



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE.12/2019/ARE-8

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 12.01.2023.

RECOMMENDATION

Sub:- Departmental inquiry against Sri M.Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru- reg.

Ref:- 1) Government Order No. RD 33 SRS(2) 2018 dated 07.12.2018.

2) Nomination order No. UPLOK-1/DE.12/2019 dated 10.01.2019 of Hon'ble Upalokayukta, State of Karnataka.

3) Inquiry report dated 09.01.2023 of Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru.

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The Government by its order dated 07.12.2018 initiated the disciplinary proceedings against Sri M.Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, [hereinafter referred to as Delinquent Government Official, for short as 'DGO'] and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE.12/2019 dated 10.01.2019 nominated Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.
  
3. The DGO was tried for the charge of acting on the basis of insufficiently stamped GPA which was coupled with interest and chargeable with duty as per Karnataka Stamp Act and registered the sale deed on the basis of said insufficiently stamped GPA and thereby committing misconduct.
  
4. The Inquiry Officer (Additional Registrar of Enquiries- 8) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*failed to prove*' the above charge against the DGO Sri M.Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru.



5. On perusal of the entire materials on record, I do not find any reason to deviate from the opinion expressed by the Inquiry Officer. Hence, it is hereby recommended to the Government to accept the report of Inquiry Officer and exonerate DGO Sri M.Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, of the charges leveled against him.

6. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.

*12/01/23*  
(JUSTICE K.N.PHANEENDRA)  
Upalokayukta,  
State of Karnataka.



**KARNATAKA LOKAYUKTA**

No: Uplok-1/DE/12/2019/ARE-8

M.S.Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru - 560 001.  
Dated: 09/01/2023

**ENQUIRY REPORT**

**Present :** Rajashekar.V.Patil  
Addl. Registrar of Enquiries-8,  
Karnataka Lokayukta,  
Bengaluru.

**Sub:-**The departmental enquiry against Sri. M. Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, presently working as Sub-Registrar, Basavanagudi (Jigani), Bangalore - reg.

**Ref:-** 1) Report U/Sec 12(3) of the Karnataka Lokayuktha Act, 1984, in Complt/Uplok/BCD/942/2016/DRE-3, dtd.24/09/2018.  
2) Government Order No. ಕಂಇ/33/ಮುನೋಸೇ(2)/2018, ಬೆಂಗಳೂರು, dtd.07/12/2018.  
3) Nomination Order No.UPLOK-1/DE-12/2019, Bangalore, dtd.10/01/2019.

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Present Departmental Enquiry is initiated on the basis of the complaint lodged by Smt. Shakuntala W/o Srinivas Reddy, G.No.77, Makkuntamma Devi Nilaya, Gopal Reddy Layout, Banaswadi, Bangalore, (herein after referred

*Patil* 11

as 'Complainant') against Sri. M. Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, presently working as Sub-Registrar, Basavanagudi (Jigani), Bangalore, (herein after referred to as the Delinquent Government Official in short 'DGO').

**2.** Brief allegations made in the complaint are that:

Complainant Smt. Shakuntala r/o Banaswadi, Bangalore, has lodged a complaint alleging that she is the owner of the property bearing NO.2, Survey No.94, old V.P.Khata No.524, situated at Horamavu Village, K.R. Puram Hobli, Bangalore East Taluk. She has purchased the said property from one Sri. N.K. Nagaraju under the registered sale deed dtd.11/01/2011. One Sri. Ashwath Narayan Reddy has created GPA and has executed the sale deed dtd.30/06/2014 by selling her property to one Sri. P. Thayanna Reddy, P. Chandrashekar Reddy, R. Muniraj Reddy and Nagavenamma. The Sub-Registrar without verifying the authenticity of the notarized GPA has registered the sale deed violating the provisions of Registration Act. The General Power of Attorney was not valid document for registration of the sale deed. Therefore she prayed to take action against the DGO.

