IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20483 of 2024
and W.M.P.No.22435 of 2024

V.R.Chandana ... Petitioner

vs.

1.Inspector General of Registration
100, Santhome High Road,
Pattinappakam,
Chennai-600 028.

2.The Assistant Inspector General of Registration/
District Registrar (Administration),
Chennai South District,
Integrated Building For Offices
of the Commercial Taxes and
Registration Department, Fanepet,
Nandhanam, Chennai – 600035.

3.The Sub Registrar
The Registration Office of Kundrathur
Chennai-600 069. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned order Refusal Check Slip No.RFL/Kundrathur/7/2024 dated 23.01.2024 issued by the 3rd respondent in a settlement deed executed by petitioner to and in favour of her grandmother R.V.Meera and quash the same and direct the 3rd respondent to register the Settlement Deed dated 23.01.2024 executed by the Petitioner herein under Article 58(a) of the Indian Stamp Act with concessional stamp duty and registration fees.

For Petitioner : Mr.V.Manisekaran

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

O R D E R

Aggrieved by the Refusal Check Slip issued by the 3rd respondent refusing registration of the Settlement Deed executed by petitioner in favour of her paternal grandmother on the ground that it was liable to Stamp Duty under Article 58(a)(ii)-A of Schedule-I to the Indian Stamp Act, 1899, the petitioner has come by way of this writ petition.

2. According to the petitioner, the subject property was originally purchased by paternal grandfather of petitioner-R.Venkataswamy. The petitioner's father-R.V.Ravikumar predeceased his father R.Venkataswamy. After death of R.Venkataswamy, the petitioner and her mother succeeded to

a share in the subject property representing the estate of her deceased father. Later, the petitioner's mother executed a Settlement Deed in favour of the petitioner in respect of her share. Thus, the petitioner claims 1/6th undivided share in the subject property. Out of love and affection towards her grandmother namely R.V.Meera, wife of above said R.Venkataswamy, the petitioner executed a Settlement Deed on 23.01.2024 and presented the same for registration before the 3rd respondent. The petitioner treating the same as a Settlement Deed executed in favour of a family member affixed concessional stamp duty under Article 58(a)(i) of Schedule-I to the Indian Stamp Act, 1899. The 3rd respondent/Sub Registrar refused to register the same on the ground that Settlement Deed is liable for higher stamp duty under Article 58(a)(ii)-A and directed the petitioner to pay 7% towards stamp duty on the instrument and 2% on the registration charges. Aggrieved by the said refusal check slip issued by 3rd respondent, the petitioner has come by way of this writ petition.

3. Mr.V.Manisekaran, learned counsel appearing for the petitioner by taking this Court to the explanation to Article 58(a)(i) of Schedule-I to the Indian Stamp Act, 1899 submitted that a Settlement Deed in favour of

grandchild is chargeable with concessional stamp duty and hence, even though the word grandparents is not specifically included in the explanation, the Settlement Deed executed by grandchild in favour of grandparents should also be chargeable with concessional stamp duty. In support of the said contention, the learned counsel relied on the following judgments:-

(i) ***R.Santhosh vs. Inspector General of Registration*** (hereinafter referred to as Santhosh-I case) in W.P.No.29811 of 2013, dated 25.08.2014 as confirmed by the Division Bench of this Court in ***Inspector General of Registration and Chief Revenue Controlling Authority vs. R.Santhosh*** (hereinafter referred to as Santhosh-II case) in W.A.No.85 of 2015, dated 23.10.2017.

(ii) ***K.Thilak Kumar vs. Chief Controlling Revenue Authority and Inspector General of Registration*** in W.P.No.12233 of 2008, dated 06.03.2013.

(iii) ***Manish Mohan Sharma vs. Ram Bahadur Thakur Ltd.,*** reported in ***AIR 2006 SC 1690***.

4. Per contra, Mr.B.Vijay, learned Additional Government Pleader

appearing for the respondents submitted that concessional stamp duty as provided under Article 58(a)(i) of Schedule-I to the Indian Stamp Act, is applicable only for the settlements executed in favour of member of family as explained in explanation to the said Article and the said concessional stamp duty cannot be extended to settlements in favour of other members of the family as understood in common parlance.

5. In this regard, the learned Additional Government Pleader submitted that Indian Stamp Act being a fiscal statute shall be interpreted strictly and Court cannot extend the meaning of the word 'Family' by supplementing the words not included in the statute. In support of his contention, the learned Additional Government Pleader relied on the following judgments:-

(i) ***T.Muthu Balu vs. The Inspector General of Registration*** reported in ***2014 (5) CTC 265***.

