NC: 2025:KHC:39658
WP No. 4326 of 2020

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 4326 OF 2020 (GM-CPC)

BETWEEN:

SMT. NUTAN AJITH KUMAR
W/O SRI AJITH KUMAR
AGED ABOUT 60 YEARS
R/A GIRNAR, NO.2744/IA
D-16, 3RD MAIN, V.V.MOHALLA,
MYSORE-570002.

...PETITIONER

(BY SMT. MEGHA SUNIL, ADV., FOR
SRI G.B.SHARATH GOWDA, ADV.)

AND:

REGIONAL SOCIAL EDUCATIONAL
AND CHARITABLE TRUST
NO.3622/2, 1ST CROSS
UMAR KHAYAM ROAD
TILAK ROAD, MYSORE - 570 021
REPRESENTED BY ITS SECRETARY
JANAB SYED MOHAMMD KAMARAN.

...RESPONDENT

(BY SRI KRISHNAMOORTHY D, ADV.)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 27.08.2019 PASSED IN O.S.NO.602/2018 ON THE FILE OF I ADDITIONAL SENIOR CIVIL JUDGE AND CJM MYSORE, PRODUCED AT ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. This writ petition under Article 227 of the Constitution of India is filed seeking for the following reliefs:

> a) Issue a writ in the nature of certiorari or any other appropriate writ and quash the order dated 27.08.2019 passed in O.S.No.602/2018 on the file of I Additional Senior Civil Judge and CJM Mysore, produced at Annexure-A.
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> b) Issue a writ in the nature of mandamus or any other appropriate writ directing the respondent herein to pay a sum of Rs.13,11,068/- (Rupees Thirteen Lakhs Eleven Thousand and Sixty Eight only) as duty and penalty on the lease deed dated 28.01.2017.
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> c) Pass such any other order/s or relief/s as this Hon'ble Court deems fit in the facts and circumstances of the case, to serve the interest of justice and equity.

2. Heard the learned Counsel for the parties.

3. Respondent herein had filed O.S.No.602/2018 before the Court of I Addl. Senior Civil Judge & CJM, Mysuru, for specific performance of the contract and also directing the defendant/petitioner to execute the lease deed for the agreed

period of 30 years as per the agreement of lease dated 28.01.2017 by a decree of specific performance of the contract.

4. During the course of trial in the said suit, certified copy of the lease agreement dated 28.01.2017 entered into between the plaintiff and the defendant was produced by PW-1. The Trial Court having found that the aforesaid document was not properly stamped, had passed the order impugned dated 27.08.2019 directing the respondent-plaintiff to pay a sum of Rs.9,35,000/- as duty and penalty to get the aforesaid document marked before the Trial Court. Being aggrieved by the same, petitioner who is the defendant in O.S.No.602/2018 is before this Court.

5. Learned Counsel for the petitioner having reiterated the grounds urged in the petition, submits that the lease is for a period of 30 years and the monthly rent payable under the lease deed is Rs.75,000/-. In the lease deed, there is a provision to enhance the monthly rent at the rate of 5% every year, and therefore, the average rent payable per year comes to Rs.20,39,600/-. In addition to the same, under the lease deed, security deposit of Rs.20,00,000/- has been paid by the

respondent. Therefore, as provided under Article 30 of the Karnataka Stamp Act, stamp duty payable was at the rate of 3% on Rs.40,39,600/- (Rs.20,00,000/- security deposit + Rs.20,39,600 being the average rent payable). According to her, the stamp duty payable on the aforesaid amount was Rs.1,21,188/-. She submits that the Trial Court ought to have directed payment of deficit stamp duty accordingly with ten times penalty.

6. Per contra, learned Counsel for the respondent submits that the respondent is liable to pay stamp duty only on the average rent payable per year and not on the security deposit which is refundable in nature. He has placed reliance on the judgment of the Full Bench of this Court in the case of **CHIEF CONTROLLING AUTHORITY, INSPECTOR GENERAL OF REGISTRATION & COMMISSIONER OF STAMPS VS TEXAS INSTRUMENTS INDIA LTD. - AIR 2004 KAR 70,** in support of his argument and has prayed to dismiss the petition.

