

**GOVERNMENT OF ANDHRA PRADESH**

**A B S T R A C T**

Municipal Administration and Urban Development Department – Hyderabad Municipal Corporation Act, 1955 – Reduction of Tax on Transfer of Property in Municipal Corporation areas payable on sale deeds – Orders – Issued.

MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (TC) DEPARTMENT

G.O.Ms.No. 150,

Dated the 6th day of April, 2013.

**ORDER:**

The following notification will be published in the Extra-ordinary issue of Andhra Pradesh Gazette, dated 06.04.2013.

**N O T I F I C A T I O N**

In exercise of the powers conferred by section 261 (1) (b) read with 679-E of the Hyderabad Municipal Corporation Act, 1955, and in supersession of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property in all the Municipal Corporation areas in the State of Andhra Pradesh at 1.5% (one and half percent) without any deduction towards collection charges with effect from 1st April, 2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ADHAR SINHA**

PRINCIPAL SECRETARY TO GOVERNMENT

**GOVERNMENT OF ANDHRA PRADESH**

**A B S T R A C T**

Municipal Administration and Urban Development Department – Andhra Pradesh Municipalities Act, 1965 – Reduction of Tax on Transfer of Property in Selection / Special Grade Municipalities payable on sale deeds – Orders – Issued.

MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (TC) DEPARTMENT

G.O.Ms.No. 151,

Dated the 6th day of April, 2013.

**ORDER:**

The following notification will be published in the Extra-ordinary issue of Andhra Pradesh Gazette, dated 06.04.2013.

**N O T I F I C A T I O N**

In exercise of the powers conferred by section 120 (b) read with 387 A of the Andhra Pradesh Municipalities Act, 1965, and in supersession of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property in all Selection / Special Grade Municipalities in the State of Andhra Pradesh at 1.5% (one and half percent) without any deduction towards collection charges with effect from 1st April, 2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ADHAR SINHA**

PRINCIPAL SECRETARY TO GOVERNMENT

**GOVERNMENT OF ANDHRA PRADESH**

**A B S T R A C T**

Municipal Administration and Urban Development Department – Andhra Pradesh Municipalities Act, 1965 – Reduction of Tax on Transfer of Property in Municipalities (other than Selection / Special Grade Municipalities) payable on sale deeds – Orders – Issued.

MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (TC) DEPARTMENT

G.O.Ms.No. 152 ,

Dated the 6th day of April, 2013.

**ORDER:**

The following notification will be published in the Extra-ordinary issue of Andhra Pradesh Gazette, dated 06.04.2013.

**NOTIFICATION**

In exercise of the powers conferred by section 120 (b) read with 387 A of the Andhra Pradesh Municipalities Act, 1965, and in supersession of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property in Municipalities (other than Selection / Special Grade Municipalities) in the State of Andhra Pradesh at 1.5% (one and half percent) without any deduction towards collection charges with effect from 1st April, 2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ADHAR SINHA**

PRINCIPAL SECRETARY TO GOVERNMENT

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Municipal Administration and Urban Development Department –Reduction of Tax on Transfer of Property in Municipal Corporations and Municipalities in the State payable on sale deeds – Orders – Issued.

MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (TC) DEPARTMENT

G.O.Ms.No. 153,

Dated the 6th day of April, 2013.

**ORDER:**

The following notifications will be published in the Extra-ordinary issue of Andhra Pradesh Gazette, dated 06.04.2013.

**NOTIFICATION - I**

In exercise of the powers conferred by section 261 (1) (b) read with 679-E of the Hyderabad Municipal Corporation Act, 1955, and in supersession of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property payable on all sale deeds of Flats / Apartments in Municipal Corporations of the State of Andhra Pradesh at 1.5% (one and half percent) without any deduction towards collection charges with effect from the 1st April, 2013.

**NOTIFICATION - II**

In exercise of the powers conferred by section 120 (b) read with 387 A of the Andhra Pradesh Municipalities Act, 1965, and in supersession of the earlier notifications issued on the subject, the Governor of Andhra Pradesh hereby fixes the Duty on Transfer of Property payable on all sale deeds of Flats / Apartments in Municipal Areas of the State of Andhra Pradesh at 1.5% (one and half percent) without any deduction towards collection charges with effect from 1st April, 2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ADHAR SINHA**

PRINCIPAL SECRETARY TO GOVERNMENT

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Panchayats – Reduction of duty on Transfer of Property in respect of Panchayats in the State from 3% to 1.5 % under the Andhra Pradesh Panchayat Raj Act, 1994 – Orders – Issued.

**PANCHAYAT RAJ & RURAL DEVELOPMENT (PTS.I) DEPARTMENT**

G.O.Ms.No.226

Dated 06.04.2013

Read the following

1. G.O.Ms.No.239, Panchayat Raj and Rural Development (Pts.III) Department, Dt.30.06.2005.
2. Minutes of the meeting convened by the Hon'ble C.M. in his chambers on 05.01.2013.

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**ORDER:-**

The following notification will be published in the Extra-Ordinary issue of the Andhra Pradesh Gazette, Dt.06.04.2013.

**NOTIFICATION**

In exercise of the powers conferred under clause (b) of sub-section (1) of section 69 of APPR Act, 1994 (A.P. Act 13 of 1994), and in super session of the earlier orders/notifications issued on the subject, the Governor of Andhra Pradesh hereby reduces the rate of duty on Transfer of Property in respect of Panchayats in the State from the existing 3% to 1.5% with effect from the 1st April, 2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V. NAGIREDDY**

**PRINCIPAL SECRETARY TO GOVERNMENT**

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Revenue (Registration and Stamps) Department – Indian Stamp Act, 1899 – Reduction of Stamp Duty payable on sale deeds under Article 47-A of Schedule I-A – Orders – Issued.