(ii) ***K.S.Ravichandran vs. Inspector General of Registration-cum-Chief Revenue Controlling Officer*** in W.P.No.20561 of 2007, dated 04.01.2013.

(iii) ***J.Chelladurai and another vs. The District Registrar and another*** in

W.A.No.436 of 2011 dated 14.10.2014.

(iv) ***The Sub Registrar vs. Dr.Usha Dorairajan*** in W.A.No.544 of 2021 dated 04.06.2024.

(v) ***Kiran Govindarajulu Rajkumar vs. The Inspector General of Registration*** in W.P.No.14252 of 2022 dated 20.06.2024.

6. Article 58(a)(i) of Schedule-I to the Indian Stamp Act, 1899, which imposes concessional stamp duty on the Settlement Deeds executed in favour of member of family reads as follows:-

58. ***Settlement****-*
(a) instrument of (including a deed of a dower)-

(i) If the Instrument of settlement is in favour of a member or members of a family;	*[One rupee for every Rs.100 or part thereof of the market value of the property which is under [settlement:]]*

Provided, that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an *instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed [twenty rupees].*

Explanation.-

For the purpose of this Article, the word "family" means father, mother, husband, wife, son, daughter, [grandchild, 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.

7. A reading of above provision would make it clear that concessional stamp duty is available only for the Settlement Deeds executed in favour of member or members of a family. Therefore, the definition of word 'family' assumes significance. The word family was explained by the statute itself as extracted above. It is the contention of respondents that if the explanation in the statute is interpreted in its strict sense, Settlement Deed executed in favour of relationships mentioned therein alone can avail concessional stamp duty and any settlement in favour of relations not specifically mentioned in the explanation cannot be treated as settlement in favour of member of the

family within the meaning of said Article.

8. Since the relationship of "grandparents" is not specifically mentioned in explanation available in the statute, the respondent held concessional stamp duty is not available to the Settlement Deed executed by petitioner in favour of her grandmother and as a consequence, it shall be treated as a Settlement Deed executed in favour of an outsider.

9. A learned Judge of this Court while considering this question in ***R.Santhosh vs. Inspector General of Registration*** (Santhosh-I case) in W.P.No.29811 of 2013, dated 25.08.2014, observed as follows:-

> *"11. If grandchild is included within the definition of the expression "family", I do not know how a grandmother or grandfather will stand excluded. There can be no quarrel about the proposition that if person executes settlement in favour of his grandchild, the case will be covered by Article 58(a). But to hold that the converse cannot be accepted, would militate against the very purpose of the provision. A settlement need not flow in a hierarchal fashion from the elders to the younger ones. It can also flow in the reverse direction. If a gift in favour of a grandchild is covered by Article 58(a), the gift in favour of*

the grandparent should be equally covered as a corollary. Therefore, the writ petition is allowed. The impugned order is set aside. The respondents are directed to register the sale deed by treating as one filing under Article 58(a). No costs. Consequently, MP.Nos.1 of 2013 and 1 of 2014 are closed."

10. The order passed in the above case was challenged in W.A.No.85 of 2015 and the view of the learned Single Judge was affirmed by the learned Division Bench in ***Inspector General of Registration and Chief Revenue Controlling Authority vs. R.Santhosh*** (Santhosh-II case), the Division Bench observed as follows:-

"13. The short point involved in this appeal is as to whether the maternal grandmother comes under the family as given in the explanation, the learned single judge has elaborately discussed in this aspect. K.Rukumani/Settlee is the maternal grandmother to R.Santhosh and R.Kaushik/Settlors who are parties to the settlement deed. Therefore, the authorities cited by the learned counsel for the appellants are not applicable to the present case on hands. Since, the learned single judge distinguished the authorities cited by the learned counsel for the appellants. We need not once again discuss the authorities elaborately.

