

Proceedings of The Chief Controlling Revenue Authority and Inspector General Of Registration
Chennai – 600 028.

Present: Thiru.M.P.Sivanarul, I.A.S.,

D.Dis No.7039/P1/2021 Dated 09.06.2022

Sub: Review Petition– pending document No.P-2/2020 –Mylapore
Sub Registrar Office– Review Petition under section 56(1) of
the Indian Stamp Act, 1899 against the order passed by
District Registrar Chennai (Central) – order issued – regarding.

Ref: 1. District Registrar, Chennai (Central) Proceedings
No.2937/B1/2020 dated 26.3.2021
2. Revision petition from Mr.M.M.Sikka @ Manmohan Sikka
dated 18.2.2021

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ORDER:

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 District Registrar, Chennai (Central). In the said order it has been ordered to pay deficit stamp duty of Rs.1,66,70,462/- and penalty of Rs.2000/- in respect of document No.P2/2020 on the file of Sub Registrar office, Mylapore.

2) Facts of the Case are as follows:-

Document No.	P2/2020 Sub Registrar office, Mylapore
Date of Execution	7.1.2020
Title	Settlement Deed
Executants	Mr. M.M.Sika @ Manmohan Sikka
Claimant	1. Mrs.Swaran Prabha Sikka W/O Mr. Manmohan Sikka 2. Mrs.Kavita Dua D/O Mr. Manmohan Sikka 3. Mrs.Vasudha Sikka D/O Mr. Manmohan Sikka 4. Mrs.Divya Sikka D/O Mr. Manmohan Sikka
Value	Rs.7,50,00,000/-
Stamp Borne by the deed	Rs.25,000/-
Classification of document and	Settlement in favour of Non-family member under Article 58(a)(ii) of the Indian Stamp Act, 1899
Deficit stamp duty & penalty as determined by the District Registrar	Rs.1,66,70,462/- & Rs.2,000/-

(PTO)

The property which is subject matter of instant document has been initially purchased in the name of a Partnership firm viz., International Packers and Movers. The instant document recites that the said partnership firm has been dissolved and consequently one of the partner of the firm viz., Mr.M.M.Sikka has become absolute owner of the property. Based on the above claim Mr.M.M.Sikka has executed the instant document thereby settling the property in favour of his wife and daughters. When the said settlement deed was presented for registration the registering officer treated the same as settlement deed in favour of non-family member for the reason that property belongs to the partnership firm. Accordingly he impounded the document and forwarded it to the District Registrar, Chennai (Central). The District Registrar in his order 1st cited classified the said document as a Settlement in favour of Non-family member under Article 58(a)(ii) of the Indian Stamp Act, 1899. Based on this decision the District Registrar determined the Deficit stamp duty & penalty as Rs.1,66,70,462/- and penalty of Rs.2000/- respectively.

3) Main contentions of the Revision Petitioner:

- i. Subsequent to dissolution of partnership firm by an unregistered deed dated 1.1.1980 the assets of the dissolved firm which is subject matter of document in question has been transferred in favour of the settler herein.
- ii. Consequent to dissolution of firm records relating to Chennai Corporation, Water Tax, Electricity Board, Revenue Records were mutated in favour of the Settlor in respect of subject property.
- iii. In March 1982 Government of Tamil Nadu acquired 644 sq.ft land from the above property for road widening from the settler herein.
- iv. The said property was leased by the Settlor herein to Nationalised Banks and collected rents.
- v. Several judgments support the stand of the petitioner.
- vi. A propriety concern does not have a legal existence and assets of are held and owned by the proprietor in his personal capacity.

4) Contents of revision petition, connected records received from the District Registrar and the arguments advanced by the counsel of the petitioner have been carefully examined by me.

(PTO)

At the outset it is seen that the deed of dissolution dated 1.1.1980 relied upon by the revision petitioner seems to have been written on a stamp paper having value of Rs.2/- (Rupees two only). The prevailing rate of stamp duty for a deed of Dissolution of Partnership on the said date being Rs.35/-, the deed is prima-facie deficiently stamped. Moreover under the said deed the properties of the firm are also purported to be allotted to the partners. Therefore the said deed obviously attracts much more stamp duty. Therefore the said deed which is not duly stamped cannot be taken in evidence as mandated in section 35 of the Indian Stamp Act, 1899. Therefore the claim of the petitioner that the property has been transferred in favour of him by virtue of such deficiently stamped document is not sustainable in the eye of law. Consequently the various case laws relied upon by the petitioner also become out of context.

Moreover section 48 of the Indian partnership Act, 1932 which stipulates rules for settlement of accounts of a dissolved firm runs as under:

'48. Mode of settlement of accounts between partners.—In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed:—

(a) losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits;

(b) the assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order:—

(i) in paying the debts of the firm to third parties;

(ii) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital;

(iii) in paying to each partner rateably what is due to him on account of capital; and

(iv) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits."

A close reading of the said section 48, it would become abundantly clear that even after dissolution of a partnership firm, its erstwhile partners are referred and considered by the law as 'Partners' and assets of the dissolved firm is referred and considered as 'assets of firm' for the purpose of settlement of accounts between the erstwhile partners as well as for the purpose of division or allocation of residual property. Hence the property in question is to be considered only as property of the firm.

(PTO)

In Hon'ble High Court order in S.A.Kovil Nadar Vs IGR, it has been held that as per the language of section 2(24) (b) of the Indian Stamp Act, for a document being classified as settlement, the property so settled therein must be 'absolute property of the settler' and consequently a settlement deed, concerning property of the firm, executed by a partner in favour of his sons was held to be a settlement in favour of non-family member.

Accordingly as the property in question is a property belonging to a partnership firm, the document in question does not answer the requirement of being absolute property of the revision petitioner, consequently it has to be considered as Settlement in favour of non-family member under Article 58(a) (ii) (i.e., settlement by the firm in favour of individual)

In view of the aforesaid legal position, the document in question is classifiable as a deed of Settlement in favour of non-family member under Article 58(a) (ii) of the Indian Stamp Act, 1899. Based on the above decision, the revision petition is hereby dismissed and the order of the District Registrar is upheld.

(Sd)/- M.P.Sivanarul/9.6.2022
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

For Inspector General of Registration.

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10/6/22

To

1. Mr.M.M.Sikka @ Manmohan Sikka,
Apartment No.1402, Tower – 5,
One 74 Ceebros, MRC Nagar, R.A.Puram,
Chennai – 600 028.
2. M/s. G.Vijay Anand Associates,
Advocates,
No.391, New Law Additional Law Chambers,
High Court,
Chennai – 600 104.
3. Sub Registrar,
Mylapore.
(With original file)

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