**3.** An investigation was undertaken by invoking Section 9 (3) of the Karnataka Lokayuktha Act, DGO

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submitted his comments. No technical expert is appointed to collect any investigation report. Based on the allegations of the complaint and preliminary notes, Hon'ble Upa-Lokayuktha had sent the report U/Sec. 12(3) of Karnataka Lokayuktha Act on 24/09/2018 as per Ref. No.1-Complt/Uplok/BCD/942/2016/DRE-3, Dtd.24/09/2018.

4. The Competent Authority/State Government after verifying the materials accorded permission and entrusted the enquiry by issuing notification as per Ref.No.2 Government Order No. ಕಂಇ/33/ಮುನೋಸೇ(2) /2018, ಬೆಂಗಳೂರು, dtd.07/12/2018.

5. Hon'ble Lokayuktha nominated ARE-8 as per Ref. No.3- Order No. UPLOK-1/DE-12/2019, Bangalore, dtd.10/01/2019.

6. On the basis of the nomination, Article of Charge was prepared under 11(3) of KCSR & CCA Rules and concerned DGO.

**ANNEXURE No.I**  
**CHARGE**

2. You DGO while working as Sub-Registrar at Banasawadi, Shivajinagar, Bangalore, acted on the basis of the insufficiently stamped General Power of Attorney dated 05-03-2011, which was coupled with interest and

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chargeable with duty as per Article 41(e) and (eb) of the Karnataka Stamp Act and you DGO registered the Sale Deed dated 30-06-2014 on the basis of the said insufficiently stamped General Power of Attorney. Further, you failed to impound the said insufficiently stamped General Power of Attorney for collection of paper stamp duty and the penalty as prescribed under the Act. Thereby, you DGO has committed dereliction of duty and has failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and you DGO have committed misconduct as enumerated under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966.

**ANNEXURE No.II**  
**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

3. An investigation was taken up under Section 9 of The Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Smt. Shakuntala W/o Srinivas Reddy G. No. 77, Makkuntamma Devi Nilaya, Gopal Reddy layout, Banaswadi, Bengaluru (hereinafter referred to as complainant for short) against Sri. M. Srinivas, the then Sub-Registrar, Banaswadi (Shivajinagar) Bengaluru, presently working as Sub Registrar, Basavanagudi (Jigani), Bengaluru (hereinafter referred to as 'respondent' for short).

*Agarwal*



4. The complaint allegations are that the complainant Smt. Shakuntala is the owner of the property bearing no.2, survey no. 94, old V.P. khata no. 524 situated at Horamavu village, K.R. Puram hobli, Bengaluru East taluk. She has purchased the said property from one Sri. N.K. Nagaraju under the registered sale deed dt. 11/1/2011.

5. One Sri. Ashwath Narayan Reddy has created GPA and has executed the sale deed dt. 30/06/2014 by selling her property to one Sri. P. Thayanna Reddy, P. Chandrashekar Reddy, R. Muniraj Reddy and Nagavenamma. The Sub Registrar without verifying the authenticity of the notarized GPA has registered the sale deed violating the provisions of Registration Act. The General Power of Attorney was not valid document for registration of the sale deed. Therefore has prayed to take action against the respondent.

6. The respondent has submitted his comments dt. 20/07/2017 admitting the registration of the alleged sale deed dt. 30/06/2014 by him. But has denied all other allegations made against him. Further the respondent has given the list of documents produced during the registration of the alleged sale deed. Further the respondent by relying upon Sec 32, 34, 35, 58, 59 & 60 of Registration Act and Rule 73, 145, 171 etc., of the Registration Rules contends that the alleged sale deed has been registered after complying all the requirements of law.

7. Further the respondent by relying upon the decisions in the case of *M. Ramakrishna Reddy V/s Sub Registrar (ILR*

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1999(2) KAR 2033), *N.M. Ramachandraiah V/s State of Karnataka* (2008 (2) KAR.LJ 257), *Sulochanamma V/s H. Nanjundaswamy* (2001(1) KAR.LJ 215), *S.Srinivasa Rao V/s Sub Registrar (HQ)* (ILR 1990(1) KAR 3740) and other decisions of Hon'ble High Court of Karnataka has contended that the Registering Officer has no authority to decide upon the title of the property. He cannot go into the question whether the execution of the document is vitiated by fraud, undue influence, mistake, misrepresentation or any other ground. The complaint about alleged forgery of execution cannot be a ground to refuse registration. By stating that the registration of the alleged sale deed has been made after complying all the requirements of law. The respondent has prayed to close the matter.

