**THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**

WRIT PETITION NOs.42908, 43247, 44048, 45235
AND 45579 OF 2022

**COMMON ORDER:**

In all these Writ Petitions, the common issue has come up for consideration and as such all the matters are being disposed of by this common order.

2. The petitioners in the respective Writ Petitions claim to have approached the respondent-District Registrar/Sub-Registrar (hereinafter referred to as "the Registrar") for the purpose of payment of deficit stamp duty on the respective documents as the stamp duty that was engrossed on the respective documents is not sufficient in terms of the stamp duty fixed under the provisions of the Indian Stamp Act, 1899 ("the Act, 1899" for brevity), but the respondent-Registrar refused to receive the said documents without assigning any reasons and as such the petitioners approached this Court by filing these Writ Petitions.

3. This Court, having noticed the repeated Writ Petitions being filed on the very same ground, requested Mr. P. Rajasripathi Rao, learned Government Pleader for Stamps

and Registration, to assist the Court to pass a comprehensive order that can be made applicable in all such similar situations.

4. Heard all the learned counsel for the petitioners and Mr. P.Rajasripathi Rao, learned Government Pleader for Stamps and Registration for the respondents.

5. The Act, 1899 stipulates the stamp duty that is payable in respect of various documents covering different types of transactions and in terms of the same, the stamp duty that is fixed under the provisions of the Act, 1899 is required to be paid depending on the value of the subject matter of the respective documents. In case, if any such documents are not sufficiently stamped, the Act, 1899 provides for collection of such deficit stamp duty by the Registrar, either by collecting the deficit stamp duty or collecting the same with penalty, which may extend upto ten times of the deficit stamp duty that is payable. This aspect of the matter, i.e. the instruments not duly stamped, is dealt with under Chapter IV of the Act, 1899, i.e. Sections 33 to 48 of the Act, 1899 and on collection of such stamp duty, a certification is required to be made on the respective documents under Section 42 of the Act, 1899 by making an endorsement that the proper duty or the proper duty and penalty have been levied in respect of the said document

and the name and residence of the person paying such deficit stamp duty and penalty. In terms of Section 35 of the Act, 1899, the instruments, which are not duly stamped, are inadmissible in evidence and as such, the parties concerned may approach the Registrar seeking to pay the deficit stamp duty or stamp duty with penalty. In terms of the provisions contained in Chapter IV of the Act, 1899, it is obligatory on the part of the Registrar to collect the deficit stamp duty as and when such documents, which are insufficiently stamped, are brought before him and it is only on collection of such deficit stamp duty, the Registrar can release such documents.

6. No doubt, the Commissioner and Inspector General of Stamps and Registration has issued various circulars, instructing the Registrars to follow certain procedure in the matter of collecting the deficit stamp duty and the same is also being termed as an act of validating a document. This Court, having considered such circulars, wherein the collection of stamp duty is called as validating the respective documents, found fault with the same and directed not to permit the act of collecting deficit stamp duty as validation of the documents in W.P.No.16310 of 2019 and batch.

7. Learned Government Pleader for Stamps and Registration brought to the notice of this Court various circulars issued by the Commissioner and Inspector General of Stamps and Registration. On being asked about the source of power under which various circulars were issued by the Commissioner and Inspector General of Stamps and Registration, dealing with the matter of collection of deficit stamp duty and restricting the power of Registrar in the matter of collecting such stamp duty, Mr. P. Rajasripathi Rao, learned Government Pleader for Stamps and Registration, fairly submitted that there is no such source of power for issuing all such circulars and that they were all issued only in the public interest to avoid fraudulent transactions and documents being brought into existence in the guise of validation of such documents. As there is no such power to restrict the Registrars from collecting deficit stamp duty, once the documents are presented before them and the party presenting such documents is ready and willing to pay the deficit stamp duty, it is an obligation and legal duty on the part of the Registrar to collect the deficit stamp duty.

8. Thus, under Chapter IV of the Act, 1899, in particular under Sections 35, 40, 41 and 41A, the Registrar or the Officer

or the person entitled to receive evidence are under obligation to collect the deficit stamp duty or deficit stamp duty with penalty.

9. In the light of the above, any action on the part of the respective Registrars in refusing to receive the documents presented for payment of the deficit stamp duty or refusing to collect the deficit stamp duty with penalty or without penalty, as the case may be, cannot be said to be in accordance with law and on the other hand, it is contrary to the intention of the Legislature, as is evident from under Chapter IV of the Act, 1899.

10. In the light of the above, all the Writ Petitions are allowed directing the respective District Registrar/Sub-Registrar to receive the subject documents and process the same for the purpose of collection of deficit stamp duty with or without penalty, depending on facts of the case, under the provisions of Chapter IV of the Stamp Act, 1899 and complete the process within a period of four (4) weeks from the date of presentation of such document by the respective petitioners.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

**(MUMMINENI SUDHEER KUMAR, J)**

28th February 2023
RRB