IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2025

CORAM :

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

W.A.No. 2017 of 2022
and
C.M.P.No. 15135 of 2022

1.The Inspector General of Registration
and Chief Controlling Revenue Authority,
Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Mayiladuthurai,
Nagapattinam District.

3.The Joint Sub Registrar No.I,
Mayiladuthurai,
Nagapattinam District. .. Appellants

vs

Gurugnanasambandar Mission
Charitable Trust,
Rep. By its Trustee Sri-la-Sri
Shanmuga Desika Gnanasambanda Paramacharya
Swamigal, Dharmapuram,
Mayiladuthurai Taluk,
Nagapattinam District. .. Respondent

Prayer : Appeal filed under Clause 15 of Letters Patent against order dated 02.08.2021 made in W.P.No. 37761 of 2003.

For Appellants : Mr.U.Baranidharan
Special Government Pleader

For Respondent : Mr.B.Jawahar

JUDGMENT

(Delivered by S. M. SUBRAMANIAM.,J)

The Inspector General of Registration and Chief Controlling Revenue Authority is the appellant, challenging the writ order dated 02.08.2021 in W.P.No. 37761 of 2003.

2. The deed of settlement dated 29.11.2002 relating to the present case was executed by Sri-la-Sri Shanmuga Desika Gnanasambanda Paramacharya Swamigal (Swamigal) in favour of Gurugnanasambandar Mission. As per the recitals, the properties settled by swamigal is in his individual name. The said Swamigal made a settlement of properties to the trust Gurugnanasambandar Mission under the document relating to the present case. Document was presented for registration.

3. The registering authority, on scrutiny, found that the trust mission is not falling under the Hindu Religious &Charitable Endowments Act. Therefore, the stamp duty paid by the presentant of the document was questioned. The registering authority found

that the settlement deed presented is not eligible for adoption of nominal value of Rs.100 as provided under G.O.(Ms) No. 903 and the document was kept pending in Doc No. 131 / 2002 as it is not duly stamped. Consequently, the document was impounded under Section 33 of the Indian Stamp Act, 1899 (Act) and forwarded to the District Registrar, Mayuladuthurai. The District Registrar affirmed the view taken by the registering authority vide his order dated 24.01.2003 holding that the settlement deed is entitled for 50% reduction in stamp duty, as provided under G.O. dated 1224 Revenue dated 25.04.1964 and directed the mission to pay the deficit stamp duty of Rs.54,21,199/- together with a penalty of Rs.3801/-.

4. Revision petition filed by the Mission under Section 56(1) of the Act before the Chief Controlling Revenue Authority was dismissed in vide proceedings dated 06.11.2003. Challenging the said order, writ petition came to be instituted.

5. Learned Special Government Pleader would submit that the respondent's are not entitled to avail exemption from payment of stamp duty under G.O(Ms) No. 903 dated 04.09.1986. The said position was confirmed by the registering authority, appellate authority and the revisional authority. The writ court though

dismissed the writ petition, issued a direction to return the document presented for registration. Once the document is impounded under Section 33 of the Act, it cannot be returned without following the procedures contemplated under the Act since deficit stamp duty is to be recovered under the Act. Thus the direction issued by the writ court, ever after dismissal of writ petition, is running counter to the scheme contemplated under the Act and the Registration Act.

6. It is further contended by the learned Special Government Pleader that the said document presented after registration has been referred under Section 47A of the Act. Therefore, the respondent, has to participate in the process of enquiry to be conducted by the District Collector under Section 47A of the Act and thereafter prefer an appeal under Section 47A(5) of the Act, if any order has been passed, and aggrieved.

7. Learned counsel for the respondent Mr.Jawahar opposed by stating that both the executor of the settlement deed and the beneficiary are falling under the HR&CE Act. When both the trust have been governed under the provisions of the HR&CE Act, the benefit of the stamp duty is to be extended in view of G.O.(Ms).No. 903 dated 04.09.1986. The authorities have erroneously proceeded

on the basis that the executor is not a trust administered by HR&CE Act, which is factually incorrect. That apart, the presentant of the document is entitled to get back document, if it is not registered. In the present case, the registration has been refused. Therefore, the authorities competent are bound to return the document presented and thus the direction issued by the writ court is in consonance with the provisions of the Registration Act.

