



W.P.No.14500 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 12.08.2022

PRONOUNCING ORDERS ON : 17.08.2022

Coram:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.14500 of 2009
and MP.Nos.1 to 3 of 2009

Kota Mahindra Bank Ltd.,
Rep. By its Vice President
G.Ramachandran Srikanth
No.3, Dass India Towers
II Floor, II Line Beach
Parrys, Chennai-1.

..Petitioner

.Vs.

1.Chief Controlling Revenue Authority
& Inspector General of Registration
Chennai 600 028.

2.District Registrar (Administration)
(As AIG of Registration)
South Chennai
Jeenis Road
Saidapet
Chennai 600 015.

3.Sub Registrar
Padappai
Chennai.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st and 2nd respondent pertaining to the orders of the 1st respondent dated 29.05.2009 in its proceedings D.D is No:13862/P.1/2008 confirming the orders of the 2nd respondent dated 23.02.2008 in



W.P.No.14500 of 2009

proceedings No.1038/B1/2008, quash the same and consequently direct the respondents to refund to the petitioner the sum of Rs.76,43,920/- collected by way of deficit Stamp Duty and Rs.5,000/- by way of Penalty and Rs.13,24,000/- collected by way of Registration Fees applicable on the said Stamp Duty being excess Stamp Duty and Registration Fees that had been compulsorily collected from the petitioner without the Authority of Law for release of the Deed of Assignment dated 07.01.2008 between Kotak Mahindra Bank Ltd., and ICICI Bank Ltd., in Doc.No.4231 of 2008.

For Petitioner : Mr.E.OM Prakash
Senior Counsel
Asst.by:
Mr.P.Elaya Rajkuar
for M/s.Ramalingam Associates

For Respondents : Mr.J.Ravindran
Additional Advocate General
Asst.by:
Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent through proceedings dated 29.05.2009 confirming the order passed by the 2nd respondent through proceedings dated 23.02.2008 and for a consequential direction directing the respondents to refund the excess stamp duty, registration fees and the penalty collected from the petitioner for the registration and release of the deed of assignment dated 07.01.2008.



W.P.No.14500 of 2009

2.The case of the petitioner is that they are carrying on the business of banking and also engaged in the business of purchasing non-performing assets (NPA) from other banks with proper statutory sanction and approval of the Reserve Bank of India (RBI).

3.The ICICI Bank Ltd., through a deed of assignment dated 07.01.2008 assigned to the petitioner bank some of its non-performing assets for a consideration of a sum of Rs. 1,50,01,000/- along with the underlying securities. This document was presented for registration before the 3rd respondent and the petitioner tendered a stamp duty of Rs. 12,00,080/- by computing the duty under Article 23 (a) of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Stamp Act') along with the applicable registration charges. The stamp duty was computed ad valorem on the actual consideration.

4.According to the petitioner, the transaction is liable to stamp duty under Article 62 (c) (ii) of the Stamp Act and hence, the stamp duty payable was only Rs.40/-. However, the petitioner chose to pay the stamp duty under Article 23 (a) of the Stamp Act.

5.The petitioner received a show cause notice dated 28.01.2008 from the 2nd respondent demanding, inter alia, a sum of Rs.76,43,920/- with a penalty of Rs.5000/- by claiming the stamp duty based on the market value of the deed of assignment at Rs.14.74 crores. This was the total principal outstanding for all the four debts that were assigned to the petitioner bank. The petitioner was also informed that the 3rd respondent has impounded the document of the petitioner and the communication from the 2nd respondent



W.P.No.14500 of 2009

was based on the letter which was said to have been sent by the 3rd respondent to the 2nd respondent, seeking for the opinion/clarification.