> *14. Considering the discussions held above, we are of the view that the learned single judge has correctly dealt with the issues involved in the case on hand and we feel that there is no reason to interfere with the order passed by the learned single judge.”*

11. Interpretation of Article 58(a)(i) of Schedule-I to the Indian Stamp Act, 1899, came up for consideration before another Division Bench in ***T.Muthu Balu vs. The Inspector General of Registration*** reported in ***2014 (5) CTC 265***, wherein the Division Bench held that the definition of the word 'Family' in the explanation to the relevant Article is exhaustive and not illustrative and as a consequence, the meaning of the word 'family' cannot be extended to any other members not mentioned in the explanation. The relevant observation of the Division Bench reads as follows:-

> *“13. Considering the import of the word "means" in the above mentioned decision and the ordinary dictionary meaning of the word 'exhaustive", as per Concise Oxford English Dictionary, Tenth Edition, is "fully comprehensive". The interpretation of the word "means" in the Explanation will be specific to the members of the family mentioned therein.*

Therefore, it is very clear that the word "family" is not illustrative and cannot extend to any other members than those mentioned. The specific members mentioned in the Explanation alone will be entitled to the benefit of Explanation to Article 58(a) of Schedule-I of the Indian Stamp Act and none else. Court will not include a person not specifically included as member of the family for the purpose of Explanation to Article 58(a) of Schedule-I to the Indian Stamp Act.”

12. In ***J.Chelladurai and another vs. The District Registrar and another*** in W.A.No.436 of 2011, dated 14.10.2014, another Division Bench of this Court also expressed the view that definition of the word 'Family' found in Article 58 cannot be given a wider interpretation so as to include members not mentioned therein.

13. In ***The Sub Registrar vs. Dr.Usha Dorairajan*** in W.A.No.544 of 2021, dated 04.06.2024, another Division Bench of this Court after referring to view of the Division Bench in ***T.Muthu Balu*** case, held, the word 'family' as defined in Article 58 is exhaustive and no other meaning can be assigned to the expression, the relevant observation of the Division Bench reads as follows:-

"9. The definition of a family mentioned under Article 58 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 appended to Article 45 of the Schedule 1 of the Indian Stamp Act. The executants of the document does not fall within the ambit of the word "family" as defined under the explanation of Article 58 of the Schedule I to the Indian Stamp Act, 1899.

10. The explanation appended to the Article 58 of the Schedule I to the Indian Stamp Act, 1899 clearly indicate that the very explanation is defined by the Legislature by using the word "means". Therefore, 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."

14. The learned Additional Government Pleader appearing for the respondents vehemently contended that settlement executed in favour of the member or members of the family alone is entitled to concessional stamp duty and only the persons mentioned in the explanation to Article 58 can be treated as members of the family. In other words, it is his contention that since the relationship of grandfather and grandmother have not been mentioned in the explanation they should be treated as non-family members

or out of the definition of the family. If grandfather and grandmother are treated as non-members of the family, I do not know how the Settlement Deed executed by them in favour of grandchild can be treated as a settlement in favour of the member of the family within the meaning of Article 58.

15. A careful reading of the above said Article with explanation would make it clear that unless both the Settlor and Settlee are the members of the family, the settlement cannot be treated as the one in favour of member of the family. The legislature attempted to define the word 'family' by mentioning various relationships like father, mother, husband, wife, son, daughter, grandchild, brother and sister. If X, a male, executes settlement in favour of his son, it can be treated as settlement executed by father in favour of his son. On the other hand, if X executes a settlement in favour of his wife, it will be treated as a settlement executed by husband in favour of wife. Likewise, if X executes a settlement in favour of his sister it will be treated as a settlement executed by brother in favour of his sister. Likewise, if X executes a settlement in favour of his mother, it is a settlement executed by son in favour of mother. Therefore, very same person namely X with reference to his relationship with Settlee is called as father, husband, brother

or son. Therefore, in order to claim benefit of concessional stamp duty under Article 58, both Settlor and Settlee must be a member of the family. In no case, a settlement executed by a non-member of the family can be treated as a settlement executed in favour of the family member. If we look at the relationship mentioned in the explanation, the relationships can be grouped as different pairs based on the degree of relationship, namely father-son, father-daughter, mother-son, mother-daughter, husband-wife, brother-sister. However, there is no pair for grandchild because the expression grandparents (grandfather or grandmother as the case may be) is missing in the explanation.

16. As far as other relationships mentioned in the explanation, they are included in the explanation along with their respective pairs. However, as far as the expression grandchild is concerned, there is no pair because the expression grandparent is missing. Only the grandparent can execute the Settlement Deed in favour of grandchild, without including the expression grandparent within the meaning of the word 'Family', the benefit of concessional stamp duty cannot be conferred on the Settlement Deeds executed in favour of grandchild. The legislature in its wisdom wanted to

extend the meaning of the word family by including the Third Generation relationship, namely grandchild. It is pertinent to mention that all other relationships are either next or previous generation relationships or collaterals, for example sons and daughters are next generation relationships. Father and mother are previous generation relationships. Brothers and Sisters, Husband and Wife are relationships in the same generation. Therefore, by including the expression grandchild the legislature in its wisdom wanted to confer the benefit of the concessional stamp duty on the Third Generation relationship, namely grandchild (grand son or grand daughter).

