of evidence, when the document was sought to be marked, objection was raised that it is not sufficiently stamped. The Court upheld the objection and levied duty and penalty. The petitioner has paid the duty and not the penalty. The Court has directed the plaintiff to pay the penalty. The plaintiff being aggrieved by the order, has filed this writ petition.

2. The recitals of the document clearly discloses and acknowledge the fact of delivery of possession under the



agreement. Therefore, the document attracts the duty and penalty as envisaged under Article 5(e) of the Karnataka Stamp Act. In that view of the matter, the order of the trial court is sound and proper. The writ petition is dismissed.

Sd/-
JUDGE

NM