



W.P.No.33789 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.33789 of 2025

and

W.M.P.No.37918 of 2025

1. E.P.NANJUNDAN
- 2 DEVI. M.
- 3 M. GANESH
- 4 VIJAYA
- 5 GOPALAKRISHNAN

..Petitioners

Vs.

- 1 THE INSPECTOR GENERAL OF REGISTRATION
100 SANTHOME HIGH ROAD
MULLIMA NAGAR, MANDAVELIPAKKAM,
RA PURAM, CHENNAI- 600 028.
- 2 THE DISTRICT REGISTRAR (ADMINISTRATION)
NILGIRIS DISTRICT.
- 3 THE SUB REGISTRAR,
KOTAGIRI NILGIRIS DISTRICT.

...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records in proceedings Na.Ka.No.289/AA1/2017 dated 08.07.2024 on the file of the 2nd respondent and to quash the same as illegal arbitrary and unconstitutional and consequently, to direct the 3rd respondent to register



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the document pending in P34 / 2017 dated 14.12.2017.

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For Petitioner : Mr.Sunny Sheen Akkara

For Respondents : Mr.P.Harish
Government Advocate

Order

The challenge in this Writ Petition is to the proceedings issued by the second respondent dated 08.07.2024, and consequently, to direct the third respondent to register the document dated 14.12.2017.

2. The learned counsel for the petitioner would submit that the petitioner's father, Mr.Puttaiyan, purchased certain properties in the name of his sons, viz., the petitioner herein and his two brothers, viz., Mahalingam and Mani and they were the sole legal heirs to the estate of the father, Puttaiyan; that the petitioner's father passed away on 25.07.1990 ; that it is a trite law that all the properties were ancestral in nature and was part of Hindu Undivided Joint Family Property; that since the petitioner's brother, Mani passed away on 26.05.2005, leaving behind him, his wife and two children as his sole legal heirs and since the subject properties were in joint possession, all of them, decided to partition the subject property, wherein,



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the petitioner's property were also the subject matter; that when the second petitioner presented the partition deed for registration in terms of Article 45 of the Tamil Nadu Stamp Act before the Sub Registrar, the same was refused to be registered for the reason that certain properties mentioned in the schedule of Partition Deed were acquired by the petitioner in his personal capacity, as such, stamp duty leviable on such properties which stands in the name of the petitioner will not fall under the purview of Article 45 of the Tamil Nadu Stamp Act and the Sub Registrar respondent passed an order dated 15.07.2020; that aggrieved by the said order, the petitioner preferred a Revision clearly setting out the fact that the properties were purchased from hotch pot of the HUF, however, the second respondent again misconstrued the interpretation of the instrument and passed yet another order on the same lines dated 08.07.2024 and challenging the same, present Writ Petition is filed.

2.1 It is the contention of the learned counsel for the petitioner that since one of the family members had passed away, viz., the petitioner's brother, Mani, the legal heirs of the deceased family members were included



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in the partition deed, however, the respondents refused to register the same by citing the reason that the document presented by the petitioner is not partition deed but a settlement deed, as, non-members of the Family were also included in the subject deed. The learned counsel would contend that when all the parties in the said partition deed were purchased from and out of the sale proceeds of the HUF, the respondents ought not to have construed the deed as one not being a partition deed but a settlement deed. Further, the learned counsel referred to Explanation 2 to Article 45 of the Act and submits that term "family" includes the legal heirs of a deceased family member as well and in the present case, one Mani, one of the HUF passed away, leaving behind him, his wife and two children and accordingly, the names of the legal heirs of the deceased Mani, were included in the partition deed. Therefore, the learned counsel prays for setting aside the impugned order and to issue appropriate direction for registration of the document presented by the petitioner.

