IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **20.06.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

<u>WP.No.14252 of 2022 & WMP.No.13491 of 2022</u>

Kiran Govindarajulu Rajkumar .. Petitioner

Versus

1.The Inspector General of Registration
Chief Revenue Controlling Authority,
No.100, Santhome High Road, Chennai.

2.The Sub Registrar,
District Registrar Cadre, Sub Registrar Office,
Santhome High Road, Mylapore, Chennai – 600 028

3.The Sub Registrar,
Peelamedu, Coimbatore.

4. Suguna .. Respondents

<u>Prayer</u>: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 18.05.2022 in Refusal Check Slip No. RFL / Peelamedu / 17 / 2022 of the third Respondent herein, quash the same and consequently direct the third Respondent herein to forthwith register the Deed of Settlement dated 11.05.2022 on Payment of ad valorem Stamp Duty as per article 58 (a) (1) of the Indian Stamp Act.

For Petitioner : AR.Karthik Lakshmanan

For Respondents : Mr.B.Vijay
Additional Government Pleader – R1 to R3

Mr.C.T.Murugappan – R4

ORDER

Challenge has been made against the order passed by the third respondent dated 18.05.2022, quash the same and consequently issue direction to the third respondent to register the Deed of Settlement dated 11.05.2022 on payment of Ad volorem Stamp Duty as per Article 58 [a] [1] of the Indian Stamp Act.

2. It is the case of the writ petitioner that the subject property absolutely belongs to the mother and brother of the petitioner and the mother of the petitioner settled her 1/3rd share in the above property. Now the petitioner wanted to settle her share of the property in favour of here grandmother. When the said deed of settlement was presented for registration, the same was refused to be registered on the ground that as the settlement is not between the family members. Challenging the same, this writ petition has been filed.

3. The learned counsel for the petitioner submitted that the Division

Bench of this Court in the case of *Inspector General of Registration and another vs. R.Santhosh and another* made in *W.A.No.85 of 2015*, by judgment dated *23.10.2017* has held that the settlement deed executed in favour of the grandparents should also be covered under Article 58 (a)(i) of the Schedule I to the Indian Stamp Act. Hence, the impugned order cannot be sustained in the eye of law.

4. Whereas, the learned Special Government Pleader submitted that the Division Bench in W.A.No.85 of 2015, (judgment dated 23.10.2017) has not followed and discussed the earlier judgment of the Division Bench reported in *2014 (5) CTC 265* in the case of *T.Muthu Bala vs. The Inspector General of Registration and another*, wherein, the present issue has been elaborately discussed. Further, he also submitted that even the Division Bench of this Court in W.A.No.544 2021, (judgment dated 04.06.2024) has followed the judgment reported in *2014 (5) CTC 265*. Hence, according to him, the judgment cited by the writ petitioner cannot help his case.

5. Heard both sides and perused the materials placed on record. By consent of both parties, this writ petition is taken up for final disposal.

6. The short issue involved in this writ petition is whether the grandparents fall within the ambit of the "family" as defined under Explanation

to the Article 58 of the Schedule I to the Indian Stamp Act.

7. Explanation to the Article 58 of the Schedule I to the Indian Stamp Act reads as follows:

> *"Explanation.- For the purpose of this Article, the word "family" means father, mother, husband, wife, son, daughter, grand child, brother or sister. In the case of any one whose personal law permits adoption, "father" shall include an adoptive father, "mother" an adoptive mother, "son" an adopted son and "daughter" an adopted daughter"*

8. The Division Bench in the case of *T.Muthu Bala vs. The Inspector General of Registration and another,* reported in *2014 (5) CTC 265* took note of the fact that the word "means" found in the definition clause and held that "family" found in Article 58(a) of the Schedule I to the Indian Stamp Act, is exhaustive and not mere illustrative. The Stamp Act being a fiscal legislation, the Court cannot supply any purposive interpretation to such definition clause. The Hon'ble Apex Court has also in a judgment reported in *2009 (2) CTC 800* reported in *S.V.L.S.Ranga Rao Vs. The Secretary to the Government, Commercial Taxes (J1) Department and others* held that the use of word "means" clearly states that the definition is exhaustive and no other meaning

can be assigned to the expression defined in the definition. This has been taken note in the judgment reported in *2014 (5) CTC 265.*

9. The Division Bench in W.A.No.85 of 2015, despite the fact that earlier judgment reported in *2014 (5) CTC 265* was brought to the notice has not gone into the issue and simply followed the findings of the learned Single Judge without discussing the issue involved. Therefore, the judgment cited by the learned counsel for the petitioner will not be binding precedent. It is also to be noted the Division Bench of this Court in W.A.No.544 of 2021 (judgment dated 04.06.2024) in the case of *The Sub Registrar vs. Dr.Usha Dorairajan,* in fact, followed earlier judgment reported in *2014 (5) CTC 265,* the Apex Court has clearly considered the word "means" and held that grand parents cannot be included in the explanation appended to the Article 58 of the Schedule I to the Indian Stamp Act, 1899.

10. Similarly, this Court in earlier occasion, in the case of *Anushya vs. The District Registration Authority and another* made in *W.P.No.988 of 2022* vide order dated *25.04.2024* has also held that purposive interpretation cannot be given and no other meaning can be assigned to the expression defined in the definition. Such view of the matter, the contention of the learned counsel for the petitioner that the grand parents are also to be treated as family members as

defined under Article 58 of the Schedule I to the Indian Stamp Act, 1899 cannot be countenanced. Since the Stamp Act is a fiscal legislation, we cannot supply any other meaning other than the one defined under the Act.

11. At this stage, the learned counsel appearing for the petitioner submitted that they are not inclined to go for registration and the document presented for registered may be returned to the petitioner, for which the learned Additional Government Pleader appearing for the respondents has no objection.

12. Accordingly, this writ petition stands dismissed. No costs. The third respondent shall return the Deed of Settlement dated 11.05.2022 presented by the petitioner for registration, within a period of ten days from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

20.06.2024

vrc

Index :Yes/No
Internet :Yes/No
Neutral Citation : Yes/No

To

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N. SATHISH KUMAR, J.

vrc

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