

PROCEEDINGS OF THE BOARD OF REVENUE (LR)

Present: Sri. K.V. Vidhyadharan, Member, Board of Revenue.

No.DDis.10420/84/LRA3. Thiruvananthapuram, Dated 23.2.1987;

Sub:- Revision petition under section 54 of the Kerala Stamp Act against the order of the Assistant Collector, Tellicherry in respect of a document produced in OS 242/80 of the Additional Munsiff's Court, Tellicherry - Decision communicated.

- Read:-1. Revision petition dt 9.2.84 from Sri.A.C. Abdul Kader, Hotel Santhi, Main Road, P.O.Chikaluripet, Andhra.
2. Proceedings No.FL.3153/81 Dt 29.10.83 from the Assistant Collector, Tellicherry.

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This is a revision petition filed under section 54 of the Kerala Stamp Act, 1959 against proceedings No.FL/3153/82 dated 29.10.1983 of the Revenue Divisional Officer, Tellicherry ordering to pay deficit stamp duty of Rs.255/- together with a penalty of Rs.2,550/- on an impounded document received by him under section 54 of the stamp Act from the Munsiff, Tellicherry. While the revision petition is pending decision of the Board the petitioner has filed OP(OP 2747/84) before the Honourable High Court on the same issue challenging the decision of the Revenue Divisional Officer and to issue directions to the Board to dispose of his revision petition expeditiously pending ~~taxdispute of his revision petition~~ before it. The facts of the case are as follows:-

2. A registered agreement() dated 10.6.1978 signed and issued by one Sri. A.C. Abdulkader in favour of the Secretary, Chala Beedi Works Industrial Co-operative Sahakaran Sanghom was produced before the Additional Munsiff, Tellicherry as evidence in O.S. 242 of 80 of the Additional Munsiff's Court, Tellicherry. The Additional Munsiff, Tellicherry impounded the document under section 33 of Kerala Stamp Act treating it as lease deed and forwarded the same to the Revenue Divisional Officer in original for realising the deficit stamp duty of Rs.255/- together with a penalty of Rs.2,550/-. Since the document was found liable for stamp duty of Rs.255/- the Revenue Divisional Officer issued a notice to Sri. C. Abdul Khader (revision petitioner) to show cause the deficit stamp duty and penalty at ten times the stamp duty could not be imposed. In reply to the show cause notice he filed a written statement stating that the document was neither executed by him nor produced by him in the Court. It was also stated therein that the above document was executed on behalf of him by one Sri. A.C. Mohammed who was not authorised to do so and it was produced in the Court by the Secretary, Chala Beedi Workers Co-operative Society. He also contended that the Co-operative Society (leasee) is liable to

pay the stamp duty since the document was produced by the lessee. Accordingly show cause notice was issued to the lessee on 27.2.82. In reply to the show cause notice, the Secretary, Chala Beedi Workers Industrial Co-operative Society filed a written statement saying that the liability to pay stamp duty and penalty was with the landlord as per section 30(c) of the stamp Act and not on the Society (tenant).

3. After hearing both the parties the Revenue Divisional Officer in his proceedings No.FI-3153/81 dated 29.10.82 held that the document is a counterpart of lease deed and stamp duty is to be charged as a lease falling under article 33 a (viii) of the Schedule to the Kerala Stamp Act, 1959. Accordingly the petitioner was directed to remit the stamp duty of Rs.255/- and penalty of Rs.2,550/- within 15 days of the receipt of the order, failing which the amount will be recovered under the provision of the R.R. Act. The revision petition is against the said order of the Assistant Collector. The Board in its letter dated 17.4.84 had issued interim stay in respect of the recovery proceedings till the disposal of the revision petition. It was at this stage the petitioner filed OP and CMP (O.P.2747/84 and CMP 3667/84) before the Hon: High Court. The recovery amount was stayed by the Honourable High Court until further orders on 9.4.1984.

The case stood posted for hearing on 14.1.87. None turned up to be heard in spite of notice. The Board examined the document. It is a lease deed and is liable to stamp duty and penalty as decided by the Revenue Divisional Officer. No valid grounds to interfere. Dismissed.

(By order)

Sd/-
Secretary.

Forwarded/By order.
Sd/- Secretary.

/True Copy/

Sd/-

For Inspector General of Registration.

Ins.3. 731/01

Office of the District Registrar(GI)

Alappuzha Dt: 7.2.1991.

Copy communicated to all Sub Registrar and the same may be acknowledged.