IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P No.13265 of 2025 and
WMP.No.14845 of 2025

Dalava Subrahmanyam Petitioner

..Vs..

1. The Inspector General of Registration,
   No.100, Santhome High Road,
   Mylapore,
   Chennai- 600 028.

2. The Statutory Revenue Controlling Authority
   Office of the Registrar General of the
   Registration Department,
   Chennai- 600 028.

3. The Sub Registrar, Arakkonam
   No.230, 5th Gandhi Road,
   Swalpet, Arakkonam- 631 001. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent herein, relating to the document registered and assigned Document No.1519 of 2024 and in making a demand on 15.03.2025, demanding payment of differential stamp duty and registration fee of a sum of Rs.4,64,747/- and for quashing the said demand and consequently direct the respondents not to insist any further payment towards stamp duty and/or registration fee in respect of the document no.1519 of 2024 and remove the charge, if any, created relating to the said document.

For Petitioner:	Mr.S.R.Rajagopal Senior Counsel for Mr.V.Anil Kumar
For Respondents:	Mr.R.Sasikumar Government Advocate

ORDER

This Writ Petition has been filed challenging the order of the 3rd respondent dated 15.03.2025, relating to the document registered in Document No.1519 of 2024, demanding payment of differential stamp duty and registration fee of a sum of Rs.4,64,747/- and to quash the same and consequently direct the respondents not to insist any further payment towards stamp duty and/or registration fee in respect of the aforesaid document and remove the charge, if any, created relating to the said document

2. Mr.S.R.Rajagopal, learned learned Senior Counsel appearing for the petitioner would submit that the subject properties are the joint family properties of the petitioner and his brothers. While so, the petitioner and the co-owners, who are none other than his own brothers and legal heirs of his deceased brothers have partitioned the subject properties under a partition deed dated 12.02.2024 and the same was registered as Document No.1519 of 2024 on the file of the 3rd respondent. Thereafter, the petitioner received a Show Cause Notice from the 3rd respondent dated 05.11.2024 stating that differential stamp duty and registration fee to the tune of Rs.4,64.747/- is to be paid by the petitioner and others pursuant to the Audit Report submitted by the 2nd respondent on the ground that subject properties were partitioned between the persons who are related as sister-in-law, brother-in-law, uncle, niece and nephew and further, as the terms “sister-in-law, brother-in-law, uncle, niece and

nephew are not covered under the definition of “FAMILY” for the purpose of Article 45, the value of the properties partitioned should have been treated as “partition between non family members” and the Stamp Duty @ 4% & Registration Fee @ 1% has to be levied on the value of shares allotted to them. The petitioner submitted his reply on 11.12.2024 stating that the subject properties belong to Hindu Undivided Family consisting of petitioner, his brothers and the legal heirs of his deceased brothers and thus the legal heirs of the deceased family member shall be construed as a Family for the purpose of Article 45 to Schedule I of the Indian Stamp Act, 1899 (in short 'the Act'). But the 3rd respondent without considering the reply filed by the petitioner has passed the impugned demand order confirming the proposal made in the show cause notice. Hence, this Writ Petition.

2.1. Learned Senior Counsel would further submit that the 3rd respondent ought not to have passed the impugned order without considering the relationship between the parties to the doucment and devolution of rights from their ancestors and therefore the said demand is arbitrary and beyond the powers conferred under the provisions of the Stamp Act and the Registration Act. It is his further contention that the legal heirs of the deceased family member shall be construed as a Family in the light of the amendment made to Article 45 by the Government of Tamil Nadu on 03.05.2024, wherein the following words to Article 45 of the Act have been added.

> ***"and shall include the legal heirs of the deceased family member if any"***.

2.2. Thus, when the deceased is recognized as a family member, his legal heirs who derive right by operation of Law are encompassed into the definition of "Family". Therefore, the aforesaid amendment is clarificatory in nature and will have only retrospective effect and not prospective effect. But the respondents failed to take note of the fact that it is settled law that a clarificatory amendment or an explanation that clears ambiguity or corrects any glaring omissions in statute would be applicable retrospectively. He therefore prays to set aside the same.

3. The learned Government Advocate appearing for the respondents

would submit that Amendment Act 13 of 2024 has been notified by Government of Tamil Nadu only on 03.05.2024. Audit Objection was raised as regards the partition deed dated 12.02.2024, i.e., before the aforesaid amendment. However, he would fairly agree that when the deceased is recognized as a family member, his legal heirs who derive their right by operation of Law are encompassed into the definition of "Family". Therefore, amendment made is clarificatory in nature and will have retrospective effect. He therefore prays for appropriate orders.

5. Heard both sides. Perused the records.

6. In the present case, initally Show Cause Notice was issued to the petitioner by the 3rd respondent stating that differential stamp duty and registration fee to the tune of Rs.4,64,747/- is to be paid by the petitioner and others pursuant to the Audit Report submitted by the 2nd respondent, for which the petitioner submitted his reply on 11.12.2024. But the 3rd respondent without

considering the same has passed the Demand Order dated 15.03.2025. A perusal of the records would go to show that the subject properties were partitioned between the persons who are related as legal heirs of the deceased family members. Since legal heirs of family are said to have not covered under the definition of “FAMILY”, for the purpose of Article 45, the value of properties partitioned had to be treated as “Partition between non-family members'. However, a perusal of the amendment made in the year 2024, to Article 45 of Schedule I of the Act, shows that the legal heirs of the deceased family member shall be construed as a 'Family'. At this juncture, it would be apposite to extract Explanation to Article 45 as follows:

> “***Explanation- For the purpose of this Article, the word “Family” shall have the same meaning as defined in the Explanation to Article 58***.”

7. In the case on hand Partition Deed was registered on 12.02.2024. Thereafter, the Government of Tamil Nadu, by way of Tamil nadu Stamp

(Amendment) Act, 2024 (Act 13 of 2024) had added the words "***and shall include the legal heirs of the deceased family member, if any***" to the Explanation to Article 45**.** Therefore anything added to the explanation to the Act is only clarificatory in nature. Such being the case, the words " ***and shall include the legal heirs of the deceased family member, if any"*** made to explanation to Article 45 will have clarification to the said "Article". Therefore, this Court is of the considered view that "Family" would include the legal heirs of the deceased member as defined in Explanation to Article 45.

8. In such view of the matter,this Court is of the view that the Partition Deed was registered only within the family members of the petitioner, which is fully in consonance with the Explanation to Article 45 of the Act. Therefore, the impugned order passed by the 3rd respondent demanding the stamp duty and registration fee of a sum of Rs.4,64,747/- is arbitrary and illegal. Therefore, the same is liable to be set aside.

9. Accordingly the order dated 15.03.2025 passed by the 3rd respondent is set aside and this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.10.2025

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To

The Deputy State Tax Officer
Podanur Assessment Circle,
Commercial Tax Complex,
Dr.Balasundaram Road,
Coimbatore-641 018.

KRISHNAN RAMASAMY, J.

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WP No. 13265 of 2025

22.10.2025