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Proceedings of the Chief Controlling Revenue Authority and Inspector General of
Registration, Chennai-600 028

Present: Thiru.Dinesh Ponraj Oliver, I.A.S.,

D.Dis.No.23826/P1/2019

Date:24.07.2023

Sub : Revision Petition – Pending document No.P.192/2016,
Sub Registrar Office, Kodambakkam – Revision Petition
received under section 56(1) of the Indian Stamp Act,
1899 against the order passed by Sub Registrar,
Kodambakkam– order issued – regarding.

Ref : 1. Sub Registrar Kodambakkam order. No.37/2019 dated
21.05.2019

2.Revision petition from Mr.J.Thakur Bakshani
dated:10.06.2019.

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ORDER:

The revision petition 2nd cited has been filed under section 56 (1) of the Indian Stamp Act, 1899 before the Chief Controlling Revenue Authority against the order 1st cited passed by the Sub Registrar, Kodambakkam (in the cadre of District registrar) wherein it has been ordered to pay deficit stamp duty of Rs.1,26,03,000/- and penalty of Rs.5/- in respect of document No.P.192/2016 on the file of Sub Registrar office, Kodambakkam.

2) The facts relating to the revision Petition are as follows:–

Document No.	No.P.192/2016
Office	Sub Registrar office, Kodambakkam
Date of Execution	18.4.2016
Title	Release Deed
Executants	1. Mrs.Poonam U Rajai w/o Udhavdas Hotchand Rajai 2. Mrs.Meera Khemlar w/o Deenadayalan Khemlani 3. Mr.J.Haresh Bakshani s/o Jethanand Tarachand Bakshani
Claimant	Mr.J.Thakur Bakshani s/o Jethanand Tarachand Bakshani

(P.T.O)

Value of the Property which is under Release	Rs.3,00,00,000/-
Stamp Borne by the deed	Rs.25,000/-
Nature of document as determined by the District Registrar	Classified under Art 55(D)(ii) of Indian Stamp Act, 1899
Deficit stamp duty & penalty determined by the District Registrar	Rs. 1,26, 03,000/- & Rs.5/-

The document in question purports to release 30% share out of 40% share said to be held by the Releasors over the property set out in Schedule C of the document in favour of the Releasee herein. The Releasors Mrs.Poonam U Rajai, Mrs.Meera Khemlar are Sisters and Mr.J.Haresh Bakshani is Brother of the Releasors herein. Initially the property in question has been purchased (vide document No.5059/1988, Sub Registrar office, Kodambakkam) in the name of a partnership firm viz., M/s B.N.T.Connections which was formed under Deed of Partnership dated 14.05.1986. In the said partnership firm Mrs.J.Bhagwanthi Bakshani (Mother of Releasors and Releasee) and Releasee herein were partners having 40% share and 60% share respectively. While so Mrs.J.Bhagwanthi Bakshani died intestate on 09.04.2000 leaving behind Releasors and Releasee herein as her legal heirs.

The Sub registrar, Kodambakkam (in the cadre of District registrar) in the proceedings under section 40 of the Indian Stamp Act, 1899 has held that once, one of the two partners died, the said partnership firm automatically gets dissolved by operation of law and classified the document under Article 55(D)(ii) of the Indian Stamp Act, 1899. Based on the above perception, the Sub Registrar passed orders requiring payment of deficit stamp duty of Rs. 1,26,03,000/-and penalty of Rs.5/-. Aggrieved over the same the present revision petition has been preferred.

(P.T.O)

3) The revision petitioner, through his counsel was heard on 25.4.2023. The Counsel submitted a written submission dated 27.4.2023.

The main grounds of revision petitioner are as follows:

a) On demise of Mrs.J.Bhagwanthi Bakshani the Partnership firm stands dissolved by operation of law. Hence releasing of shares by the Releasors which devolved upon them by succession in favour of Releasee cannot be construed as release by partners in favour of the other partner therefore classifying the stamp duty under Article 55(D) (ii) Indian Stamp Act 1899 does not arise.

b) The Releasors and Releasee are family members. Hence release of their share of 30% in the property to their brother attracts stamp duty of Rs.25000/- under Article 55A.

4) Contents of revision petition, written submission connected records received from Sub Registrar, the argument advanced by the counsel have been carefully examined by me.

The relationship between the parties to the document is sisters and brother which finds place in definition for family members under Article 58(a) (i) of the Indian Stamp Act, 1899. The Property in question has been purchased in the name of Partnership firm, BNT Connections wherein mother of the parties to the document was one of the two partners along with Releasee herein having share of 40% and 60% respectively. After the demise of their mother, the Releasors who are not Partners of the firm, in the capacity as legal heirs of deceased mother, are releasing their share devolved by Succession to and in favor of their brother who is a partner of the firm. Since the Releasors are not partners of the firm and in view of the fact that partnership firm stands dissolved by operation of law after the demise of one of the two partners of the firm, the question of classifying the document under Article 55D (ii) of Indian stamp Act, 1899 does not arise.

In a similar instance, considering the fact that the Releasor was not a partner of the Partnership firm and also that he releases the right devolved by succession, vide Inspector General of Registration order No.31533/P1/2013 Dated.10.10.2013 it has been ordered that said document is classifiable under Article 55A of Indian Stamp Act 1899. Accordingly it is decided that the document in question is classifiable under Article 55A of the Indian Stamp Act, 1899 and based on the above decision, the order of the Sub Registrar is set aside and the revision petition is allowed.

Sd/- Dinesh Ponraj Oliver /-24.07.2023
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

District Registrar (Inspection)

To

- 1) Mr.J.Thakur Bakshani,
6C, Tangy Apartments,
No.34, Dr.P.V.Churian Cresent Road,
Egmore, Chennai-600 015.
- 2) M/s.A.Palaniappan & K.Venkateswaran,
Advocates, No.71, Old No.35, Sri Venkatesh Bhavan,
1st Floor, Armenian Street,
Chennai – 600 001.
- 3) Sub Registrar,
Kodambakkam.
(With original File)

✓ Copy to: Stock File.