6.The petitioner on receipt of the show cause notice gave a reply on 11.02.2008 and they took a stand that the actual duty applicable would be as provided under Article 62(c)(ii) of the Stamp Act, and even then the petitioner paid the stamp duty under Article 23(a) of the Stamp Act and that the deed of assignment through which the debts were assigned cannot be attributed with any market value and the only basis on which the stamp duty can be ascertained would be the consideration that was paid by the petitioner to the ICICI Bank. The petitioner also reported that the copy of the communication made by the 3rd respondent to the 2nd respondent was not furnished to the petitioner and hence, the petitioner reserved their right to give an additional reply as and when the copy is furnished. The petitioner also filed written submissions along with the relevant judgments on 12.02.2008, before the 2nd respondent.

7.The grievance of the petitioner is that the 2nd respondent without considering any of the contentions raised by the petitioner, passed the impugned order dated 23.02.2008, holding that the petitioner has to pay the deficit stamp duty and penalty. Aggrieved by the same, the petitioner filed a revision petition before the 1st respondent and the 1st respondent confirmed the order passed by the 2nd respondent through proceedings dated 29.05.2009 and dismissed the revision petition. Aggrieved by the same, the present Writ Petition has been filed before this Court.



W.P.No.14500 of 2009

8. For the sake of completion of facts, it must also be stated that the petitioner, without prejudice to their rights and to get back the registered document, paid the deficit stamp duty and penalty and also the registration fee and the document was registered and released. This process took place pursuant to the directions issued by this Court in a Writ Petition filed by the petitioner in W.P.No.16875 of 2008.

9. The 1st respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

“3. With regard to the averments made in Para 2 to 7 of the affidavit, this Respondent submit that the deed in question dated 7th day of January, 2008 labelled a "Deed of Assignment" executed between the ICICI Bank Ltd., as Assignor to and in favour of the Petitioner Bank as Assignee of the rights of debts due from various borrowers. The consideration received by the Assignor from the Assignee for transfer of debt is stated in the said instrument at Rs. 14,74,00,000/-. The deed in question was executed on the non judicial stamp paper valued at Rs.12,00,080/- and presented for registration. The 3rd Respondent has suspended its registration and kept the same as Pending Document No.1/2008 and impounded the same under Section 33 of the Indian Stamp Act, 1899 and referred to the 2nd Respondent who is the notified Collector under Section 40 read with Section 2(9) of the Indian Stamp Act, 1899. The 2nd Respondent has issued a show cause notice dated 23.02.2008 made in No.1038/B1/2008 classified the instrument as conveyance, chargeable under Article 23 of Schedule-I to the Indian Stamp Act, 1899 calling for explanation as to why the deficit stamp duty of Rs.76,43,920/- should not be collected. The Petitioner without offering any explanation to the said show cause notice filed Writ Petition this Hon'ble Court in W.P.No.16875 of 2008 and the Hon'ble Court in its order dated 16.07.2008 directed the 3rd Respondent, herein, to register the document



W.P.No.14500 of 2009

dated 07.01 2008 on payment of necessary stamp duty and registration charges by the petitioner and also to return the document, however the same shall be subject to the result of the revision petition pending before the 1st respondent. This Respondent after affording the an opportunity of personal hearing to the Counsel to the Petitioner confirmed the orders of the 2nd Respondent. Being aggrieved by the said orders, the Petitioner has filed this Writ Petition.

4. With regard to the averments made in paragraph 8 of the affidavit, it is submitted that the debts transferred is not a secured debt by way of mortgage of properties. Hence question of attracting Article 62 (c)(ii) of Schedule-I to the Indian Stamp Act, 1899 will not apply, since the debts assigned in favour of the Petitioner are unsecured debts, the instrument in question can be classified only as 'Conveyance' chargeable under Article 23 of Schedule-I to the Indian Stamp Act, 1899. Further it is submitted that 'Assignment' is nothing but a transfer. Assignment of any right is chargeable as applicable to 'Conveyance' under Article 23 of Schedule-I to the Indian Stamp Act, 1899 whether it is contractual right, debt, decree, copy right, patents, lease etc. unless there is a specific provision in Article 62 or anywhere else in the Schedule.

