IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.Nos. 1348 of 2025 & 3349 of 2024
and
C.M.P.Nos. 10323 of 2025 & 25969 of 2024

W.A.No.1348 of 2025

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinappakkam High Road,
Pattinappakkam, Chennai – 600028.

2.The Sub-Registrar,
The Sub-Registrar Office,
No.38, 3rd Main Road, Ram Nagar,
Rajalakshmi Nagar,
Velachery, Chennai – 600042. ...Petitioner

Vs.

R.Shivani ... Respondent

W.A.No.3349 of 2024

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinappakkam High Road,
Pattinappakkam, Chennai – 600028.

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

3.The Sub-Registrar,
The Registration Office of Kundrathur,
Chennai – 600 009.

Vs.

V.R.Chandana .. Respondent

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, against the order passed in W.P.No.6839 of 2025 dated 06.03.2025 & W.P.No.3349 of 2024 dated 11.09.2024.

For Petitioners In both petitions	: Mr.Haja Nazirudeen Additional Advocate General assisted by Mr.P.Harish, Government Advocate
For Respondent	: Mr.S.Ganesh in W.P.No.1348 of 2025 Mr.V.Manisekaran in W.P.No.3349 of 2024

COMMON JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM, J.)

The writ order dated 06.03.2025 made in W.P.No.6839 of 2025 & order dated 11.09.2024 made in W.P.No.20483 of 2024 are sought to be assailed in the present intra-Court appeals instituted under Clause 15 of the Letters Patent.

2. The Inspector Generation of Registration and the Sub-Registrar are the appellants. The respondents in both the appeals have instituted writ proceedings, challenging the refusal check slip issued by the Sub-Registrar, declining to register a release deed as well as a settlement deed executed by the grand daughter in favour of her grand mother. The Sub-Registrar opined that the benefit of Article 58 of the Indian Stamp Act, cannot be extended, since the definition of "Family" does not include grand mother. Thus, the Presentant of the document has to pay the stamp duty as required.

3. The Writ Court by expanding the scope of explanation to Article 58 of the Stamp Act and by stating that grand father and grand mother also will be inclusive within the definition of the "Family" under explanation to

Article 58 of the Indian Stamp Act, allowed the writ petitions.

4. The learned Additional Advocate General would contend that scope of the definition contemplated under explanation Clause-2, Article-58 cannot be expanded by the Courts, since the provision is express and plain in language. Any such expansion would cause prejudice to the interest of the revenue. Thus, the order of the learned single Judge is liable to be set aside. In support, the learned Additional Advocate General would rely on judgments of a Division Bench of this Court in the case of ***T.Muthu Balu Vs. the Inspector General of Registration*** reported in ***2014 (5) CTC 265*** wherein, the Division Bench dealt with the similar issue and made the following findings:-

> *"15. We find that in the light of the decisions of the Apex Court and the use of the word "means" in Explanation to Article 58(a) of Schedule-I to the Indian Stamp Act, 1899, there cannot be an extended or expanded meaning to the word "grand-child" to include "great grand-child" also, unless the Schedule specifically includes 'great grand child', as in the case of 'brother or sister', which was included vide G.O.No.126. We find that the definition of the word "family" found in Article 58(a) is exhaustive and not illustrative.*
>
> *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."

5. In the case of the ***District Registrar, Tindivanam Vs. V.Ranganathan and another*** reported in ***2008 (1) CTC 1,*** another Division Bench of this Court dealt with the issue relating to explanation of Article 58 of the Indian Stamp Act and held as follows:-

"12. The Explanation under Article 58, which defines the word, "family", reads as follows:

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

13. Thus, it is seen that the word, "family" is given a restrictive meaning, in its Application to Article 58 and the same meaning is imported. to the word, "family" appearing in Article 45. Consequently, the respondents would be entitled to *claim the benefit of concessional rate of stamp duty under Article 45(a) only if both of them are members of a family, within the meaning of the definition of the word, "family". Obviously, the respondents do not fall within the definition of the word, "family" under Article 45(a). Therefore, prima facie, the objection raised by the appellants with regard to the nature of the document is well founded. Under such circumstances, it is not possible to order the release of the documents, especially after an order has been passed by the first appellant. Admittedly, the respondents have filed an Appeal to the Chief Controlling Authority, viz., Inspector General of Registration, on 19.4.2006. Therefore, the respondents will have to await the outcome of the said Appeal and the question of return of documents could be considered only after final orders are passed on the Appeal.*

14. In view of the above, the Writ Appeal is allowed, the order of the learned Judge dated 24.4.2007 passed in W.P. No. 12020 of 2007 is set aside. However, the Chief controlling Authority, viz., the Inspector General of Registration is directed to dispose of the Appeal filed by the respondents on 19.4.2006 against the order of the first appellant dated 22.3.2006 in Na.Ka. No.969/81/06, within a period of eight weeks from the date of receipt of a copy of this order, in accordance with law, after giving an opportunity to the respondents to put forth their objections. Connected M.P. is closed. No costs."