8. Perused the materials on record. The Sole allegation made against the respondent is that the alleged General Power of Attorney dt. 05/03/2011 is a created document and is not valid document which can be accepted under the Registration Act for registering the alleged sale deed dt. 30/06/2011.

9. On perusal of the General Power of Attorney dt. 05/03/2011, the same is executed on two document sheets of value Rs. 2/- each by paying stamp duty of Rs. 200. In the said General Power of Attorney authorization has been given to sell the alleged immovable property and it is also stated that the same is irrevocable under any circumstances.

  
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10. The comments of respondent show that the copy of the General Power of Attorney dt. 05/03/2011 along with copy of affidavit dt. 05/03/2011 was produced during registration of the alleged sale deed. In the affidavit dt. 05/03/2011, at Para-2, it is clearly mentioned that the deponent Smt. Shakuntala (present complainant) had sold the alleged property bearing site no. 2, to Sri. Ashwath Narayan Reddy (GPA Holder) for total consideration of Rs. 15.00 lakhs and has also delivered the possession of the property. It is also stated about the execution of General Power of Attorney by the deponent in favour of the purchaser on the same day. From both these documents produced before the respondent during registration of the alleged sale deed, it can be inferred that the ownership and possession of the said immovable property transferred to the General Power of Attorney Holder Sri. Ashwath Narayan Reddy. The averments of GPA show that the GPA holder has been authorized to sell the alleged property and therefore the same is coupled with interest authorizing the attorney to sell immovable property. Under the circumstances the said GPA dated: 05/03/2011 is chargeable with duty as per Article 41(e) and (eb) of the Karnataka Stamp Act.

11. Article 41 (e) & (eb) of Stamp Act reads as follows:

|            |     |                                                                                                                   |                                                                                                                                                                |
|------------|-----|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 41 |     | Powers of Attorney as defined by Section 2(1)(p) not being a proxy                                                |                                                                                                                                                                |
|            | (e) | When given for consideration and or when coupled with interest and authorizing the attorney to sell any immovable | The same duty as a conveyance under Article 20(1)] on consideration or on market value of the property (which is the subject matter of such Power of Attorney) |

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|  |      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                  |
|--|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |      | property                                                                                                                                                                                                             | whichever is higher.<br>Provided that the duty paid on agreement for sale under Article 5(e) or instrument of sale or transfer as the case may be, is adjustable towards the duty payable on such power of Attorney under Article 41(e), executed between the same parties and in respect of the same property.                                                                  |
|  | (eb) | When given to person other than the father, mother, wife or husband, sons, daughters, brothers, sisters in relation to the executant authorizing such person to sell immovable property situated in Karnataka State. | The same duty as a conveyance under Article 20(1)] on the market value of the property which is the subject matter of the Power of Attorney (w.e.f 04/06/2009)<br>Provided that the duty paid on such instrument is adjustable towards the duty payable on the instrument of sale or transfer executed subsequently in favour of either the attorney holder or any other person. |

12. The Stamp duty for conveyance under articles 20(1) of Karnataka Stamp Act, 1957 is 6% as on the date of execution of GPA i.e. on 05/03/2011. Therefore the stamp duty is to be paid on the market value of the property which is subject matter of such power of attorney. The alleged General Power of Attorney dt. 05/03/2011 is executed on two document sheets of Rs.2 to each by paying stamp duty of Rs. 200/-. There is no such certification on the general power of attorney showing payment of stamp duty on the market value of the alleged property which is the subject matter of the said power of attorney as required under Article 41 (e) and (eb) of the Karnataka Stamp Act.

**13. Obligatory duties of the Registering Authorities/respondent under Karnataka Stamp Act 1957 during Registration of a document.**

Immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance.