17. When the Third generation relationships are included in the family, the First Generation relationship already available in the definition, namely father and mother becomes grandparents. The First Generation relationships, namely grandparents are connected to the Third Generation relationship, namely grandchildren through the Second Generation relationship, sons and daughters. Therefore, it is clear that legislature in its wisdom wanted to give concessional stamp duty to the Settlement Deeds executed by grandparents in favour of grandchild and Settlement Deed

executed *vice versa* (i.e., Settlement Deeds executed by grandchild in favour of grandparents). However, omission to include the expression grandparents is only a mischief committed by the draftsman.

18. The following relationships in the explanation to Article 58, namely father and mother represent the First Generation. The following relationship, namely son and daughter represents Second Generation. The Legislature by including the expression grandchild wants to bring the Third Generation also into the fold of the word 'family'. <u>When the Third Generation grandchild is included in the definition of the word family, the expressions father and mother, which are already available in the definition, with reference to the Third Generation, shall be treated as grandfather and grandmother. Therefore, the inclusion of the expression grandchild by the legislature while explaining the word family by necessary implication includes the word grandparents also. Because, the words father and mother which represent First Generation in the definition, with reference to the Third Generation grandchild, becomes grandfather and grandmother.</u> Therefore, I hold that by including the expression grandchild, legislature wanted to confer the benefit of concessional stamp duty in respect of the

Settlement Deeds executed by grandchild in favour of grandparents also. The non-inclusion of the word grandparents in the explanation is only an omission committed by the draftsman and the same will not affect or take away the intention of the legislature to confer the benefit of concessional stamp duty on the Settlement Deeds executed by grandparents in favour of grandchild or *vice versa*.

19. Article 58(a)(i) says, instrument of settlement in favour of member or members of family is entitled to concessional stamp duty. When it says settlement in favour of family member, it means both Settlor and Settlee shall be members of the family. Therefore, when grandchild is treated as member of the family, the natural corollary is inclusion of the expression grandparents into the meaning of the word family. If we treat grandparents as a non-member of the family due to the omission committed by the draftsman, then the Settlement Deed executed by a non-member cannot be treated as a Settlement in favour of Member of his family. In such case, even settlement in favour of grandchild will not get the benefit of concessional stamp duty. Such interpretation will defeat the very intention of the legislature to include the Third Generation also into the definition of the

expression "family". In fact, the said view was taken by the Hon'ble Mr.Justice V.Ramasubramanian (as he then was) in Santhosh-I case cited supra. The said view was affirmed by the Division Bench of this Court in Santhosh-II case cited supra.

20. In ***T.Muthu Balu*** case, cited by the learned Additional Government Pleader, another Division Bench of this Court while considering the settlement deeds executed in favour of great-grandchild held that the definition of the word 'family' as found in Article 58 cannot be extended so as to include persons not mentioned in the explanation. The great-grandchild represents Fourth Generation of the family, as discussed earlier, definition of the word family as found in explanation to Article 58, only refers to relationships upto three generations. If we include the great-grandchild also in the definition, it would amount to expansion of the definition by brining Fourth Generation also into the definition of the word 'family'. Therefore, on the facts of that case, the other Division Bench in ***T.Muthu Balu*** case held, family as defined in Article 58 cannot be extended by including new members not named therein. However, in the case on hand, as discussed earlier, the relationships representing three immediate

generations are already included in the definition, which can be explained as follows:-

(i) father, mother represents First Generation.

(ii) son, daughter represents Second Generation.

(iii) grandchild represents Third Generation.

21. The word father and mother employed in definition in relation to Third Generation, namely grandchild shall be understood as grandfather and grandmother. Because, father and mother representing First Generation already comes within the definition of the word 'family'. The grandchild representing Third Generation is also coming within the definition of the word 'family'. <u>When the member of the First Generation, father executes a settlement deed in favour of Third Generation, grandchild, certainly the settlement deed shall be conferred with the benefit of concessional stamp duty. Therefore, I hold, the expression father and mother used in explanation to Article 58 shall be understood as grandfather and grandmother with reference to the other expression grandchild used in the very same definition. By doing so, we do not include a new generation in the definition of the word 'family'. Therefore, it cannot be treated as expansion of the</u>

definition intended by the legislature. Hence, ***T.Muthu Balu*** case relied on by the learned Additional Government Pleader, which involves inclusion of Fourth Generation is not helpful to decide the present case, on the facts of this case, which involves only three generations. The facts of the case in Santhosh case-I and II are more identical to the facts of present case.

