

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH
DATED THIS THE 13TH DAY OF JANUARY 2010
BEFORE
THE HON'BLE MR. JUSTICE H. G. RAMESH
WRIT PETITION No. 63843 OF 2009 (GM-CPC)

BETWEEN

SONUBAI W/O DHARMAJI SHERAKHANE
AGE : 54 YEARS, OCC:HOUSEWIFE AND
AGRICULTURE, R/O MUDHOL,
TQ :MUDHOL, DIST :BAGALKOT.

...PETITIONER

(By Sri./Smt : F V PATIL, ADVOCATE.)

AND

1. SONUBAI W/O RAJA POL
AGE : 51 YEARS, OCC:HOUSEWIFE
2. SMT.AMUNABAI W/O HANUMANT
SHERAKHANE, AGE : 80 YEARS,
OCC:HOUSEWIFE,
BOTH R/O H NO.17, DHARAVI,
SHIVARAYANAPALYA, POST NO.17,
MUMBAI – 400 017, MAHARASTRA STATE
3. DHIGAMBAR S/O RAJARAM LONARI
AGE : 40 YEARS, OCC:BUSINESS,
R/O SAMRAT BAR AND RESTAURANT
RANN CIRCLE, MUDHOL, TQ.: MUDHOL,
DIST : BAGALKOT.

4. DIVISIONAL MANAGER,
I B P CO.LTD.,
BUSINESS GROUP(PETROLEUM)
AND INDIAN OIL GROUP CO.,
2ND FLOOR, BENGALURU.
5. THE STATE OF KARNATAKA
DEPARTMENT OF STAMPS AND
REGISTRATION, BENGALURU.
REPRESENTED BY ITS SECRETARY

... RESPONDENTS

(By Sri./Smt : M.G.NAGANURI, ADV FOR R3.)
GOVT ADV APPEARING FOR R5 M.A.NOT FIELD)

This writ petition filed under article 226 & 227 of the constitution of india, praying to strike down stamp on instruments article 5 (e) if relating to sale of immovable property wherein part performance of the contract.

A. possession of the property is delivered or is agreed to be delivered without executing the conveyance.

The same duty as a conveyance (No.20) on the market value of the property.

B. possession of the property is not delivered.

As arbitrary and violative of article 14 and art.19(1)(G) of Constitution of India.

2. strike down proviso (A) to sect. 34 of the act.

Instruments not duly stamped inadmissible in evidence, etc., no instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.

provided that:

any such instrument not being an instrument chargeable (with a duty not exceeding fifteen naya paise) only, or a mortgage of crop (art.(35))(a) of the schedule) chargeable under clauses (a) and (b) of sec.3 with a duty of twenty-five naye paise shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion.

C. quash ann-d and e dtd. 13/3/09 and 3/4/09 passed by the prl.civil judge (sr.dn) jamkhandi in o.s no. 101/2003.

This petition coming on for orders this day, the Court made the following;

ORDER

“Needful in respect of R2 to R4 in a week’s time failing which the petition stands dismissed.”

**SD/-
JUDGE.**

Note: As per the endorsement made in the order sheet dated 21.01.2010 the Advocate for the Petitioner has not complied with the office objections. Hence, this WP No. 63843/2009 stands dismissed, as per the Court Order dated: 13/01/2010.

**SD/-
ASSISTANT REGISTRAR**

T By :-afh
R- By:-
C- By:-