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A Power of Attorney is not an instrument of transfer in regard to any right, title or interest in any immovable property. Even an irrevocable Power of Attorney does not have the effect of transferring title to the grantee. In spite of it, the deed of Power of Attorney is being used for effecting sale transactions to avoid payment of stamp duty and registration charges. It seems that the same is being done in connivance with the registering Authority.

14. Section 33, 34 and 45 (A) of Stamp Act reads follows:

**Sec33. Examination and impounding of instruments.-**

(1) Every person having by law or consent of parties authority to receive evidence, and **every person in-charge of a public office**, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, **if it appears to him that such instrument is not duly stamped, impound the same.**

(2) For that purpose every such person shall **examine every instrument** so chargeable and so produced or coming before him, in order **to ascertain** whether it is stamped with a stamp of the value and description required by the law in force in the State of Karnataka **when such instrument was executed** or first executed:

Provided that—

(a) .....

(b) .....

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(3) .....

**Sec.34. 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,-

(a) any such instrument not being an instrument chargeable 1 [with a duty not exceeding fifteen paise] only, or a mortgage of crop [Article 2 [35] (a) of the Schedule chargeable under clauses (u) and (b) of Section 3 with a duty of twenty-five 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;**

(b) .....

(c) .....

(d) .....

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**Sec 45(A) Instrument of conveyance, etc., undervalued how to be dealt with.**

(1) If the **registering officer** appointed under the Registration Act, 1908 (Central Act XVI of 1908), **while registering any instrument of,-**

(a) Conveyance [Section 2(1)(d)];

(b) Gift (Article 28(a));

(c) Exchange of Property [Article 26];

(d) Settlement [Article 48-A (I)]

(e) Reconstitution of Partnership [Article 40-B (a)],

(f) Dissolution of Partnership [Article 40-C(a)]

(g) An agreement to sell covered under sub-clause (i) of clause (e) of Article 5;

[ (h) A lease covered under item (vi) of Article 30.

(i) **A power of Attorney covered (under clause (e), clause (ea) and clause (eb)) of Article 41;**

(j) Release 11 [Article 45(a)];

(k) Conveyance under decree or final order of any Civil Court,]

(l) Agreement [Article 5(f)]

(m) Award [Article 11 (a)]

(n) Trust [Article 54(A)(iii)]]

13[(o) Transferable Development Rights (Article 20(7)),

**has reason to believe**, having regard to the estimated market value published by the committee constituted under Section 45-B, if any, or otherwise, that the market value of the property which is the subject matter of such instrument has not been truly set forth, he **shall after**

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***arriving at the estimated market value, communicate the same to the parties and unless the parties pay the duty on the basis of such valuation, shall keep pending the process of registration and refer the matter along with a copy of such instrument to the Deputy Commissioner for determination of the market value of property and proper duty payable thereon.]***

Under Sec 33(2) of the Karnataka Stamp Act, every person in-charge of a public office shall examine every instrument so chargeable and so produced before him in order to ascertain whether it is stamped with a stamp of value and description required by the law in force in the State of Karnataka.

Under Sec 34 No instrument chargeable with duty shall be acted upon, registered or authenticated by any Public Officer unless such instrument is duly stamped and if the instrument is insufficiently stamped unless payment of amount required to makeup such duty together with a sum equal to ten times such duty or portion thereof is paid.

Under Sec 45(A), the Registering officer while registering any instrument of a power of attorney covered under clause e, ea & eb of Article 41 of the Karnataka Stamp Act has a reason to believe that estimated market value has not been truly set forth in the document, he shall after arriving at the estimated market value published by the committee constituted u/s 45(B) of the Act shall keep the process of Registration pending and

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refer the matter along with a copy of such instrument to the Dy. Commissioner for determination of market value of the property and proper duty payable, unless the parties pay the duty before such officer.

Under the above said statutory provisions of law no Public Officer shall act upon an insufficiently stamped document/power of attorney unless the duty and penalty equal to ten times of the duty or portion thereof is paid.

