

RR.3-4201/2008

Office of the Inspector General of Registration,  
Thiruvananthapuram, dated, 18.02.2008

## CIRCULAR

Sub:- Registration Department- Adjudication under section 45(B) of  
Kerala Stamp Act - Compliance of - Instructions issued

Ref:- Judgment of the Hon'ble High Court dated, 11.01.2008 in  
O.P.No.1014 of 2000 (U)

Section 45B of the Kerala Stamp Act, 1959 and Kerala Stamp (Preventions of Under valuation of Instruments) Rules 1968 prescribed the procedure for determination of the value or consideration, as the case may be, on instruments undervalued. The relevant portion of Section 45 B of the Kerala Stamp Act, 1959 is quoted herein below;

If the Registering Officer, while registering any instrument transferring any property has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon. "On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, by order, determine the value of the property or the consideration and the duty aforesaid; and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on the payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature".

The Hon'ble High Court in its Judgment dated 11.01.2008 in O.P. No.1014 of 2000 (U) has observed that the District Registrars are demanding differential stamp duty without proper adjudication. It is held that this is a clear violation of the proceedings contemplated under Section 45 B of the Stamp Act and the rules framed thereunder. All such demand notices issued in violation of the act are being



cancelled by the Hon'ble High Court ordering re-adjudication. The Hon'ble Court has observed that District Registrars are repeating the same mistake. The Hon'ble Court felt that continued violation of the statutory provisions and issuance of such orders should be viewed seriously and exorbitant cost should be levied against the District Registrars concerned.

The Court has further directed the undersigned to issue a circular and communicate the same to the District Registrars directing them to strictly follow the procedure under the statute and issue adjudication orders after conducting an enquiry and based on the enquiry communicate the proposal for determination of market value and differential stamp duty, and complete adjudication after giving an opportunity to the party concerned to file written reply and hearing in the matter. Thereafter, if orders violating the procedure prescribed by the Act and Rules are issued by the District Registrars, the court will impose cost on the person concerned.

It is hereby directed that all District Registrars should issue adjudication orders after conducting an enquiry and based on the enquiry communicate the proposal for determination of value or consideration, as the case may be, as contemplated in Section 45B of the Kerala Stamp Act and differential stamp duty, and complete adjudication after giving an opportunity to the party concerned to file written reply and hearing in the matter. If there is non-compliance of this circular, disciplinary action shall be initiated against the District Registrars concerned.

All District Registrars are requested to acknowledge the receipt of this circular in the copy attached for the purpose with their name, designation and dated signature.

  
Inspector General of Registration

Copy to:

1. The Joint Inspector General of Registration
2. All Deputy Inspector General of Registration
3. All District Registrars (General)
4. All District Registrars (Audit)
5. CA to the Inspector General of Registration
6. File/Stock File



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