5. With regard to the averments made in para 9 of the affidavit it is submitted that consideration has not been stated anywhere in the instrument for the assignment. The Total outstanding debt due to be recovered from the borrowers is stated at 14.74 crores as found in Annexure B of the Instruments. The 3rd respondent has impounded the instrument in question on the basis of executive instruction of the 2nd Respondent and such instruction being intra departmental one was not served on the petitioner. ”

10. Heard Mr.E.OM Prakash, learned Senior Counsel for the petitioner and



W.P.No.14500 of 2009

Mr.J.Ravindran, learned Additional Advocate General for the respondents.

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11. The learned Senior Counsel appearing on behalf of the petitioner submitted that the 3rd respondent had impounded the document in exercise of powers under Section 33 of the Stamp Act and to exercise such a power, the 3rd respondent ought to have expressly stated as to why it appeared for him that the assignment deed was not duly stamped. If the 3rd respondent had really assigned any reason through his communication dated 25.01.2008, which was sent to the 2nd respondent, a copy of the same was never furnished to the petitioner. Therefore, the petitioner did not have an opportunity to know the reasons for the document being impounded by the 3rd respondent. The learned Senior Counsel further placed reliance upon Article 62 (c) of the Stamp Act and submitted that the deed of assignment through which the debts were assigned in favour of the petitioner with the underlying security, can be treated only as a transfer of any interest secured by the mortgage deed. To understand the scope of the mortgage deed, the learned Senior Counsel also placed reliance upon Section 2 (17) of the Stamp Act. Therefore, according to the learned Senior Counsel, the deed of assignment dated 07.01.2008, is liable to be stamped only under Article 62(c) of the Stamp Act. Once this Article is made applicable to the transaction, Article 23 of the Stamp Act, will stand automatically excluded.

12. As an alternative submission, on demurrer, even if the assignment is treated as a conveyance, as defined under Section 2 (10) of the Stamp Act, it was submitted that the said charging provision only provides for payment of stamp duty on the market value of the property which is the subject matter of conveyance. In the present case, there is no scope



W.P.No.14500 of 2009

for computation of the market value of the outstanding debts of non-performing assets and hence, the very transaction itself will not fall within the charging provision. In cases of assignment of decree, our Court has held that the stamp duty can be paid under Article 23 of the Stamp Act, based on the consideration that is paid by the assignee and if the same corollary is applied to the present case, the consideration of Rs.1.5 crores paid by the petitioner can only be the basis for computing the stamp duty. The learned Senior Counsel concluded his submissions by submitting that the respondents misdirected themselves in assuming that Rs.14.74 crores is the market value for the conveyance, even without understanding the basic fact that it was the total outstanding debt recoverable from four non-performing assets and it is an indeterminate factor where the petitioner may be able to recover only a portion of it and it is also possible that the petitioner may not be able to recover anything.

13.The learned Senior Counsel in order to substantiate his submissions relied upon the following judgments:

- a) In the matter of *Kamala Ranjan Ray* reported in *ILR (1937) 2 Cal 486*.
- b) *Padam Chand Jain v. The Chief Controlling Revenue Authority* reported in *AIR 1970 All 644*.
- c) In the matter of *Dwarampudi Basivireddi v. Gadi Kamaraju and Others* reported in *AIR 1933 Mad 241*.
- d) In *Re: Indian Stamp Act*, reported in *AIR 1954 Bom 462*.