7. Undisputed facts of the present case are, lease agreement dated 28.01.2017 was executed between the petitioner and the respondent in respect of the immovable property belonging to the petitioner herein which was leased

under the aforesaid lease agreement in favour of the respondent for a period of 30 years. The monthly rent payable in respect of the property which is the subject matter of the aforesaid lease agreement is Rs.75,000/- and the lease agreement provides that monthly rental can be enhanced at the rate of 5% once in a year on the basic rent amount from the rate of the agreement. In addition to the aforesaid, an amount of Rs.20,00,000/- is also paid under the aforesaid agreement to the respondent as refundable security deposit, and in the agreement it is stated that the Lessor shall repay the aforesaid security deposit amount of Rs.20,00,000/-to the lessee on termination of the lease agreement or on the lessee vacating the scheduled premises.

8. Even according to the learned Counsel for the petitioner, the average rent payable per year in respect of the property which is the subject matter of lease agreement dated 28.01.2017 would be Rs.20,39,600/-. In Texas Instruments India Ltd.'s case supra, the Full Bench of this Court has considered the question as to whether the amount received towards refundable security deposit under the lease deed would be money advanced in addition to the rent received to attract

duty under Article 30(c) of the Schedule to the Karnataka Stamp Act. In paragraph nos. 11 & 12 of the said order, the Full Bench of this Court has observed as under:

> *"11. In the decision of this Court in Chief controlling Revenue Authority v. Chandrashekar, ((1985) 1 Kant LJ 99 (AIR 1985 Kar 61) this court was considering the question as to whether amount was reserved under lease deed as security deposit for the proper maintenance of demised coffee estate and the amount was repayable in instalment on due compliance of clause for maintenance of demised premises or adjustable towards damage or loss caused for lack of maintenance by lessee. The question referred was whether amount received under the said clause amounted to 'fine' or 'premium' for attracting duty under Article 30(c) of Schedule to the Act and this Court held that duty under Article 30(c) was not attracted for the following reasons at page 64; of AIR*
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> > *"Under this clause the lessee is called upon to make the said deposit with the lessor to ensure due performance of his obligations under the lease deed, namely, proper maintenance of the estate etc., during the lease period. In substance, the management of the estate is entrusted to the lessee, the details of which are specified in cl. 2. There is complete surrender of all the rights of the lessor in favour of the lessee during the lease period and the lessee is to make a deposit of Rupees 1,25,000/- with the lessor, as a security for the proper management of the estate and to indemnify the lessor in case of any loss or expenditure which the lessor may incur on account of the laches on the part of the lessee. The deposit amount is liable to be returned to the lessee in two instalments, on satisfactory discharge of his obligations under the lease deed.*

In our considered view, this security deposit does not bear the characteristics of a 'premium' or a 'fine' to fall within Cl. (c) of Art. 30 of the Act, namely, lease granted for a fine or premium or for money advanced in addition to the rent reserved."

12. In view of the abovesaid reasoning the inevitable conclusion would be that amount reserved under Clause 3.2 of lease deed in the present case is not money advanced in addition to rent reserved and does not attract duty under Article 30(c) of Schedule to the Act and accordingly, we give our opinion to the questions referred as follows:-

Q. No. 1: The duty paid on the amount reserved under clause 3.2 of lease deed dated 18-10-1996 as refundable Security Deposit under Article 47 of schedule to the Act is appropriate.

Q. No. 2: The amount reserved as refundable security Deposit under clause 3.2 of lease deed dated 18-10-1996 is not money. advanced in addition to rent reserved and does not attract duty under Article 30(c) of Schedule to the Act.

Q. No. 3: The amount received under clause 3.2 of lease deed dated 18-10-1996 having been charged on the basis of ten years lease for the purpose of calculating an average annual lease amount for payment of stamp duty cannot be levied with duty again as the instrument does not attract the provisions of Article 30(c) of the Schedule to the Act."

9. From the aforesaid, it is very clear that the amount received under the lease deed towards refundable security

deposit cannot be considered as the money advanced in addition to the rent received, for the purpose of clause (c) of Article 30 of the Karnataka Stamp Act. If that is so, then the respondent would be liable to pay stamp duty at the rate of 3% on the average rent payable per year, which even according to the petitioner is Rs.20,39,600/-, and the same would be Rs.61,188/-. As per Section 34 of the Act, the respondent has to pay deficit stamp duty and ten times of the deficit stamp duty as penalty and the same would come to Rs.6,73,068/-.

10. In the case on hand, the Trial Court has directed the plaintiff to pay deficit stamp duty of Rs.9,35,000/- and the learned Counsel for the respondent has submitted before this Court that the said amount of Rs.9,35,000/- has been already deposited by the respondent. Under the circumstances, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

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