IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.5442 of 2025

1.Mrs.D.Aandal

2.Mr.D.Ganapathy

3.Mr.D.Selvi ... Petitioners

Vs.

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

2.The Deputy Inspector General of Registration,
Chennai Zone,
Integrated building of the Commercial Taxes and Registration Department,
Fanepet, Nandanam,
Chennai 600035.

3.The Sub Registrar – Ambattur,
Villivakkam Panchayat Union Office Building,
CTH Road, Ambattur, Chennai – 600 035.

2.S.Veerammal ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order which is communicated in notice from the file of the 3rd Respondent dated 03.01.2025 and quash the same and consequently direct the 3rd Respondent to complete the registration and release the Release Deed dated 15.12.2024 in Document No.P/542/2024 to the petitioners forthwith.

For Petitioner	:	Mr.K.Balaji
For Respondents	:	Mr.B.Vijay Additional Government Pleader for R1 to R3

O R D E R

This writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 03.01.2025 and for a consequential direction to the 3rd respondent to complete the registration and release the document viz., the Release Deed dated 15.12.2024.

2.Heard Mr.K.Balaji, learned counsel appearing on behalf of the petitioners and Mr.B.Vijay, learned Additional Government Pleader appearing on behalf of respondents 1 to 3.

3.The 4th respondent is the sister-in-law of the petitioners. The petitioners had executed the Release Deed dated 15.12.2024 in favour of the 4th respondent. When the same was presented for registration, the 3rd respondent has raised an objection stating that the 4th respondent will not come within the definition of the "family" as defined under the explanation to Article 58. Accordingly, the 3rd respondent has directed the payment of stamp duty in accordance with Article 55(c). Aggrieved by the same, the present writ petition has been filed before this Court.

4.The term 'Family' has been explained in Article 58 of the Indian Stamp Act. The same definition will be adopted while dealing with the Release Deed that is dealt with under Article 55. The ambit of this explanation was dealt with by the Division Bench of this Court in ***T.Muthu Balu vs. The Inspector General of Registration, 100, Santhome High Road, Pattinapakkam, Chennai – 28 and others*** reported in ***2014 5 CTC 265***. The relevant portions are extracted hereunder:

> *18. Further, the word "family", as per Black's Law Dictionary means as follows:*
>
> *"Family.*
> *1. A group of persons connected by blood, by affinity, or by law, especially within two or three generations.*

2. A group consisting of parents and their children.
3. A group of persons who live together and have a shared commitment to a domestic relationship."

The great grandchild, no doubt, forms a part of the family by blood, by affinity and by law, and that is within two or three generations. But, for the purpose of the Indian Stamp Act, they will not get the benefit unless they are specifically added. As has been already pointed out, brother and sister were added into said Explanation of "family" by G.O.Ms.No.126, Commercial Taxes and Registration (J1) Department, dated 30.09.2013. It is, therefore, for the State Government to include great grandchild or other remote lineal descendants, as members of the family, if they chose to, for the purpose of extending the benefit of the concessional stamp duty applicable to settlements within the members of the family. We would recommend the Government to suitably amend the Explanation to Article 58(a) of Schedule-I to the Indian Stamp Act, more particularly the word "family" to include great grandchild as member of the family for the purpose of the said explanation.

19. We, therefore, hold that the word "family" defined in the Explanation to Article 58(a) of Schedule -I, appended to Indian Stamp Act, 1899, would mean only such of those persons mentioned in the Explanation. Further, the definition to the word "family" found in Article 58(a) of Schedule-I of the Indian Stamp Act, 1899, is exhaustive and not illustrative and it is applicable only to such of those persons indicated *therein and it will not extend to other persons who do not form part of the definition "family". In the present case, since the settlement is in favour of great grandchild (great grand-daughter), the benefit of Explanation to Article 58(a) of Schedule-I of the Indian Stamp Act will not be applicable.*

5The Division Bench has made it clear that unless and otherwise the parties fall under the explanation to Article 58, the stamp duty has to be paid only under Article 58(c) or 55(c) as the case may be.

6.In the light of the above discussion, this Court does not find any ground to interfere with the impugned proceedings of the 3rd respondent dated 03.01.2025 and hence, there shall be a direction to the petitioners to pay the appropriate stamp duty under Article 55(c) and in such an event, the document shall be registered and released.

7.This writ petition is disposed of in the above terms. No Costs.

20.02.2025
(2/2)

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

N. ANAND VENKATESH, J.

ssr

To

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

2.The Deputy Inspector General of Registration,
Chennai Zone,
Integrated building of the Commercial Taxes and Registration Department,
Fanepet, Nandanam,
Chennai 600035.

3.The Sub Registrar – Ambattur,
Villivakkam Panchayat Union Office Building,
CTH Road, Ambattur, Chennai – 600 035.

W.P.No.5442 of 2025

20.02.2025
(2/2)