8. The rival submissions made between the parties have been considered by this Court.

9. It is not in dispute that the settlement deed has been presented for registration. Authorities found that the executor / Swamigal executed the settlement deed in his personal capacity. Therefore, he is not entitled to avail the stamp duty exemption under G.O.(Ms) No. 903 dated 04.09.1986. The appellate authority and the revisional authority confirmed the said decision taken by the registering authority. Thereafter, the presentant of the document made a request to return the document, which was refused and, thus writ petition came to be instituted.

10. The respondent has to participate in the process of enquiry initiated under Section 47A of the Act to determine the

stamp duty to be paid. If at all any final order has been passed by the District Collector under Section 47A, thereafter, the respondent, if aggrieved, has to prefer an appeal under Section 47A(5) of the Act. That apart, the subject document has been registered as Document No. 1797/2003. Therefore, the respondent has to adopt the course already initiated under Section 47A of the Act. Before registration, the document was impounded by the registering authority under Section 33 of the Act. Even at that stage, if the document is to be returned, the procedures as contemplated under the Act is to be scrupulously followed. The said legal position has been settled by the Division Bench of this Court in the case of

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[W.A.No. 1609 of 2024 dated 07.10.2025]. Therefore, the document presented for registration, if impounded, cannot be returned back to the presentant without following the procedures as contemplated.

11. In the present case, the document was already registered and referred under Section 47A of the Act. That being so, the respondents have to participate in the process of enquiry to be conducted by the District Collector (Stamps) under Section 47A of the Act. Even during pending enquiry under Section 47A of the Act, the presentant of the document cannot seek return of document and the said legal position also has been settled by this Court in the

case of *Special Deputy Collector (Stamps) v M.Alfred and others* reported in 2017 2 CWC 896. The relevant paragraphs read thus:-

> *"27. The learned counsel appearing for the Respondents in Writ Appeals and the Petitioners in writ petitions would submit that in the absence of provision to withhold the documents they are to be returned. The Registering Authority cannot withhold the document. The same applies to the Collector as well. Section 47-A(4) of the Indian Stamp Act provides for a charge. Therefore, there is no need for withholding the document Reference is with respect to the dispute and not the instrument. Thus, the Writ Petitions will have to be allowed and the Writ Appeals will have to be dismissed.*
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> *28.As discussed above, there is no question of return of the instrument by the Registering Authority, if a reference is made along with the instrument. In the absence of any provisions enabling the return of the instruments, the same cannot be given back. The provision for creating charge cannot be construed for an automatic release of the document. Even if we apply the principle of purpose and reasonable interpretation, the instrument cannot be released until and unless the duty determined is set aside or found to be wrong. In the light of discussions made above, we are of the view that the contentions raised by the learned Counsel for the Writ Petitioners cannot be accepted."*

12. In either of the circumstances as stated above, the document presented for registration cannot be returned back by the registering authorities without following the procedures as contemplated under the Act. Since the document presented in the present case has already been registered, the respondent has to

place his defence before the District Collector (Stamps) under Section 47A of the Act and thereafter, if aggrieved, approach the appellate authority under Section 47A(5) of the Act.

13. The directions issued by the Writ Court to the Registering Authority to return the documents presented for registration are in violation of the procedures contemplated under the Act for return of document. Documents presented for registration shall be returned to the presentant only by following the procedures as contemplated under the Act and Rules scrupulously. Thus, the directions issued by the writ court to return back the documents presented for registration to the respondent is set aside and the decision to dismiss the writ petition stands confirmed.

14. The writ appeal stands disposed of with the above directions. It is made clear that the respondent is at liberty to approach the competent authorities for all further actions, in the manner known to law. No costs. Connected miscellaneous petition is closed.

[S.M.S, J.] [M.S.Q, J.]
14.11.2025

Index:Yes
Neutral Citation:Yes/No
ssm

To

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