



WEB COPY



W.A.No.20 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2023

CORAM

THE HON'BLE MR JUSTICE **D.KRISHNAKUMAR**  
AND  
THE HONOURABLE MR. JUSTICE **P.B.BALAJI**

W.A.No.20 of 2020  
and CMP No.255 of 2020

1.The Inspector General of Registration,  
Santhome High Road,  
Chennai-600 004.

2. The Sub Registrar,  
Office of the Sub Registrar,  
Kodambakkam,  
Chennai-600 024.

.... Appellants

Vs

Accel Limited,  
Third Floor,  
No.75, Nelson Manickam Road,  
Chennai-600 029.

.... Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order passed  
in W.P.No.7700 of 2008 dated 28.06.2011.

For Appellants : Mr.U.M.Ravichandran  
Special Government Pleader

For respondent : Mr.Krishna Srinivas  
Senior Counsel for  
M/s Ramasubramanian Associates



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## JUDGMENT

(Judgment of the Court was made by **D.KRISHNAKUMAR,J.,**)

Aggrieved by the order passed in W.P.No.7700 of 2008, the respondents in the writ petition have filed the present appeal.

2. The learned Special Government Pleader submits before this Court that the writ court, relying upon the judgment of the Division Bench of this Court in the case of ***Park View Enterprises vs State Government of Tamil Nadu reported in (1991 71 CompCas 723 Mad)***, ordered the appellants to return the unregistered sale deed to the respondent/writ petitioner. The relevant portion of the judgment of the Division Bench reads as follows:

*“ Yet another plea put forth by petitioners is that, the Registering Authorities before whom conveyance of undivided share in land is produced for registration cannot compel production of agreements which are unconnected with an undivided share sold in the land, which alone is chargeable to duty under Art.23, and that by summoning construction agreements they cannot impose the stamp duty under Art.5(i) on such*



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*agreements and insist upon registering them. Undoubtedly, it is entirely left to the parties, either to register or not to register the instrument. If they do not choose to register the document, the consequences are spelt out in Sec.49 of the Registration Act. Even thereunder, the proviso is to the effect that an unregistered document affecting immovable property could be received as evidence of a contract in a suit for specific performance, or as evidence of part-performance for the purpose of Sec.53A of the Transfer of Property Act, or as evidence of any collateral transaction not required to be effected by registered instruments. Therefore, failure to register a document which is compulsorily registrable under Sec.17(1) of the Registration Act, disables the effectiveness of the document only to the extent provided in that section and not otherwise. It suffers certain handicaps as in Sec.35 of the Act. Therefore, on the Registering Authority under R.3(3) getting at an agreement which would come under Art.5(i) or even the Collector on coming across such an agreement when he assesses*



*the market value under S.47A(2) of a share of land sold under a sale deed; cannot compel the parties to register such agreements. Hence an agreement covered by Article 5(i) and which is not registered and proper stamp duty not paid thereon, would suffer the disability as known to law. No provision is made either in the Stamp Act or in the Registration Act, to compel parties to an instrument to register it.”*

3. Accordingly, the appellants are directed to return the unregistered sale deed to the respondent/writ petitioner without insisting for stamp duty as it is not applicable to the case on hand.

4. During the course of argument, learned counsel for the respondent/writ petitioner submitted that the unregistered sale deed has been returned to the respondent/writ petitioner.

5. In the light of the above submission by the learned counsel for the respondent/writ petitioner, nothing survives for adjudication and the writ appeal is



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dismissed as infructuous. No costs. Consequently, connected miscellaneous  
petition is closed.

**(D.K.K.J.) (P.B.B.J.)**  
09.08.2023

Index : Yes  
Website : Yes  
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