15. Even though the sub-Registrar cannot go into the question of title, possession or validity of a document, he is duty bound to collect proper stamp duty on all the documents produced before him, if they are insufficiently stamped. The respondent ought not to have acted on the basis of the alleged insufficiently stamped general power of Attorney dated: 05.03.2011 and ought to have impounded the same for collecting the duty and penalty as per law. Therefore, prima-facie it is found that the alleged sale deed dt. 30/06/2014 has been registered by the respondent on the basis of insufficiently stamped GPA and thereby has committed dereliction of his statutory duty of collecting required stamp duty along with ten times penalty under the above said statutory provisions of law. Under the circumstances the comments of respondent cannot

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be accepted at this stage. Therefore there are prima-facie materials to infer dereliction of duty against the respondent for registering the alleged sale deed dt. 30/06/2014 on the basis of insufficiently stamped GPA dt. 05/03/2011.

16. The facts and materials on record prima-facie show that, the respondent has committed misconduct as per Rule 3 (i) to (iii) of KCS (Conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of The Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against **respondent – Sri. M. Srinivas, the then Sub-Registrar, Banaswadi (Shivajinagar) Bengaluru, presently working as Sub Registrar, Basavanagudi (Jigani), Bengaluru (Date of Retirement is 31/03/2027)** and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokayukta under Rule 14-A of KCS (CCA) Rules. Hence, the charge.



7. Summons was issued along with copy of Article of Charges to DGO. DGO appeared through MZK advocate and FOS was recorded. DGO has denied the charges, pleaded not guilty and claimed to be tried. Enquiry was posted to file his objections/WS.

8. DGO has filed his objections/written statement denying the entire allegations made in the complaint and contended that charge leveled against DGO are all false and he has not acted on false and fabricated GPA believed to have been executed by complainant in favour of one Ashwath Narayana Reddy and executed regular sale deed infavour of one P. Thayanna Reddy. Further denies that he has no role to play in fabricating the GPA alleged to have been prepared and further contended that though the allegations of the complainant were restricted relating to DGO acting under false GPA, but recommended Article of charges relating to DGO not taking any steps with regard to acting on GPA and registering the sale deed dtd.30/06/2014, acting on the basis of insufficiently stamped GPA and failure to take any action under Karnataka Stamp Act to impound GPA to collected the stamp duty and penalty as prescribed under the Act. Further contended that it is not the duty of the Sub-registrar to probe into the stamp duty sufficiently paid by seller on the GPA and the

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Registration Act only provides to hold enquiry relating to the documents to be registered acting u/Sec. 41,43,45,69,75,77,78,89, and what are the procedure to be adopted by Registering Officer to register the instrument like Sale Deed. Further contended that he has not committed any dereliction of duty in registering the sale deed acting on the GPA and it is not prohibited by any provisions of the law.

**9.** Further contended that AOC leveled against him that GPA was not impounded and no penalty was collected as contemplated U/Sec. 33 of the Karnataka Stamp Act and it is not applicable to the allegations made in the complaint/present case and also not necessary under Article 41(e) or 41(eb) of the Schedule to the Act.

**10.** Further contended the fact that GPA Holder has fabricated the GPA and executed the sale deed on behalf of the owner/complainant is not within the knowledge of DGO and the Stamp Act is not applicable to the GPA and the GPA does not come within the purview and definition of any instrument contemplated U/Sec. 2(j) of Registration Act. So DGO is acted bonafidely as a Sub-Registrar and having found the property of the sale deed in question, properly valued has registered the sale deed and not violated the provisions of Karnataka Stamp Act

*Prasad*

as alleged in the Article of Charges and prays to drop the proceedings.

**11.** In order to prove the allegations made in the Article of Charges, the Disciplinary Authority has examined complainant as PW.1 and through her got marked Ex.P.1 to Ex.P.16. Advocate for DGO MZK remained absent throughout. SOS was recorded and defence evidence of DGO taken as nil.

