



W.P.No.21479 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.21479 of 2025

D.Ravi

... Petitioner

Vs.

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

2.The Sub-Registrar,
Office of the Sub-Registrar,
Anna Nagar, Chennai.

... Respondents

PRAYER : 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 second respondent made in RFL/Anna Nagar/74/2025 dated 04.06.2025 and quash the same as illegal, arbitrary and non-est in law, consequently, direct the second respondent to register the family partition deed dated 04.06.2025, by collecting stamp duty under Article 45(a) of Schedule I of Indian Stamp Act, within the time stipulated by this Court.



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For Petitioner : Mr.B.Vijay

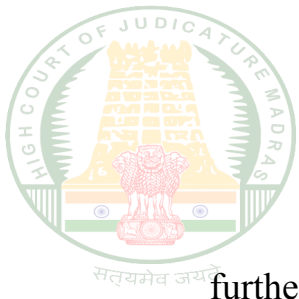
For Respondents : Mr.Karthick Jeganath
Government Advocate

ORDER

The present writ petition is filed challenging the refusal check slip dated 04.06.2025, whereby second respondent refused to register the partition deed entered into between petitioner and his wife, viz., R.Shanthi, on the premise that the instrument of partition entered among the family members should be treated as “Deed of Conveyance”.

2. By consent of learned counsel appearing for both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. Learned counsel appearing for petitioner submits that the land and building comprised in Ward I, Block 18, T.S.No.207, admeasuring an extent of 4250 sq.ft., (undivided 1/4th share) situated at 2nd Revenue, Anna Nagar, Koyambedu Village is a Hindu Undivided Joint Family Property. It is



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further submitted that petitioner purchased aforementioned property out of the funds of HUF vide Sale Deed dated 01.09.2004 registered as Doc.No.3615 of 2004 and his wife also has a share in the said 1/4th undivided Hindu Joint Family Property. While so, petitioner and his wife decided to partition the undivided Hindu Joint Family share by executing a partition deed dated 04.06.2025. When the partition deed was presented for registration, the same was refused by second respondent on the premise that the deed which is sought to be registered is not a partition deed as it is between husband and wife instead it must be treated as a deed of 'conveyance' and if such course is adopted, there could be differential stamp duty.

4. Learned counsel for petitioner would further submit that the impugned refusal slip fails to see that a partition between the husband and wife is a partition between the family members if one keeps in view Article 45(a) of Schedule - I appended to the Indian Stamp Act, 1899, which deals with partition. The relevant portion of which reads as under:

“[45. Partition – Instrument of [as



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defined by Section 2(15)].

*(a) if the instrument of partition
is among family members.*

**One rupee for every Rs.100 Or
part thereof of the market value of
the property which is under [partition]”*

.....

*Explanation.- For the purpose of this Article, the Word “Family” shall have
the same meaning a defined in the Explanation to Article 58.]”*

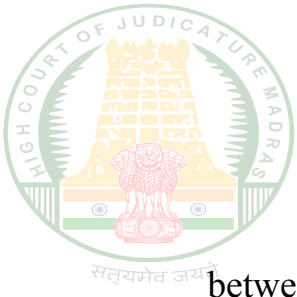
“58. Settlement -

.....

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” and adopted daughter.”*

5. From the reading of the above explanation, there could be no doubt that husband and wife would constitute the family and thus, partition between the husband and wife would also be a partition among family members and thus, stamp duty if any ought to be charged only in terms of Article 45(a) of the Schedule I appended to the Indian Stamp Act. In this regard, reliance was placed in ***W.P.Nos.10873 & 10874 of 2016 dated 10.08.2022*** in the case of ***N.Sivanandham Vs. The Sub Registrar, Office of Sub Registrar, Purasaiwalkam, Chennai - 600 007 and another*** wherein definition of the term 'family' was examined in the context of the partition



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between brothers. It was found that the partition between brothers would also constitute partition between the family members.

6. At this juncture, it was submitted by learned Government Advocate appearing for respondents that petitioner may re-present the document and on such re-presentation, the partition deed would be registered, if it is otherwise in order. If for any reason, registration is refused, a check slip would be issued after assigning reason, which was agreed to by learned counsel for petitioner.

7. This Court finds merits in the submission made by learned counsel for petitioner and therefore, the impugned order is set aside. In view thereof, there shall be a direction to petitioner to re-present the document / partition deed to the respondents within a period of four weeks from the date of uploading of the web copy without waiting for the receipt of certified copy. On such re-presentation, the respondents shall register the partition deed within a period of two weeks thereafter, if it is otherwise in order. If for



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any reason, the registering authority refuses to register the partition deed, the respondent shall issue a refusal slip assigning appropriate reason.

8. With the above observation and direction, this Writ Petition stands disposed of. No costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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MOHAMMED SHAFFIQ, J.

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