IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

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THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 42112 of 2025
&
WMP Nos.47162 & 47164 of 2025

D.Jothiramalingam, S/o. A.Durai,
No. 31 Sathyabama Apartment, 3rd Floor,
Madavaperumal Koil Street, Mylapore, Chennai 4.

..Petitioner(s)

Vs

1. The Inspector General of Registration,
   Registrar Office, No.100, Santhome High Road,
   Pattinapakkam, Chennai 28.

2. The District Registrar (Registration
   Department), Registrar Office No.10,
   Kancheepuram Highway, Chengalpattu 603
   002.

3. The Sub Registrar, Sub Registrar Office,
   Sunguvarchatram 602 106.

..Respondent(s)

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling upon the records of the impugned order in Ka.No. 7191/ AA4/ 2024 dated 7.07.2025 passed by the 2nd respondent impounding the partition Deed and demanding payment of Rs.5,89,000/- to quash the same and further direct the 3rd respondent to proceed with registration of the partition deed submitted on

26.09.2024 (Pending Doc.No.P.116/2024) without reference to the misclassified stamp duty.

For Petitioner(s): Mr.S.Raveekumar

For Respondent(s): MR.U.Baranidharan, SPL.G.P.

ORDER

A partition deed was executed by and between the descendants of Mr.Elumalai Naicker and presented for registration. By impugned order dated 07.07.2025, it was held that additional stamp duty is payable over and above the sum of Rs.1,23,200/-, which was remitted. The petitioner challenges the order of determination of stamp duty.

2. Learned counsel for the petitioner invited my attention to Article 45 of Schedule I to the Indian Stamp Act, 1899 and pointed out that stamp duty payable on instruments of partition among family members is specified therein. He also refers to the amendment to Article 45 that included the legal heirs of a deceased family member within the definition of family. By referring to the impugned order, learned counsel contends that it is erroneously recorded therein that the partition is by and between family members with regard to certain allotments, but not with regard to others. He also contends that the amendment to Article 45 was not taken note of while issuing the impugned order.

3. Learned Special Government Pleader responded to these contentions by referring to the counter affidavit. He points out that the stamp duty was computed after taking into account the extent allotted to each person. He relies upon Section 5 of the Indian Stamp Act, 1899, in this regard.

4. Article 45, in relevant part, reads as under:

"45. Partition- Instrument of [as 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 as defined in the Explanation to Article 58 [and shall include the legal heirs of a deceased family member, if any]"*

It is evident from the above extract of Article 45(a) that stamp duty is leviable on the market value of the property which is under partition. If such partition is between family members as defined in the explanation to Article 58, a lower stamp duty has been fixed.

5. The Explanation to Article 58 defines 'Family' as under:

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."

Therefore, the District Registrar should have examined whether the partition deed was by and between members of a family, as defined in the Explanation to Article 58 and the amendment made to the Explanation to Article 45.

6. On perusal of the impugned order, it is noticeable that, in paragraphs 13(c) and 14(c), a conclusion has been drawn that the partition is not between members of the family. In both cases, references are made to the children of the deceased sister. 'Sister' falls within the definition of family and the children of a deceased sister would qualify as per the amendment to the Explanation to Article 45. In paragraph 15(b), reference is made to the grandmother's sister. Grandmother's sister *prima facie* does not fall within the scope of the Explanation to Article 58. Learned counsel for the petitioner, however, contends that the grandmother's sister's children are not parties to the partition. These are factual aspects that warrant reconsideration.

7. The District Registrar also proceeded to impose additional stamp duty by reckoning the additional share allotted to certain members of the family. This approach does not appear to be in consonance with Article 45 and also calls for reconsideration upon remand.

8. For reasons set out above, the impugned order cannot be sustained and is hereby set aside. As a corollary, the matter is remanded to the District Registrar for reconsideration. The District Registrar is directed to provide a reasonable opportunity to the petitioner and the other parties to the partition deed and issue a fresh order within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

20.01.2026

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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To

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Registrar Office, No.100, Santhome High Road,
Pattinapakkam, Chennai 28.

2.The District Registrar (Registration
Department), Registrar Office No.10,
Kancheepuram Highway, Chengalpattu 603 002.

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SENTHILKUMAR RAMAMOORTHY, J.

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