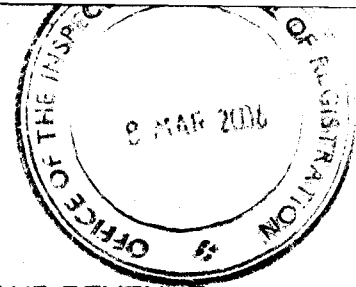


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PROCEEDING OF THE COMMISSIONER OF LAND REVENUE
(Public Office Building, Museum Junction, Thiruvananthapuram-33)
(Present : Sri.K.J.Alphons, IAS)

No>LR.A3-368/2005

Date: 20.02.06

Sub Kerala Stamp Act U/S 54(1) Revision Petition filed by the General Manager, Thiruvalla East Co-Operative Bank, Eraviperoor against the Order of the District Registrar(G), Pathanamthitta on impounded documents No.P1/04 of the SRO, Vennikulam & P1/04 of the SRO-Thiruvalla - Orders issued.

Read 1 Revision petition dated 04.01.2005 & 10.01.2005 filed by the General Manager, Thiruvalla East Co-Operative Bank
2 Report No.RR4.7570/05 dated 07.09.2005 of the IGR, Thiruvananthapuram

The Government have clarified the matter in letter No. 20478/E2/90 TD dated 25.09.1991 that even if the document is executed by a non member and the document is relating to the business of the Society, it shall be exempted from the Stamp Duty.

In this case the landed property was purchased(by public auction) by Shri.P.V.Yacko and he is the President of the said Co-Operative Bank. But it does not specify the actual purpose for purchase the land on behalf of the said Co-Operative Bank. Hence the immovable property which was purchased on behalf of the Co-Operative Bank is not considered for the business of the said Co-Operative Bank.

This is a revision petition filed by the General Manager, Thiruvalla East Co-Operative Bank Limited, Eraviperoor against the Order No.INS 2.180/04 dated 05.11.2004 of District Registrar(G) Pathanamthitta to realize the Stamp Duty of Rs.4158/- and penalty of Rs.100/- on impounded document No.P1/04 of the Sub Registrar's Office, Vennikulam and the Order No.INS 2.313/2004 dated 04.11.2004 of the District Registrar(G), Pathanamthitta to realize the Stamp Duty of Rs. 10,164/- and penalty of Rs.100/- on impounded document No.P1/2004 of the SRO, Thiruvalla.

The documents under reference has been styled as a 'Sannathu ' in favour of Thiruvalla East Co-Operative Bank Limited, Eraviperoor. It has been executed on unstamped paper claiming complete exemption of Stamp Duty in the light of G.O(MS) 795/60/Agri. dated 08.10.60.

The Sub Registrar, Vennikulam and Thiruvalla impounded and forwarded the documents to the District Registrar U/S 37(2) of the KSA. The District Registrar(G), Pathanamthitta In his proceedings No.INS 2.180/2004 dated 05.11.2004 and INS 2.313/2004 dated 04.11.2004 have said that the impounded documents are not eligible for exemption from paying Stamp Duty of Rs.14322/- and penalty of Rs.200/- against the above Orders the present petition has been filed.

The main contention of the petitioner is that the Orders of the District Registrar is against legal provision and facts, that the Orders was passed without giving an opportunity to the revision petitioner to present the facts supported by documents, that the District Registrar has not correctly referred to the Order of the Land Revenue Commissioner vide No. D.Dis 18313/2002 dated 13.11.2000, that the Board of Directors had decided earlier as per resolution No. 1068 dated 10.11.1995 to purchase the plots in auction. The petitioner has prayed that the Hon'ble Commissioner may be pleased to quash the relevant Orders of the District Registrar.

The Inspector General of Registration is of the opinion that the impounded document is not eligible for the exemption of Stamp Duty because it was not executed in connection with the purpose of the business of the Co-Operative Bank as per its bye law.

As per notification No.G.O(M.S) 795/60/Agri. dated 08.10.60 full remission is allowed for those Co-Operative Societies registered in the State to execute instruments by or on behalf of any registered Co -Operative Society or instruments executed by any Officer of such Society or Member and relating to the business thereof.

The Government have clarified the matter in letter No. 20478/E2/90/TD dated 25.09.1991 that even if the document is executed by a non member and the document is relating to the business of the Society, it shall be exempted from the Stamp Duty.

In this case the landed property was purchased (by public auction) by Sri. P.V. Yacko and he is the President of the said Co-operative Bank. But it does not specify the actual purpose for purchase the land on behalf of the said Co-operative Bank. Hence, the immovable property which was purchased on behalf of the Co-operative Bank is not considered for the business of the said Co-operative Bank.

The appellant was heard by me on 14.02.2006. The arguments of the appellant are as follows:-

- (1) As per clause (5/XVII) of the bye laws of the Society one of the objects of the society is "to manage, to sell and to realize any property which may come into the possession of the bank in satisfaction or part satisfaction of any of its claims".
- (2) Besides the bank by a resolution had authorized the General Manager to bid the property in auction.
- (3) Therefore the property was bid in the business of the society.

Findings

The document was executed in relation to the business of the society and therefore exempted from payment of Stamp Duty.

ORDER

Revision petition is allowed.

3/4 COMMISSIONER

To

1. The General Manager
The Thiruvalla East Co-Operative Bank Limited
Eraviperoor, Pathanamthitta.
2. Sri.K.Bharghavan Pillai
Advocate, T.C-9/1851
Kochar Road, Sasthamangalam
Thiruvananthapuram - 10

Copy to:-

1. The Registration Inspector General
Thiruvananthapuram
2. The District Registrar
Pathanamthitta.