6. The respective learned counsels appearing on behalf of the respondents in the appeals would oppose by stating that the scope of interpretation has been expanded by this Court in more than one judgment, “family” includes grand father and grand mother in natural course. Therefore, the scope of definition of “family” need not be restricted so as to deprive the grand daughter to execute release deed in favour of grand mother in the present case. Thus, the decision of the learned single Judge is in consonance with the principles and the present appeals sought to be rejected.

7. To substantiate the arguments, they relied on the judgment of the Division Bench of this Court in the case of ***Angamuthammal Vs. K.V.Muthu*** reported in ***97 LW Page 9***. The said decision was confirmed by the Hon'ble Supreme Court, which is reported in ***(1997) 2 SCC 53***. Therefore, the principles of interpretation enumerated by the Apex Court in the said judgment is to be followed in the present case. They have relied on paragraph 11, 14 & 15 of the judgment of the Hon'ble Supreme Court, which reads as under:-

"11. While interpreting a definition, it has to be borne in mind that the interpretation placed on it should not only be not repugnant to the context, It should also be such as would aid the achievement of the purpose which is sought to be served by the Act. A construction which would defeat or was likely to defeat the purpose of the Act has to be ignored and not accepted.

14. In its ordinary and primary sense, the term "Family" signifies the collective body of persons living in one house or under one head or manager or one domestic government. In its restricted sense, "Family" would include only parents and their children. It may include even grand-children and all the persons of the same blood living together. In its broader sense, it may include persons who are not connected by blood depending upon the context in which the word is used.

15. There is a consensus among the High Courts in India that the word "Family" is a word of great flexibility and is capable of different meanings."

8. This Court heard the rival submissions made by the respective counsels appearing for the parties. The facts are not controverted. A release deed as well as settlement deed executed by the grand daughter in favour of grand mother had been presented for registration under the Registration Act. The Registering Authority refused to register the same, mainly on the

ground that the grand mother or the grand father would not fall under the definition "family" under explanation to Article 58 of Indian Stamp Act. Thus, the writ petition came to be instituted.

9. The writ Court expanded the scope of definition of 'Family" under Explanation to Article 58 of the Indian Stamp Act and granted the relief.

10. As far as the judgments relied on by the respondents are concerned, the facts are distinguishable and moreso, the cases are relating to Tamil Nadu Buildings (Lease and Rent Control) Act. Thus, the definition or meaning of the word "Family" in the said case cannot be adopted in case of registration under the Registration Act and payment of stamp duty under the Indian Stamp Act.

11. Explanation to Article 58 of the Schedule-I to the Indian Stamp Act reads as under:-

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

The definition of a "family" mentioned under Article 58 of 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 Schedule-I of the Indian Stamp Act.

12. The Legislature has power to define a word even artificially. So the definition of a word in the definition section may either be restrictive of its ordinary meaning or it may be extensive of the same. When a word is defined to "mean" such and such, the definition is *prima facie* restrictive and exhaustive. For instance, Section 2(f) of the Protection of Women from Domestic Violence Act, 2005, defines 'domestic relationship' to mean a relationship between two persons, who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family. The Supreme Court held that the definition clause mentions only five categories of relationships, and is exhaustive since the expression "means" has been used.

13. The Law Lexicon defines "Mean" and "Include" - Where the legislature defines a word or phrase to "mean"- not merely to "include," - certain things or acts "the definition is a hard-and-fast definition, and no other meaning can be assigned to the expression than is put down in the definition."

14. In the present case, explanation appended to Article 58 of Schedule-I to the Indian Stamp Act, 1899, in clear terms 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.

15. When the legal position has already been settled in the matter of interpreting the definition of "family" in the context of the Indian Stamp Act and the explanation appended to Article-58 also expressly defines the word "family", there is no scope for further judicial interpretation and the definition is to be adopted for the purpose of registration and payment of

stamp duty. Any further judicial interpretation would result in excess exercise of powers of Judicial review. Thus, this Court is of the considered view that the writ order impugned is not in consonance with the legal position settled. Thus, this Court is inclined to interfere. Consequently, the writ orders dated 06.03.2025 & 11.09.2024 are set aside and the Writ Appeals are **allowed**. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) **(M.S.Q., J.)**
18.09.2025

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Internet: No
Index: No
Non-speaking order
Neutral Citation : No

To:-

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No.100, Santhome High Road,
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S.M.SUBRAMANIAM, J.
and

MOHAMMED SHAFFIQ, J.

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