14.Per contra, the learned Additional Advocate General appearing on behalf of the respondents submitted that the entire transaction revolves around understanding the term



W.P.No.14500 of 2009

“purchase price”. This term has been defined in the document to mean collectively the upfront portion of the purchase price and the deferred portion of the purchase price. The upfront portion of the purchase price was mentioned in the document as Rs.1.50 crores and this is only a portion of the purchase consideration. The assignee has been given the sole and absolute right of collecting all the amounts representing the debts and thereby, the total outstanding amount of Rs.14.74 crores has been transferred to the petitioner. This transaction must be treated as a conveyance under Article 23 of the Stamp Act and the market value of the transaction must be taken as Rs.14.74 crores and the stamp duty must be calculated on this total value of the assets conveyed to the petitioner. Since Article 23 of the Stamp Act applies in this case, there is no scope for the applicability of Article 62 of the Stamp Act, as claimed by the petitioner. Therefore, the learned Additional Advocate General supported and reiterated the stand taken by the 1st and 2nd respondents in the impugned order.

15.This Court has carefully considered the submissions made on either side and the materials available on record.

16.The Hon'ble Supreme Court in **ICICI Bank Ltd., v. Official Liquidator**, reported in **(2010) 10 SCC 1**, had an occasion to deal with the scope of purchase/sale of non-performing financial assets. The Apex Court was dealing with the powers of RBI to issue guidelines under the Banking Regulation Act, 1949 and to formulate policy for enabling



W.P.No.14500 of 2009

banking companies to engage in additional activities of purchasing/selling non-performing assets. The Apex Court while understanding the term non-performing asset, came to a conclusion that trading in NPA is a misnomer. While dealing with this issue, the Apex Court held that NPA means an asset or account receivable of a borrower which has become sub-standard or doubtful and RBI issued guidelines in the year 2005 to improve the quality of the assets of the banks, which is more in the nature of a re-structuring method. In the matter of assigning debts, it cannot be said that the banks are trading in debts. In such cases, the bank merely transfers its assets for a particular agreed price and on receipt of the same, it is no longer entitled to recover anything from the borrower. That burden falls on the assignee and the borrower of the assignor becomes the borrower of the assignee. The obligations that are referred to in the assignment deed are only the obligations of the assignor bank towards the assignee bank in the matter of transfer of non-performing assets. The assignor bank does not acquire any right for the borrower and he remains in the same position except for the fact that the assignee bank can enforce and recover from the borrower.

17. This Court had an occasion to deal with a similar issue in the case of **Golden Star Assets**, reported in **MANU/TN/6056/2021** and this Court held that assignment of debt has no market value and hence, the total consideration that was paid by the assignee can be taken to be the consideration for the conveyance under Article 23 of the Stamp Act and accordingly interfered with the proceedings of the respondents, wherein, the respondents took into consideration the entire debt recoverable by the assignee and fixed it as the market value for



W.P.No.14500 of 2009

the conveyance and levied the stamp duty accordingly.

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18.A careful reading of the order passed by the 2nd respondent through proceedings dated 23.02.2008, shows that it is completely bereft of any reasons and none of the grounds raised by the petitioner in the reply as well as in the written submissions was considered. The 1st respondent while dealing with the revision petition has predicated the finding on a factually wrong reasoning. The 1st respondent has held that in the instant case, what is transferred is a debt, which is not secured by the mortgage of immovable property and hence, Article 62 (c) of the Stamp Act, will not apply. This finding given by the 1st respondent is factually wrong. It is clearly evident from the assignment deed dated 07.01.2008 that there is an underlying security for each debt that was assigned in favour of the petitioner. That apart, there are several factual errors even in the counter affidavit filed by the 1st respondent. It is stated in paragraph 3 of the counter affidavit that the petitioner did not offer any explanation for the show cause notice. However, the petitioner has given a detailed explanation and the said explanation has been taken into account by the 2nd respondent while passing the impugned order on 23.02.2008. The second factual error in the counter is that the 1st respondent once again re-iterates that the debts transferred is not a secured debt by way of mortgage of properties. This Court has already held that this fact is contrary to the contents of the assignment deed dated 07.01.2008. The third factual error in the counter affidavit is that at paragraph 5, it is stated that the 3rd respondent impounded the instrument on the basis of the executive instructions of the 2nd respondent. However, when the show



