

2005

PROCEEDINGS OF THE COMMISSIONER OF LAND REVENUE

(Public Office Building, Museum Junction, Trivandrum 695033)

(Present: Dr. M. Vijayanunni, I.A.S)

No. D.Dis.40505/01/LR/(A3)

Dated: 12.4.2003.

Sub: Kerala Stamp Act Reference u/s 54(2) impounded document No. P1/01 of the Kannur.

Read: 1. Letter No. C.1.1415/01 dated 31.5.2001 of the District Registrar, Kannur.

2. Letter No. RR.4. 10074/91 dated 17.11.2001 of the Inspector General of Registration, Trivandrum.

C/m

The District Registrar (General) Kannur has referred the impounded document No. P1/01 of the Sub Registrar Office, Kannur u/s 54(2) of the Kerala Stamp Act for the decision of the Commissioner of Land Revenue as to the amount of duty chargeable for a supplementary Trust deed. The facts of the case are as follows.

The document under reference is drawn up on stamp paper for Rs. 1000/- as a supplementary Trust deed with the capital amount of Rs. 7,000/- for extending the period of the original Trust deed No. 996/1982 registered for 20 years with the value of immovable properties for Rs. 5,10,000/-. The intension of registering the supplementary trust deed was to extend the period of the original trust deed from 20 years to 30 years.

The Sub Registrar who impounded the document on the ground that it has to be treated as a new trust deed and the stamp duty has to be determined on the basis of the estimated value of the immovable property of Rs. 5,10,000/- as per the original trust deed. The District Registrar (General) as per his report read as 1st paper above has referred the impounded document with the following opinion.

The period of original trust deed No. 996/1982-1982 expired on 15.04.2002 and with this new document the period has to be extended for another 10 years. As change occurs in the period of trust stated in the original deed and the Kerala Stamp Act does not specify the duty to be realised for a supplementary deed, stamp duty for a total value of Rs. 5,17,000/- has to be levied for the impounded document reckoning it as a new Trust deed for schedule article 57 (a) of the K.E. A.

The Inspector General of Registration vide his letter read as 2nd paper above has opined that there is no provision in the stamp Act for the determination of stamp duty for a supplementary trust deed. As there is no mention as to the value of the property included in the impounded document and it is a part of the original trust deed No. 996/1982 the

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stamp duty imposed for the original trust deed have to be realised for the impounded document.

The case was heard on 1.6.02 and 2.4.03. The Advocate for the trustees contended that the impounded document has been registered legally as a supplementary trust deed and that as per law the document cannot be impounded after its registration. When there is a dispute as to the stamp duty payable on the instrument subject to registration, after registration, the registering authority is not entitled to retain possession of the original document, but is obliged to return the document and take appropriate proceedings under the Act. The counsel argued that as per supplementary trust deed only the period of the trust is being extended for another period of 10 years, and the stamp duty at conveyance rate has already been remitted as per article 21, 22 of the K.S.A. and hence there is no need to remit more stamp duty and that stamp duty is not payable in this case on the basis of the value of the original trust deed as this documents is only to effect an extension of the period.

After considering the reference in detail, the above averments of the petitioner are upheld and it is decided that no additional stamp duty is leviable on this document.

Sd/-
COMMISSIONER.

1. The Inspector General of Registration, Trivandrum.

Forwarded/By order

Sd/-
SUPERINTENDENT.

// True Copy //

Endot. No.RR.4. 18074/01. Office of the Inspector General of
Registration, Kerala, Trivandrum,
Dated : 25.4.03

Copy communicated for information District Registrars
(General) should communicate the same to the Sub Registrars.

S. S. S. S. S.
FOR INSPECTOR GENERAL OF REGISTRATION.

To

All the District Registrar (GI & Audit)
All Deputy Inspector General of Registrations
All Section Superintendents of this Office.

T.S. : 29/4.