**12.** Heard the arguments of P.O., and case was posted for submitting final report.

**13.** Following point arise for my consideration;

Whether the Charge leveled against DGO Sri. M. Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, presently working as Sub-Registrar, Basavanagudi (Jigani), Bangalore, is proved by the Disciplinary Authority?

**14.** My answer to the above point is in the '**Negative**' for the following:

### **REASONS**

**15.** P.O. in order to substantiate the allegations made in the complaint has examined complainant as PW.1 and has stated that she is the owner of property No.2,

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Sy.No.94 which was purchased by her in the year 2011 and katha was changed in her name and paid regular BBMP tax. One Ashwathanarayana Reddy got created a fabricated GPA in his name believed to have been executed by her and executed a regular Sale Deed in favour of one Thayanna Reddy and sold the said property under Registered regular Sale Deed executed before Sub-Registrar, Banasawadi and she came to know about it on 27/02/2016 and then lodged a complaint before Ramamurthy Nagara Police Station and FIR was registered and DGO has committed misconduct as a public servant, registering the said sale deed acting under fabricated false GPA/Ex.P.6 and she has also lodged a complaint to the superiors of DGO like IGR, Joint Commissioner, BBMP. She has got marked her complaints and said fabricated GPA and the sale deed executed by the GPA Holder in favour of Thayanna Reddy and other related documents in all Ex.P.1 to Ex.P.16.

**16.** Witness has been cross examined by MZK Advocate. It is stated in the cross examination by the complainant that after purchasing the site it is kept as open space and no construction made on it and it has been suggested that by receiving Rs.15-Lakhs documents like Ex.P.6-GPA and Affidavit/Ex.P.7. He has been suggested that she herself stated that her GPAHolder

*Plaintiff  
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Ashwatha Narayana Reddy has executed the sale deed dtd.30/06/2014 like Ex.P.8 dtd.30/06/2014. But in the cross examination PW.1 has repeatedly stated that sale deed and GPA marked at Ex.P.6 and Ex.P.8 are false. She further admits that on 11/09/2016 she has submitted criminal complaint before Ramamurthy Nagara Police Station and investigation was in progress.

**17.** Assessment of the evidence of PW.1 makes it clear that DGO in collusion with the GPA holder and the purchaser of the complainant's property has acted on the false, fabricated GPA marked at Ex.P.6 and then registered the sale deed Ex.P.8.

**18.** After considering the defence of the DGO and the claim of the complainant, the disputed points that arises for consideration are: (1) Whether the General Power of Attorney (GPA) is a document which is to be registered compulsorily under Registration Act or case under the definition of instrument to transfer the property. (2) Whether the officer like DGO working as Sub-Registrar, Banasawadi, will have to enquire and investigate into the credibility of the GPA/Ex.P.6 and then registered the document like Ex.P.8/sale deed. If these two points are taken up for discussion in detail the allegations made against DGO will have to be considered either to hold him as guilty or not guilty.

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**19.** Close perusal of the evidence of PW.1 is only consistent with the allegations made in the complaint and the oral evidence is placed consistently what has been alleged in the complaint.

**20.** It is relevant to note that the main grievance of PW.1/complainant against DGO is that DGO has registered the Sale Deed in respect of her property acting under the fabricated GPA/Ex.P.6 alleged to have been executed by her. But while holding investigation under Sec. 8, the article of charges were totally pertaining to; (1) That DGO acted on insufficiently stamped GPA i.e., Ex.P.6 and it was chargeable with the stamp duty as per Article 41(e) and Article 41(e)(b) of Karnataka Stamp Act; (2) Further he failed to impound the GPA/Ex.P.6 for collection of stamp duty and penalty prescribed under Act.

**21.** It is pertinent to note that the main allegation of the complainant is that DGO acted on a false GPA and sold PW.1's property. Article of Charge pertains to the dereliction of duty committed by DGO of not impounding GPA for the purpose of collecting penalty and stamp. Though, article of charges are slightly different from that of the allegations made in the complaint by PW.1, but investigation U/Sec. 9(3) has come out with these dereliction of duty alleged to have been committed for

*Perusal all*



violation of not impounding the GPA/Ex.P.6. But Act of Lokayuktha does not totally prohibit to find out the truth relating to the commission of the misconduct by DGO.