22. Infact, ***T.Muthu Balu*** case was cited before the Hon'ble Mr.Justice V.Ramasubramanian (as he then was), who decided ***Santhosh-I*** case and factual distinction between the two cases were pointed out by the learned Judge and the decision in ***T.Muthu Balu*** case was distinguished on facts. The Division Bench also in Santhosh-II case while affirming the view of the learned Judge clearly said that the authority in ***T.Muthu Balu*** case was distinguished by the learned Judge and therefore, they need not once again discuss the authorities elaborately. It would be appropriate to refer to the observation of the Hon'ble Mr.Justice V.Ramasubramanian (as he then was) in Santhosh-I case in this regard which reads as follows:-

> *"9. In T.Muthu Pillai vs. Inspector General of Registration, the question that came up for consideration before the Division Bench of this Court was, as to whether a great grandchild will come within the definition of the word*

“family” under Article 58 or not. The Division Bench held that it would not. This is due to the fact that the definition of the expression covers only three generations namely parents, children and grandchild. It does not cover the fourth generation. Therefore, the reasoning given in the decision of the Division Bench in Muthu Pillai, cannot be applied.”

23. In ***The Sub Registrar vs. Dr.Usha Dorairajan*** in W.A.No.544 of 2021, dated 04.06.2024, another Division Bench of this Court after referring to the view of the Division Bench in ***T.Muthu Balu*** case held that the word 'family' cannot be given an extended meaning by including the relationship not already mentioned therein. As discussed earlier, the judgment in ***T.Muthu Balu*** case was considered and distinguished by the learned Judge, who decided the matter in ***Santhosh-I*** case and his view was affirmed by the Division Bench in ***Santhosh-II*** case. However, the subsequent Division Bench in ***The Sub Registrar vs. Dr.Usha Dorairajan*** has not considered the affirming view of the Division Bench in ***Santhosh-II*** case.

24. In ***J.Chelladurai and another vs. The District Registrar and another*** in W.A.No.436 of 2011, dated 14.10.2014, another Division Bench of this Court also expressed the view that the word 'family' cannot be given

an extended meaning by including grandfather, who was not included in the definition. In ***Santhosh-I*** case cited supra, the explanation to Article 58 was considered in detail and the learned Judge held, that definition of the expression 'family' as found in the explanation to Article 58 covers only Three Generations, namely parents, children and grandchild and therefore, the settlement deeds executed by grandchild in favour of grandparent and grandparent in favour of grandchild can also be treated as settlements by the members of the family and can claim benefit of the concessional stamp duty. The said view was affirmed by the Division Bench in Santhosh-II case.

25. In ***Amar Singh Yadav and other vs. Shanti Devi and others*** reported in ***AIR (1987) Pat 191***, the Full Bench of Patna High Court held, when there is a conflict of opinion between the Co-ordinate Benches of Supreme Court, the High Court can follow the view expressed by the Bench, which discusses the provisions of law in detail. The relevant observation of Full Bench of Patna High Court reads as follows:-

> *"24. To conclude on this aspect, it is held that where there is a direct conflict betwixt two decisions of the Supreme Court rendered by co-equal Benches, the High Court must follow that judgment which appears to it to state the law more*

elaborately and accurately. The answer to question (1) posed at the outset is rendered in these terms."

In ***Santhosh-I*** case, the scope and ambit of definition of family as found in explanation to Article 58 was considered in detail with reference to the relationship and the generation represented by them and the said view was affirmed by the Division Bench. Hence, I prefer to follow the view of the Division Bench in ***Santhosh-II*** case and hold the words father and mother employed in explanation to Article 58 shall be treated as grandfather and grandmother with reference to Third Generation relation, grandchild and therefore, the settlement deeds executed by grandchild in favour of grandparents shall also be treated as settlement between the member of the family. As a necessary consequence, such settlements are chargeable with concessional stamp duty as per the Article 58(a)(i).

26. The learned Additional Government Pleader submitted that while interpreting fiscal statues Court shall follow strict interpretation and literal meaning of statute cannot be expanded by Courts by using power of interpretation. There is no quarrel with regard to said submission made by learned Additional Government Pleader. However, even in fiscal statutes when there are two views, the view which will advance the object or

intention of legislature shall be preferred.

