BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.03.**2026**

CORAM:

THE HON'BLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.18066 of 2017
and
W.M.P(MD)No.14520 of 2017

Rajalakshmi ... Petitioner

.Vs.

The Sub-Registrar,
Woiyur Sub Registrar Office,
Woriyur, Tiruchirappalli-3. ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to issue a Writ ot Certiorari calling for the records pertaining to the impugned Document No.6282/2025, dated 16.8.2017 under A.G.No. 20-76/2016-17 Para I/II-A and quash the same on the ground that the same is arbitrary and illegal.

For Petitioner : Ms.M.Rajeswari

For Respondent : Mr.F.Deepak
Spl. Govt. Pleader

O R D E R

 The Writ Petition is filed challenging the impugned order dated 16.08.2017 and to quash the same.

2.By the impugned order, the Sub Registrar, the respondent in the Writ Petition, had demanded the Petitioner to pay the deficit Court Fee of Rs.2,34,000/-. It is stated that pending proceedings, without prejudice to the right of the Petitioner, they have also paid the amount, but however, they are contesting the issue.

3.The learned counsel for the Petitioner would submit that absolutely no enquiry was conducted and no opportunity was given to the Petitioner. When the stamp duty was duly paid and document is already registered, belatedly the Sub Registrar cannot issue such notice.

4.The Writ Petition was contested by the respondent by filing counter affidavit. It is stated that the Release Deed is presented and registered. It was treated as between the family members. It is between the mother in law and the daughter in law. Since the same does not come within the definition of family contained in the explanation to Article 58 of the Schedule to the

Indian Stamp Act,1899,an error was committed on behalf of the Sub Registrar in accepting the stamp duty and registration fee totalling to Rs.29,000/- only, whereas, the total is Rs.2,63,000/- if it is treated otherwise than within the family. The same was unearthed during audit and immediately thereafter notice was issued.

5.I have considered the rival submissions made on either side and perused the records placed before this Court.

6.In any event, when the impugned order visits the Petitioner as a civil consequence, the same could not have been passed without hearing the Petitioner and affording an opportunity. As a matter of fact, if the document is erroneously registered, with less stamp duty, the procedure is prescribed under section 33-A of the Indian Stamp Act , 1899 which is extracted hereunder:

''33-A. Recovery of deficit stamp duty.--

(1)Notwithstanding anything contained in Section 33 or in any other provisions of this Act, if, after the registration of any instrument under the Registration Act, 1908(Central Act XVI of 1908), it is found that the proper stamp duty payable under this Act in respect of such instrument has not been paid or has been insufficiently paid, such duty or the deficit, as the case may be,

may, on a certificate from the Registrar of the district under the Registration Act, 1908(Central Act XVI of 1908) be recovered from the person liable to pay the duty, as an arrear of land revenue.;

Provided that no such certificate shall be granted unless due inquiry is made and such person is given an opportunity of being heard;

Provided further that no such inquiry shall be commenced after the expiry of three years from the date of registration of the instrument.

(2)The certificate of the Registrar of the district under sub-section (1) shall, subject only to appeal under sub section(3), be final and shall not be called in question in any Court or before any authority.

(3)Any person aggrieved by a certificate of the Registrar of the district under sub section(1) may appeal to the Chief Controlling Revenue Authority. Any such appeal shall be preferred within such time, and shall be heard and disposed of in such manner, as may be prescribed.)

7.Therefore it is for the Sub Registrar to inform the Registrar who in turn can issue the certificate. The certificate can be granted only after affording opportunity of hearing to the Petitioner.

8.Therefore the Writ Petition is allowed on the following terms:

(i)the impugned order,dated 16.8.2017 is quashed;

(ii)the respondent can initiate proceedings as per Section 33 -A of the Indian Stamp Act,1899 and the Registrar shall provide opportunity of hearing to the Petitioner;.

(iii)If no further proceedings are initiated, the amount paid by the Petitioner shall be refunded to the Petitioner.

(iv)In this case,it must be seen that the document was registered in the year 2015 and the notice of demand was made in the year 2017 and the petitioner also paid the amount and the matter is subjudice before this Court. It will be open for the parties to properly contest the matter before Registrar if the proceedings are further initiated with reference to limitation.

(v)No costs. Consequently, connected Miscellaneous Petition is closed.

04.03.2026

NCS : No
Index : No
Internet : Yes
vsn
To

The Sub-Registrar,
Woiyur Sub Registrar Office,
Woriyur, Tiruchirappalli-3.

D.BHARATHA CHAKRAVARTHY.,J.

vsn

ORDER MADE IN

W.P(MD)No.18066 of 2017
and
W.M.P(MD)No.14520 of 2017

04.03.2026