**22.** In this regard, discussion that is to be taken in order to find out the dereliction of the duty by DGO then working as Registrar is to be considered. Only material question that arises is whether any statutory duty is cast upon registering officer to examine the GPA and its credibility and validity. General Power of Attorney (GPA) is a document which is not a document to be compulsorily registered and if it is not required to be registered compulsorily and does not convey any right in the property then it is not required to be impounded and collected the stamp duty and value with penalty. The definition of instrument as provided in Section 2(j) of Karnataka Stamp Act provides it includes every document and record created or maintained in or by an electronic storage and retrieval device or media by which any right or liability is or purports to be created transferred limited, extended, extinguished or recorded.

**23.** General Power of Attorney is a document it can be executed by a person in order to appoint agent on his behalf to act and perform the duty on his behalf relating to manage the maintenance of property or alienation of property which includes sale of the property. GPA itself

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is not a document which is required to be registered compulsorily as provided under Registration Act. Further the GPA does not come within the purview of the definition of an instrument as provided in 2(j) of Karnataka Stamp Act. As GPA has not come in the performance of the functions but it has been relied upon by the executants of the sale deed, for and on behalf of the principal. The power to act on behalf of any other person does not create any right or liability; for the power granted revocation of which, is with the sovereign power of the grantor or executor which can be revoke without the consent of the power of attorney or agent. So it can be said that registering of sale deed acting as a Sub-Registrar relying on the GPA executed by the executants is not a misconduct stated to have been committed by Government servant.

**24.** Second question that arises is it incumbent on the Registrar like DGO closely scrutiny the credibility, genuinity of the GPA and then proceed to register the instrument. What are the requirements to be followed by Sub-Registrar before registering an instrument like Sale Deed are clearly provided in Registration Act, 1908. Section 34 and 35 restricted with limited scope such as ascertaining the fact of execution of document. Section 34 clearly provides to hold formal enquiry before

  
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Registration by Registering Officer provided in Sections 41,43,45,69,75,77,88 and 89. Further the provisions provides that Registering Officer after receiving the document presented for registration will only verify whether the document is executed by the person by whom it purpose to have been executed. (2) Satisfy himself as to the identity of persons appearing before him for execution of document; (3) In case any person appearing as a representative or agent satisfy the right of such person so to appear; Section 45 provides for procedure for admission or denial of execution respectively.

**25.** So, it is clear to understand that document like General Power of Attorney (GPA) is not the document that requires to be impounded as the instrument cannot be construed as GPA is construed as provide in 2(j) of Karnataka Stamp Act, and this GPA like document do not convey any right in the property to the transfer.

**26.** It is relevant to note that complainant being aggrieved by the fact that one Ashwath Narayana Reddy has created a GPA and executed the sale deed in favour of Thayanna Reddy in respect of PW.1's/complainant's property. In this regard, complainant is at liberty to file a civil suit to set aside the sale deed and GPA making the purchaser and seller as defendant and also file a criminal

*Ashwath Narayana Reddy*  
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complaint. PW.1 has also admitted that she has lodged a complaint before Ramamurthy Nagara Police Station against DGO. It shows that complainant has also exhausted alternative remedy against DGO. In the cross examination suggestions have been made that the PW.1/complainant after receiving the consideration amount of sale in order to extract more money has filed this complaint before Lokayuktha.

**27.** So it is made clear that complainant's allegations with regard to fabrication of false General Power of Attorney (GPA) and on the basis of same, her property has been sold to purchaser and her allegation against DGO/Sub-Registrar, he in collusion with GPA Holder has registered a sale deed. But article of charges framed by us against DGO is that he has failed to impound GPA as required under Karnataka Stamp Act. But as per the discussion made above, the document like GPA does not fall within the definition of 2(j) of Karnataka Stamp Act and can be defined as compulsorily registrable instrument which conveys right in the property and transfers to the transferee. Further except the evidence of PW.1, no other witness has been placed by disciplinary authority by summoning any of the officers of the Sub-Registrar to find out the allegations

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relating to not impounding the document and collecting the stamp duty with penalty.