3. Learned Government Advocate for the respondents would submit



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that the deed presented by the petitioner is to register the said document under Article 45 of the Tamil Nadu Stamp Act, but the contents and the nomenclature of the document would decide the nature of such document to be a settlement deed required to be registered under Article 58, since, non-members of the family were also included in the subject instrument, and further, the schedule of properties mentioned thereunder also includes the petitioner's properties, which is a self-acquired property, that is the reason, why, the respondents have rightly refused to register the subject deed. Further, it is submitted that the legal heirs of the deceased family member cannot be a party to a partition deed, and if at all, petitioners seeks to register the subject deed by including the legal heirs of the deceased, the same needs to be done only under Article 58 of the Act as a settlement deed and thus, prays for dismissal of the Writ Petition.

4. Heard Mr.Sunny Sheen Akkara, learned counsel appearing for the petitioner and Mr.P.Harish, learned Government Advocate for respondents, who takes notice on behalf of the respondents and perused the materials available on record.

5. The issue that falls for consideration in this Writ Petition is as to



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whether the document, viz., Partition Deed presented by the petitioner for registration, which includes the names of the legal heirs of the deceased family member, has to be registered under Article 45 of the Tamil Nadu Stamp Act as sought for by the petitioners or to be registered under Article 58 as a Settlement Deed, as contended by the respondents.

6. This Court, in order to arrive at a fine conclusion, is of the view that it would be apposite to refer to Explanation to Article 45 of the Indian Stamp (Tamil Nadu Amendment Act) 2023 which states as follows:-

"45 Partition

Explanation--

' For the purpose of this Article, the word, "Family" shall have the same meaning as defining in the Explanation to Article 58 [and shall include the legal heirs of a deceased family member, if any]".

6.1 A reading of the above provision would make it clear that the word, "Family" is defined to the extent, as that is defined under Article 58 of the Act and in addition to that, the term, *"Family" shall include the legal heirs of the deceased family members as well.*



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WEB COPY 6.2 Now, let me take a note on Explanation to Article 58 of the Act, for the word, "Family" which reads as follows:-

"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" an adopted daughter.

6.3 On a reading of the above provision would make it clear that the legal heirs of the deceased family member cannot be included as "Family" and the term defined under Article 58 would only include father, mother, husbands, wife, son, daughter, grandchild, brother and sister. Whereas, in terms of Explanation 2 to Article 45, in addition to the Family members (as defined in Explanation 2 to Article 58) the term, ***"Family" shall also include the legal heirs of the deceased family members, if any.***



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6.4 Thus, in the given context of the case, the provision that would be applicable is Explanation 2 to Article 45, inasmuch as, one of the family members of HUF, viz., the petitioner's brother, Mani had passed away on 26.05.2005, leaving behind him, his wife and two children and they being the legal heirs of the deceased family members, their names were included by the petitioners in the Partition Deed. Though the said deed is permissible for registration in terms of Explanation 2 to Article 45, however, when the same was presented for registration, the respondents refused to register the same, by totally misconstruing the aspects that certain properties belonging to the HUF as that being self-acquired properties of the petitioner and also misinterpreting the Article 45, which is not sustainable.

6.5 In the present case, the properties, which stands in the name of an individual, are the properties purchased from and out of the sale proceeds of the Joint Family, and merely because, the properties stands in the name of the individual, it cannot be treated as his self-acquired properties, when none of the family members of the Partition Deed has disputed the said aspect, for



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the reason that, he is holding title not only on his behalf but also on behalf of his whole family members.

7. Thus, for the reasons stated hereinabove, this Writ Petition is allowed, the impugned order passed by the second respondent dated 08.07.2024 is set aside. Consequently, the third respondent is directed to register the partition deed forthwith upon re-presentation of the same by the petitioners without any further delay. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : yes/no

Neutral Citation : yes/no

To

1 THE INSPECTOR GENERAL OF REGISTRATION

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- 2 THE DISTRICT REGISTRAR (ADMINISTRATION)
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Krishnan Ramasamy,J.,

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