**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 04.04.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.(MD) No.9443 of 2025**

1 M.Ramu

2 M.Kishorekumar ... Petitioners

Vs

1 The District Collector,
Karur District,
Karur.

2 The District Registrar,
Karur District,
Karur.

3 The Sub Registrar,
Melakarur Sub Registrar Office,
Karur District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, to direct the 3rd respondent to register the pending sale deed in Doc.No.P/Melakarur/10/2025, dated 03.02.2025, and refer the same to the 1st respondent u/s. 47A of the Indian

Stamp Act,1899, so as to enable the petitioners to work out their remedy in the manner known to law.

For Petitioners : Mr.R.Gunasekaran

For Respondents : Mr.R.Suresh Kumar,
Addl. Govt. Pleader.

**ORDER**

The petitioner seeks for the following relief :

''Writ of mandamus, to direct the 3rd respondent to register the pending sale deed in Doc.No.P/Melakarur/10/2025, dated 03.02.2025, and refer the same to the 1st respondent under Section 47A of the Indian Stamp Act,1899, so as to enable the petitioners to work out their remedy in the manner known to law.''

2. The petitioners state that the property situated in Survey No. 471 of Thoranakkalpatti Village, Karur Taluk and District, belongs to M.Periyasamy and S.Muthusamy. Periyasamy passed away on 05.09.2019. He left behind his wife Pappayee and sons Karuppanasamy and Karmegam, as legal heirs.

3. The legal heirs of Periyasamy and Muthusamy decided to alienate the property in favour of the petitioners herein. Though the aforesaid

persons were owners of 1 acre and 39 cents out of 7 acres and 29 cents, the sale in favour of the petitioners was for 50 cents alone.

4. The sale deed was presented for registration on 03.02.2025 before the third respondent – Sub Registrar. Instead of registering the document, the third respondent demanded that deficit stamp duty be paid on the document and kept it pending in Document No.P/Melakarur/10/2025. Thereafter, the third respondent informed the petitioner that a sum of Rs. 650/- per sq.ft., would have to be paid Till such time, he would neither release the document nor register the same. Aggrieved by the same, the present Writ Petition.

5. I have heard Mr.R.Gunasekran, for the petitioner; and Mr.R.Suresh Kumar, for the respondents.

6. Mr.Gunasekaran, after narrating the averments in the affidavit, pleaded that Sub-Registrar does not have the jurisdiction to keep the document pending and make a demand for payment of the alleged deficit stamp duty. On the merits of the case, he states that the alienation is of agricultural land and therefore, there is no question of charging the property on a square feet basis.

7. Per contra, Mr.Suresh Kumar, relying upon Section 80A of the Registration Act,1908, read with Rule 2 of the Registration Rules,1908,

contends that the Sub-Registrar has the jurisdiction to demand payment of registration fee. Hence, he pleads that the relief sought for in the Writ Petition is untenable and deserves dismissal.

8. I have carefully considered the submissions of both sides.

9. The third respondent is not an authority contemplated under the Indian Stamp Act,1899, for the purpose of recovery of deficit stamp duty and consequent deficit registration fee. The Indian Stamp Act was amended by the Tamil Nadu Legislature, inserting Section 47A. This Section deals with situations where a document of conveyance, exchange, gift, release of benami right or settlement, is undervalued. The Government of Tamil Nadu has also framed rules regarding the manner in which such instruments are to be dealt with. Those rules are the Tamil Nadu Stamp (Prevention of undervaluation of instruments) Rules,1968.

10. Under Rule 3 of the 1968 Rules, the registering officer, before registering the document, is entitled to satisfy himself that the property, which is the subject matter of registration, has been valued properly or not. Under Rule 3 (3), he is also entitled to conduct such enquiry, as he deems fit, in case the executant disputes the additional stamp duty, demanded by the Sub-Registrar. In terms of Section 47-A (1) of the Indian Stamp Act, the Sub-Registrar is duty bound to register the document and send a reference to the

Stamp Collector for determination of the correct stamp value. It is not open to the Sub-Registrar to usurp the power of the Stamp Collector and decide the deficit stamp duty payable. As the stamp duty is linked to registration fee, the determination of the stamp duty will have an automatic effect on the registration fee paid.

11. In so far as Section 80A of the Registration Act,1908, relied upon by Mr.Suresh Kumar, that speaks about the recovery of deficit registration fee. The Section itself states that if the fee payable, as per the valuation given in the document, has not been paid or has been insufficiently paid, then, the registering officer, **after registration of the document**, is entitled to recover the amount as if it is arrears of land revenue, for which purpose a certificate that arrears are payable would have to be issued by the Sub-Registrar. Section 80A read with Rule 2 of the Registration Rules contemplates a situation where a document is registered and, thereafter, referred to under Section 47A (1) of the Indian Stamp Act and, after conclusion of the proceedings under the said provision, the deficit fee, any, would be recovered as if it is arrears of land revenue. The power to determine the deficit fee continues to be with the Stamp Collector and cannot be exercised by the Sub-Registrar.

12. In the light of the above discussion, Writ Petition succeeds. There shall be a direction to the third respondent to register the document. If he still feels that there is deficit stamp duty, he shall refer the matter under Section 47A of the Indian Stamp Act to the appropriate authority. Keeping the document pending is not in compliance with the Act and the Rules.

13. With the above direction, this Writ Petition stands ordered. No costs.

**04.04.2025**

(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

1 The District Collector,
Karur District,
Karur.

2 The District Registrar,
Karur District,
Karur.

3 The Sub Registrar,
Melakarur Sub Registrar Office,
Karur District.

**V.LAKSHMINARAYANAN, J.**

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