W.P.No.14500 of 2009

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cause notice dated 28.01.2008 was served on the petitioner, it has been stated that the 3rd respondent had impounded the document of the petitioner and thereafter, it was sent to the 2nd respondent, seeking for his opinion/clarification through letter dated 25.01.2008. This letter has never seen the light of the day and the respondents have taken a stand that it is an inter-departmental communication, which need not be provided to the petitioner. The fourth factual error that is found at paragraph 5 of the counter affidavit is that it states as if, consideration has not been stated anywhere in the instrument for the assignment. The consideration of Rs.1.50 crores has been specifically mentioned in the document and it is not known as to how such a plea has been taken in the counter affidavit.

19.In view of what has been stated above, this Court could have easily interfered with the impugned proceedings of the 1st and 2nd respondents and remanded the matter for fresh consideration. However, this Court is not inclined to resort to this shortcut method since this issue has been hanging in balance for the last 14 years and the petitioner has already paid the stamp duty, penalty and the registration fees, without prejudice to their rights to get the document registered and released and the present case only involves interpretation of certain provisions of the Stamp Act, on the basis of admitted facts over which there is no dispute.



W.P.No.14500 of 2009

20.To simplify and to narrow down the issue involved in the present case, this Court must only see if the transaction in question is covered by Article 62 (c) of the Stamp Act or it is covered under Article 23(a) of the Stamp Act and if so, whether the duty must be levied based on the total consideration of Rs.1.50 crores paid by the petitioner or it must be levied based on the total debts transferred in favour of the petitioner to the tune of Rs.14.74 crores.

21.For proper appreciation, Article 62 (c) of the Stamp Act, is extracted hereunder:

*“62. Transfer with or
without consideration, -*

*(c) of any interest secured by a
bond, mortgage deed or
policy of insurance-*

*(i) if the duty on such bond,
mortgage deed or policy
does not exceed (forty
rupees) ;
(ii) in any other case ;*

*The duty with which
bond, mortgage deed or
policy of insurance is
chargeable.
(Forty rupees.)*

22. A careful reading of Article 62 (c) shows that there must be a transfer. This would mean that there must be a transferor and a transferee. The next requirement is that the transferor mortgagee should transfer their interest secured under the mortgage deed to the transferee mortgagee. Such transfer can take place with or without consideration.

23. In the present case, all the requirements under Article 62(c) of the Stamp Act, is satisfied. The transferor in this case is the ICICI Bank and the transferee is the petitioner.



W.P.No.14500 of 2009

What has been transferred through the deed of assignment dated 07.01.2008, is the non-performing assets of totally four borrowers to the tune of Rs.14.74 crores with the underlying security for each debt. The same is evident from Annexure A1, A2, A3 and A4 forming part of the document. The summary of all the four debts is found in Annexure B.

Hence, the transferor mortgagee viz., the ICICI Bank had transferred their interest secured under all the four debts to the petitioner and such transfer had taken place by payment of consideration of a sum of Rs.1.50 crores by the petitioner. In view of the same, it would have sufficed for the petitioner to have paid the stamp duty under Article 62 (c)(ii) of the Stamp Act. If a transfer is charged under Article 62, Article 23 of the Stamp Act, will not apply and both these articles are mutually exclusive.

24. The petitioner unwittingly paid the stamp duty under Article 23 (a) of the Stamp Act and they unnecessarily got into a dispute with the department. On a demurrer, assuming Article 23 of the Stamp Act, is made applicable to the present transaction, this Court also wants to test its scope. If this Article is applied, Article 62 of the Stamp Act, will automatically stand excluded. For proper appreciation, Article 23 of the Stamp Act, is extracted hereunder:

“23. Conveyance, (as defined by section 2(10)), not being a Transfer charged or exempted under No. 62-

[(a) of immovable property situated within the Chennai Metropolitan

[Eight rupees] for every Rs. 100/- or



Planning Area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli.

part thereof of the market value of the property which is the subject matter of conveyance;]

(b) of any other property,

[Seven rupees] for every Rs. 100 or part thereof of the market value of the property which is the subject matter of conveyance.”