27. In ***Commr. of Customs (Preventive) Mumbai vs. M.Ambalal and Co.,*** reported in ***(2011) 2 SCC 74***, while dealing with interpretation of exemption in taxing statutes, the Apex Court held thus:-

> *"16. ... ... The rule regarding exemptions is that exemptions should generally be strictly interpreted but beneficial exemptions having their purpose as encouragement or promotion of certain activities should be liberally interpreted. This composite rule is not stated in any particular judgment in so many words. In fact, majority of judgments emphasise that exemptions are to be strictly interpreted while some of them insist that exemptions in fiscal Statutes are to be liberally interpreted giving an apparent impression that they are contradictory to each other. But this is only apparent. A close scrutiny will reveal that there is no real contradiction amongst the judgements at all. The synthesis of the views is quite clearly that the general rule is strict interpretation while special rule in the case of beneficial and promotional exemption is liberal interpretation. The two go very well with each other because they relate to two different sets of circumstances."* *(Emphasis supplied by this Court)*

28. In ***The State of Tamil Nadu vs. M.K.Kandaswami and others*** reported in ***(1975) 4 SCC 745***, the Apex Court observed as follows:-

> *"26. It may be remembered that Section 7-A is at once a charging as well as a remedial provision. Its main object is to plug leakage and prevent evasion of tax. In interpreting such a provision, a construction which would defeat its purpose and, in effect, obliterate it from the statute book, should be eschewed. If more than one construction is possible, that which preserves its workability, and efficacy is to be preferred to the one which would render it otiose or sterile. ... ..."*

29. In the light of above principle, let us examine case on hand. Article 58(a)(i) of Schedule-I to Stamp Act wants to confer benefit of concessional stamp duty to settlements executed in favour of member of family. As elaborately discussed earlier, if we treat "Grand Parents" as non-members of family due to omission of that expression in the explanation, then settlement deed executed by Grand Parents, a non-member, in favour of grand child cannot be treated as a settlement in favour of member of family. Only a member of family can execute settlement in favour of another

member of family. A settlement by non-member can never be treated as settlement in favour of member of family. Therefore, settlements executed in favour of grandchild may not get concessional stamp duty as it was executed by non-member. In order to treat a settlement as the one in favour of member of family, both settlor and settlee shall be members of family. Therefore, even if expression “grand child” is used in explanation, due to omission of expression “grand parent”, there is a danger of denying benefit of provision to settlement by grand parent in favour of grand children. The object of using expression “grand child” is to bring Third Generation into the fold of family. Any interpretation must achieve the object of concessional stamp duty to settlement in favour of Third Generation by First Generation. As I mentioned earlier, First Generation is represented by expression “father” and “mother”. Those expressions in relationship with Third Generation by necessary implication shall be read as grand father and grand mother. Only the said interpretation will achieve the legislative object of giving concessional stamp duty to settlements among relationships within three generations in either descending or ascending order. Therefore, I hold the interpretation made by this Court that words father and mother used in explanation shall be understood as grand father and grand mother in relation to expression grand child, will achieve the legislative intention of providing concessional stamp duty to relationships upto Third Generations. This Court can very well take note of omission by draftsman which will defeat the intention of legislature and interpretate law so as to achieve legislative intent.

30. In view of the discussion made earlier, refusal check slip issued by 3rd respondent on the ground that Settlement Deeds presented for registration is liable to stamp duty under Article 58(a)(ii)-A of Schedule-I to the Indian Stamp Act, 1899 is liable to be quashed and accordingly, the same is quashed and instrument was properly valued by the petitioner under Article 58(a)(i) of Schedule-I to the Indian Stamp Act, 1899. Accordingly, the petitioner is directed to represent the document before the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent is directed to register the same, if it is otherwise in order.

31. In the result, the Writ Petition stands allowed. No costs. Consequently, the connected writ miscellaneous petition is closed.

11.09.2024

Index : Yes
Speaking order:Yes
Neutral Citation:Yes
dm

To

1.Inspector General of Registration
100, Santhome High Road,
Pattinappakam,
Chennai-600 028.

2.The Assistant Inspector General of Registration/
District Registrar (Administration),
Chennai South District,
Integrated Building For Offices
of the Commercial Taxes and
Registration Department, Fanepet,
Nandhanam, Chennai – 600035.

3.The Sub Registrar
The Registration Office of Kundrathur
Chennai-600 069.

S.SOUNTHAR, J.

dm

W.P.No.20483 of 2024

11.09.2024