



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 1<sup>ST</sup> DAY OF FEBRUARY, 2025**

**BEFORE**

**THE HON'BLE MR JUSTICE H.T. NARENDRA PRASAD**

**WRIT PETITION NO. 23612 OF 2024 (GM-CPC)**

**BETWEEN:**

MRS LALITHA  
W/O VEERAPPA C  
AGED ABOUT 58 YEARS  
NO.33, 2ND MAIN ROAD, NANJAPPA BLOCK  
K G NAGARA, BANGALORE-19

...PETITIONER

(BY SRI. MAHENDRA GOWDA C R.,ADVOCATE)

**AND:**

1. MR J CHELUVARAJ  
AGED ABOUT 54 YEARS  
S/O LATE M JOSEPH  
AT NO.35, PUNYA NILAYA, 3RD MAIN  
5TH CROSS, GANGONDANAHALLI  
JOSEPH NAGAR, BANGALORE-39.
2. MR J DEVARAJ  
AGED ABOUT 57 YEARS  
S/O LATE M JOSEPH  
AT NO.247, 1<sup>ST</sup> MAIN, 5TH CROSS  
GANGONDANAHALLI  
JOSEPH NAGAR, BANGALORE-39.
3. MR B NEELAKANTHA  
AGED ABOUT 60 YEARS  
S/O BORAI AH  
NO.67, 2ND CROSS, RAGHAVENDRA COLONY  
CHAMRAJPET, BANGALORE-18

...RESPONDENTS

(BY SRI. K K VASANTH.,ADVOCATE R1 & R2:  
NOTICE TO R3 IS DISPENSED WITH V/O DATED: 25.01.2025)

Digitally signed by  
HEMALATHA A  
Location: HIGH  
COURT OF  
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-A DATED: 20.07.2024 PASSED BY THE HONBLE XLIV ADDL CITY CIVIL JUDGE, BANGALORE ON IA-13 IN O.S.NO. 5390/2013 AS A CONSEQUENCE THERE OF ALLOWING THE IA-13 IN O.S.NO. 5390/2013 BEFORE HONBLE XLIV ADDL. CITY CIVIL JUDGE, BANGALORE AND DIRECT THE HONBLE XLIV ADDL. CITY CIVIL JUDGE, BANGALORE TO IMPOUND THE SAID EXHIBITS AT P35, P36 AND P37 MENTIONED AT ANNEXURES F1, F2 & F3 AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE H.T. NARENDRA PRASAD

**ORAL ORDER**

1. This writ petition under Article 227 of the Constitution of India is filed by the petitioner-defendant No.2 challenging the order dated 20.07.2024 passed by the XLIV Addl. City Civil and Sessions Judge, Bengaluru, on I.A.No.13 filed under Section 34 of the Karnataka Stamp Act, 1959 read with Order 13 Rule 8 of CPC, in O.S.No.5390/2013, whereby the Trial Court has dismissed the said application.

2. The plaintiffs filed the suit for relief of declaration of the sale deed dated 19.10.2012 executed by defendant No.1 as a GPA holder of Late M.Joseph in favour of



defendant No.2, as null and void. After service of suit summons, the defendants appeared and filed written statement. On the basis of the pleadings of the parties, the Trial Court framed issues and posted the matter for evidence. The plaintiffs marked the release deeds at Exs.P-35, 36 and 37 without any objection from the defendants. After the documents came to be marked, the defendants have filed I.A.No.13 for impounding the said documents. The Trial Court, by impugned order dated 20.07.2024 has dismissed the said application. Being aggrieved, the petitioner-defendant No.2 is before this Court.

3. Learned counsel for the petitioner-defendant No.2 has contended that even though the defendants have not objected for marking the documents by the plaintiffs, it will not preclude them to seek for impounding the documents and to seek for payment of stamp duty. In support of his case, he has relied upon the decision of this Court in W.P.No.47225/2016 disposed of on 29.08.2023.



4. Learned counsel for the respondents-plaintiffs has contended that the documents marked at Exs.P-35, 36 and 37 are registered release deeds. The plaintiffs have already paid the stamp duty on the said documents. Therefore, the defendants have rightly not objected for marking the said documents. Thereafter, the defendants could not have filed an application for impounding the said documents. Once documents are marked, it cannot be impounded. Hence, the Trial Court has rightly dismissed the application.

5. Heard the learned counsel for the parties. Perused the writ papers.

6. The plaintiffs filed the suit for relief of declaration. In the examination of PW-1, he has sought for marking the release deeds as Exs.P-35, 36 and 37. The defendants have not objected for marking the release deeds. Thereafter, the defendants have filed I.A.No.13 seeking for impounding the said documents. The Trial Court has not



decided as to whether the sufficient stamp duty has been paid on the documents marked at Exs.P-35, 36 and 37. The contention of the plaintiffs that once the documents, which have been admitted and marked cannot be impounded, cannot be accepted.

7. This Court in W.P.No.47225/2016 has held that merely because an insufficiently stamped instrument is admitted in evidence, unopposed would not be a bar in the court or the authority to exercise and discharge its duties namely to impound and seek payment of stamp duty.

8. In that view of the matter, this Court is of the opinion that the impugned order is liable to be set aside. Accordingly, the following order is passed:

ORDER

- a) The writ petition is allowed.
- b) The order dated 20.07.2024 passed by the XLIV Addl. City Civil and Sessions Judge,



Bengaluru, on I.A.No.13 filed under Section 34 of the Karnataka Stamp Act, 1959 read with Order 13 Rule 8 of CPC in O.S.No.5390/2013, is hereby set aside.

c) The matter is remitted to the Trial Court to reconsider the application i.e., I.A.No.13.

d) The Trial Court after giving opportunities to both the parties is directed to dispose of the said application, in accordance with law.

e) All the contentions of the parties are kept open.

**Sd/-**  
**(H.T. NARENDRA PRASAD)**  
**JUDGE**

DM  
List No.: 1 Sl No.: 62