25. If the assignment deed dated 07.01.2008, is to be treated as a conveyance, the stamp duty leviable is on the market value of the property which is the subject matter of conveyance.

26. It is now a settled position of law that for the purpose of levying any charge or duty, it must also be capable of being computed. That is why, in enactments of this nature, the charging provision and the computation provision are provided. The charging provision and the computation provision differ qualitatively. The computing provision should be so interpreted, so as to aid the charging provision and if it is possible to read both the provisions together homogeneously, it can be given effect to. It therefore becomes abundantly clear that merely providing a charging provision without providing a computation provision will be of no use while determining the duty leviable.



W.P.No.14500 of 2009

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27. Both the charging provision and the computation provision are provided under Article 23 of the Stamp Act. The computation provision is the duty fixed on the market value of the property, which is the subject matter of conveyance. If this Article is applied to the case on hand, it must be seen if the subject matter of the transaction in question is capable of being quantified in terms of **market value**. The Hon'ble Supreme Court in the case of *ICICI Bank Ltd.*, referred supra, held that trading in NPA, itself is a misnomer. This is in view of the fact that the asset or the account receivable of a borrower has been classified as sub-standard and doubtful. The natural corollary would be that the assignee may be able to recover the entire debts or a portion of the debt or nothing at all. It is only due to this indeterminative factor, the lender banks resort to transferring the debts with the underlying securities in order to stabilise their financial strength and to re-structure their position to conform to certain standards fixed by RBI. Hence, the total debts that are recoverable under the assignment deed, by no stretch, can be construed as the market value of the property, which is the subject matter of conveyance. If this interpretation is given, then there will be no duty payable for the document. To strike a balance, in a case of this nature, this Court while dealing with a case involving an assignment of decree, held that the consideration paid by the transferee for getting such assignment, can be made the basis for levying the stamp duty under Article 23 of the Stamp Act. It will be more appropriate, to rely upon the Full Bench judgment of this Court in ***The Chief Controlling Revenue Authority v. K.S. Dwarakanathan*** reported in **(1980) 93 LW127**. The relevant portions in the judgment are extracted hereunder:



W.P.No.14500 of 2009

“6. Thus it is seen that when an assignee decree-holder obtains by purchase a decree, though for all practical purposes, he stands in the shoes of the decree-holder yet due to the prescriptions under the the processual law he has to take necessary steps in a court of law which only would enable him to execute the decree. As stated already he may be faced with several difficulties in the execution process. Thus, when an assignee decree-holder purchases under the assignment of a decree of Court, he has not only secured a right but also the necessary prejudicial obligations arising in a litigation, along with it.

7. In the above background can It be said that a decree as such which is yet to be executed in accordance with law has a market value. Prior to the amendment of Art. 23, Sch. 1 of the Indian Stamp Act, there is no reference to the market value of the property which was the subject-matter of the conveyance under the article. Old Art. 23, Sch. 1 of the Indian Stamp Act explains conveyance and fixes the stamp duty on the amount or value of the consideration for such conveyance and prescribes a varied rate according to the value. This was substituted by Tamil Nadu Act 14 of 1958 and further amended by Tamil Nadu Act 24 of 1967. Under the amended provision in the State of Tamil Nadu, the fee on a conveyance is payable on the market value of the property which is the subject-matter of the conveyance and here again a varied rate has been prescribed. Therefore, in 1967, the Tamil Nadu Act 24 of 1967, has substituted the market value for the words ‘consideration for conveyance’ as the criterion for computation of duty with effect from 22nd April, 1968. In our view, a decree has no market. It is not saleable freely. There may not be a willing buyer in all cases to purchase a decree and put it in execution with all hazards involved in it.



