

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. 9457/P1/2017

Date: 13.07.2023

Sub : Revision Petition – Pending document P.59/2012, Sub Registrar Office, T.Nagar– Revision Petition received under section 56(1) of the Indian Stamp Act, 1899 against the order passed by District Registrar Chennai (South) – order issued – regarding.

Ref : 1. District Registrar, Chennai (South) order.No.11377/B1/2012 dated.21.09.2016

2.Revision petition from Mr.S.Abhay Kumar Dhoka & Mr.Mahaveer Chand Dhoka dated:02.03.2017

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ORDER:

Revision petition 2nd cited has been preferred before the Chief Controlling Revenue Authority under section 56 (1) of the Indian Stamp Act, 1899 against the order 1st cited, wherein it has been ordered to pay deficit stamp duty of Rs.3,64,200/- and penalty of Rs.2,800/- in respect of document No.P.59/2012 on the file of Sub Registrar office, T.Nagar.

2) Facts of the Review Petition are as follows:-

Document No.	No.P.59/2012
Office	Sub Registrar office, T.Nagar
Date of Execution	03.05.2012
Title	AGREEMENT OF GRANT OF RIGHT OF WAY
Executants	Mr.S.Abhay Kumar Dhoka s/o late Shrenikraj Dhoka,
Claimant	Mr.K.Mahaveer Chand Dhoka s/o late Kishanlal Dhoka,
Value of the passage as mentioned in the document	Rs.1,00,000/-
Stamp Borne by the deed	Rs.7,000/-

(P.T.O)

Nature of document as determined by the District Registrar	Conveyance
Deficit stamp duty & penalty determined by the District Registrar	Rs.3,64,200/- & Rs.2,800/-

The 'A' schedule property mentioned in the instant document was initially purchased through three separate sale deed documents by Mr.Gowtham Chand Dhoka (vide Document no.1542/1986) Mr.Abhay Kumar Dhoka (Grantor) (vide Document No.1543/1986) and Mr.Mahaveer Chand Dhoka (Grantee) (vide Document no.1544/1986) which are mentioned as 'B' 'C' and 'D' schedules respectively in the instant document.

In the above sale deed, in page 2, it has been recited that *"The purchasers of the front and middle portions shall leave passage for movement for ingress and egress to the purchaser of the rear portion and all the purchasers shall cooperate with each other in keeping the open passage without any construction whatsoever for free movement"* Based on above recitals the Grantee has requested Grantor to execute this instant document (i.e. Grant way of Agreement) so as to reduce into writing the original understanding made between them.

However in page No.5, Para 4 of the Instant document the recitals "Under this deed Mr.S.Abhay Kumar Dhoka's common passage area's half share (464 sq.ft UDS) out of 16'x58' (928 sqft.) alone conveyed" are found Likewise in page No.8, the recitals "Half Common Passage right i.e.464 sqft. Undivided share out of 928 sqft. alone conveyed under this Deed of Grant of right to way to Mr.Mahaveer Chand Dhoka, the Grantee" are found.

By relying on the above recitals, the said document was impounded by the registering officer under the impression that the same is classifiable as Conveyance and the same was forwarded to the District Registrar for further action. Vide proceedings dated 21.09.2016, the District Registrar classified the

document as Conveyance and determined the deficit stamp duty as Rs.3,64,200/- and penalty as Rs.2,800/- Aggrieved over above decision present revision petition has been filed.

3) On behalf of the revision petitioners, Mr.S.Abhay Kumar Dhoka was personally heard on 18.04.2023.

Major contentions of the revision petitioner:

- (i) The Instant document is executed only to use common passage by both the Grantor and Grantee and also for the purpose of grantees physically handicapped son in case of emergency.
- (ii) The passage mentioned in the instant document does not have any access to Vaidyarama Iyer Street and therefore adopting the guideline value of Vaidyarama Iyer Street is highly unconscionable and without any basis.
- (iii) The common passage is not purchased by the Grantee from the Grantor it only permits to usage.

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

In page No.5, Para 4 of the Instant document the following recitals are found:

"Under this deed Mr.S.Abhay Kumar Dhoka's common passage area's half share (464 sq.ft UDS) out of 16'x58' (928 sq. ft.) alone conveyed"

Further in page No.8 the following recitals are found:

"Half Common Passage right i.e.464 sq. ft. Undivided share out of 928 sq.ft. alone conveyed under this Deed of Grant of right to way to Mr.Mahaveer Chand Dhoka, the Grantee".

Hence, in view of the above recitals, it becomes unequivocally evident that 464 sq. ft. of Undivided share of land is being transferred through this document. Hence the document in question is classifiable under Article 23 of the Indian Stamp Act, 1899 as Conveyance deed. Based on the above decision, the revision petition is hereby dismissed and the order of the District Registrar is upheld.

Sd/- Dinesh Ponraj oliver /-13.07.2023
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

District Registrar (Inspection)

CNF
13-7-2023

To

1. Mr.S.Abhay Kumar Dhoka,
S/o.Late Shrenikraj Dhoka,
No.45/2, Vaidhyarama Street,
T.Nagar, Chennai-600 017
2. Mr.Mahaveer Chand Dhoka,
Adopted S/o.Late Kishyanlal Dhoka,
No.45/3. Vaidhyarama Street,
T.Nagar, Chennai – 600 017
3. The District Registrar,
Chennai (South) (with original file)

✓ Copy to: Stock file