**28.** In view of the elaborate discussion made above, this enquiry authority is constrained to hold that, the charge framed against DGO is not established. In the result, above Point is answered in the '**NEGATIVE**' and I proceed to record the following;

### **FINDINGS**

The Disciplinary Authority has not proved the charges leveled against the Delinquent Government Official Sri. M. Srinivas, the then Sub-Registrar, Banasawadi (Shivajinagar), Bengaluru, presently working as Sub-Registrar, Basavanagudi (Jigani), Bangalore.

Submitted to Hon'ble Upa-Lokayuktha, Karnataka Lokayukta, Bengaluru for further action in the matter.



**(RAJASHEKAR.V.PATIL)**

Additional Registrar Enquiries-8  
Karnataka Lokayukta, Bengaluru.

## A N N E X U R E S

### 1. LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

|     |                                                                                                                                |
|-----|--------------------------------------------------------------------------------------------------------------------------------|
| PW1 | Smt. Shakuntala, Wife of Sri. Srinivasa Reddy, aged about 48 years, r/o Doddabanasavadi, Bangalore. dtd.04/09/2019. (original) |
|-----|--------------------------------------------------------------------------------------------------------------------------------|

### 2. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY:

|                 |                                                                                   |
|-----------------|-----------------------------------------------------------------------------------|
| Ex.P.1          | Xerox copy of Sale Deed dtd. 11/01/2011. (5-sheets)                               |
| Ex.P.2          | Xerox copy of Form No.-B property register issued by BBMP, Bangalore,             |
| Ex.P.3 & Ex.P.4 | Xerox copies of two property tax paid receipts.                                   |
| Ex.P. 5         | Xerox copy of tax receipt dtd.17/02/2015.                                         |
| Ex.P.6          | Xerox copy of General Power of Attorney (dtd.05/03/2011. (2-sheets)               |
| Ex.P.7          | Xerox copy of affidavit of complainant. Dtd.05/03/2011 along with enclosures.     |
| Ex.P.8          | Xerox copy of Sale Deed dtd.30/06/2014.(5-sheets)                                 |
| Ex.P.8(A)       | Xerox copy of amendment deed dtd.03/07/2014 (5-sheets)                            |
| Ex.P.9          | Xerox copy of Form-A (Section 6(1) and (7)(1) of the RTC Act 2005 dtd.09/02/2016. |

*Checked all*

|                       |                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P.10               | Xerox copy of FIR and complaint lodged by complainant at Ramamurthy Nagara Police Station dtd.27/02/2016 (4-sheets)                                   |
| Ex.P.11               | Xerox copy of complaint lodged by complainant before District Registrar and Registrar of firms, Shivajinagara, Bangalore dtd.11/03/2016.              |
| Ex.P.12               | Xerox copy of complaint lodged by complainant before IGP, K.G.Road, Bangalore dtd.11/03/2016.                                                         |
| Ex.P.13               | Xerox copy of complaint lodged by complainant before Joint Commissioner, BBMP, Mahadevapura range, Bangalore East, dtd.22/03/2016. (Page No.57 to 80) |
| Ex.P.14<br>Ex.P.14(a) | Form No.1- complaint submitted before Hon'ble Lokayuktha by the complainant-PW1.(Original) dtd.29/03/2016<br>Signature of PW.1.                       |
| Ex.P.15<br>Ex.P.15(a) | Form-II (complainant's Affidavit) submitted to Lokayuktha (Original copy) dtd.07/04/2016<br>Signature of PW.1                                         |
| Ex.P.16<br>Ex.P.16(a) | Complaint submitted before Hon'ble Lokayuktha, Bangalore, by complainant (PW.1) dtd.---<br>Signature of complainant.                                  |



**(RAJASHEKAR.V.PATIL)**

Additional Registrar Enquiries-8  
Karnataka Lokayukta,  
Bengaluru.