W.P.No.14500 of 2009

8. Even prior to the amendment of the Article, our Court in *Board of Revenue v. Venkatarama Iyer*¹ stated (Head-note):

“Value unless the term in any enactment suggests the contrary, must of course mean the real value, the real value of property of the nature of land and house being ordinarily and most suitably estimated by determining that what property would fetch if sold in the open market. In other words ‘value’ ordinarily means ‘market value’. The expression ‘market value’ is not found anywhere in the Stamp Act. Only the expression ‘value’ is found, and so it must be taken that the term ‘value’ means market value”.

After amendment the position has become simple. Art. 23 as it stands now states that the stamp duty has to be computed on the market value of the subject-matter of the conveyance. If regard is had to the provisions of the Civil Procedure Code, and the hazards appertaining to execution of decree and particularly the steps to be taken by an assignee-decree-holder to enter into the stream of the process of the execution, it cannot be said that the decree has a market value in the popular mercantile sense. If, therefore, the decree has no market value, then it follows that the consideration recited in a deed of assignment of conveyance, as the instrument may be called, when the decree-holder conveyed his right and interest in the decree to the assignee-decree-holder, such a value is the foundation for assessing the value of such an instrument of assignment. The consideration which it shown in such deeds of conveyance being the bargain between the parties, it represents the price which a willing party is prepared to pay to a willing seller in case the latter as decree-holder is inclined to assign the decree in favour of the assignee-decree-holder. The consideration represents the



W.P.No.14500 of 2009

essence of the bargain between the parties.

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9. In a catena of decisions starting from the decision in Ref: From Board of Revenue¹, Reference under the Stamp Act² Reference under Stamp Act³ and in Board of Revenue v. Venkatarama Iyer⁴ our Court has affirmed the view that stamp duty should be calculated on the value shown in the document itself. In fact the Full Bench in the last quoted decision has expressed—

“Since the Registrar is not empowered to conduct an enquiry himself as to the market value, the value must be set out in the document itself.”

We are of the view that the sum of Rs. 10,000 paid as consideration in this deed should be taken as the value of the instrument of conveyance for purposes of assessment of stamp duty under Art. 23 of Schedule 1 of the Stamp Act.”

28. Taking cue from the above judgment, in the facts of the present case, if the transaction involved in the document is treated as a conveyance under Article 23 of the Stamp Act, the stamp duty leviable will only be on the basis of the total consideration paid by the petitioner. The petitioner has already paid the stamp duty and the registration fees based on the total consideration reflected in the document.

29. In view of the above discussion, looking at this case both from the stand point of Article 62 as well as Article 23 of the Stamp Act, this Court holds that the petitioner has paid the necessary stamp duty and the registration fees and the deficit stamp duty, penalty and registration fees claimed by the 2nd respondent and confirmed by the 1st respondent is illegal



W.P.No.14500 of 2009

and beyond the scope of the relevant provisions of the Stamp Act. Accordingly, the impugned orders requires the interference of this Court.

30. In the result, the impugned proceedings of the 2nd respondent dated 23.02.2008 and as confirmed by the proceedings of the 1st respondent dated 29.05.2009, are hereby quashed. The respondents are directed to refund the amounts that were collected from the petitioner by way of deficit stamp duty, penalty and registration fees on 09.07.2008, within a period of **eight weeks** from the date of receipt of a copy of this Order.

31.This Writ Petition is accordingly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

17.08.2022

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W.P.No.14500 of 2009

To

1.Chief Controlling Revenue Authority
& Inspector General of Registration
Chennai 600 028.

2.District Registrar (Administration)
(As AIG of Registration)
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Jeenis Road
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3.Sub Registrar
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W.P.No.14500 of 2009

N.ANAND VENKATESH. J.,

KP

**Pre-Delivery Order in
W.P.No.14500 of 2009**



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W.P.No.14500 of 2009

17.08.2022

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