**REVENUE (REGISTRATION.I) DEPARTMENT**

G.O.Ms.No. 162

Dated : 30-03-2013

Read the following:-

- 1) G.O.Ms.No.719, Revenue (Registration.I) Deptt., dt.30/07/2010.
- 2) Minutes of the Meeting held on 05/01/2013 in the chambers of Hon'ble C.M., on revision of market values.

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**ORDER:-**

The following notification will be published in Extraordinary issue of the Andhra Pradesh Gazette, **dated 01-04-2013.**

**NOTIFICATION**

In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the stamp duty payable on sale deeds from 5% to 4% in all areas of Andhra Pradesh under Article 47-A of Schedule 1-A of the said Act, with effect from **01-04-2013.**

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**VINOD K. AGRAWAL**  
PRINCIPAL SECRETARY TO GOVERNMENT

**PROCEEDINGS OF THE CHIEF CONTROLLING REVENUE AUTHORITY AND  
COMMISSIONER & INSPECTOR GENERAL OF REGISTRATION & STAMPS, A.P.,  
HYDERABAD.**

**PRESENT: SRI DR. VIJAY KUMAR, I.A.S.**

**Procs.No.CCRA1/6920/2010**

**Dated:23.01.2013**

**Between:-**

Sri P. Prem Kumar,  
S/o P. Rama Rao, aged about 51 years,  
Occ: Business, R/o 8-3-268/A/1/A &  
8-3-268/A/1/A/1, Plot No.1-A, Aurora Colony,  
Road No.3, Banjara Hills,  
Hyderabad-500034.

**..... Appellant**

**And**

The District Registrar,  
Hyderabad(South).

**..... Respondent**

**ORDER:**

This is an appeal filed by Sri P. PremKumar,S/o P. Rama Rao, R/o 8-3-268/A/1/A & 8-3-268/A/1/A/1, Plot No.1-A, Aurora Colony, Road No.3, Banjara Hills, Hyderabad-500034 against the Final orders issued by the District Registrar, Hyderabad(South) in Notice.No.G1/47/2010, dated.16.02.2010 treating the Pending Document No.1057/2009 of RO(OB), Hyderabad (South) as Conveyance on Sale and instructing the appellant to pay the deficit duties accordingly.

As seen from the copy of the Pending Document No.1057/2009 filed by the petitioner the said document styled as Release Deed executed on 05.11.2009 by Sri P. Navin S/o Late P. Rama Rao in favour of Sri P. Prem Kumar S/o Late P. Rama Rao.

As per the recitals in the document originally Late P. Rama Rao purchased Plot bearing No.1-A admeasuring 700 sq.yd., situated at Aurora Colony, Road No.3 Banjara Hills, Hyderabad-500034 vide Registered Sale Deed Document No.3142 of 1983, dated.01.12.1983 andthereafter Sri P. Rama Rao constructed a house on the said Plot having obtained permission from Municipal Corporation of Hyderabad under Permit No.28/67of 1989 in file No.441/Open/8/83 and the house was Numbered as 8-3-268/A/1/A and 8-3-268/A/1/A/1. Subsequently, Sri P. Rama Rao executed a Registered Will Deed Document No.127/2005 of Book-III, dated.01.11.2005 of SRO, Banjara Hills bequeathing the properties

held by him. According to the recitals of the said Will Deed Sri P. Rama Rao bequeathed the said house with 4000 sq.ft. of built up area in Plot No.1-A, situated at Aurora Colony, Road No.3 Banjara Hills, Hyderabad-500034, absolutely to Sri P.Prem Kumar i.e., his second son and in the said Will Deed it was mentioned therein that Smt P.R.Nappini (W/o testator) and Mr.P.Naveen (3<sup>rd</sup> son of the testator) should enjoy the said property during the lifetime of Smt P.R.Nappini and after her demise the property should devolve on Mr.P.Prem Kumar (testator's second son) with absolute rights. Sri P.Rama Rao died on 03.02.2006 and the above said registered will deed came into force after his death. Consequently, Sri P.Naveen third son of the testator released his life interest i.e., 1/3 life interest in favour of his brother Sri P.Prem Kumar executing a document styled as Release Deed on 05.11.2009 and the said document was kept pending in R.O., Hyderabad (South) as No.P1057/2009 on 06.11.2009 since the Joint Sub-Registrar-I entertained doubt as to the chargeability of instrument with a view that it is chargeable under Article 20 of Schedule I-A of Indian Stamp Act, 1899 and impounded the same as No.1 of 2010(P1057 of 2009 of Book No.1) under Section 33 of the Indian Stamp Act, 1899 and referred the issue to the District Registrar, Hyderabad(South) for taking further action. On examination of the issue, the District Registrar, Hyderabad(South) issued a notice to the parties vide Notice.No.G1/86/2010, dated.16.10.2009 informing that the pending Document No.P1057/2009 of Book No.I (impounding Document No.1/2010) is a Conveyance and is chargeable with Stamp Duty of Rs.4,89,500/- on the 1/3<sup>rd</sup> Market Value of the House property under Article 20 of Schedule I-A of Indian Stamp Act, 1899 and that the Stamp born by the document is at Rs.90,100/- and therefore there is deficit Stamp Duty of Rs.3,99,400/- and penalty. After giving reasonable opportunity to the parties, the District Registrar, Hyderabad(South) rejected the representation dated.10.02.2010 of the parties, passed Final order No.G1/47/2010, dated.16.02.2010 directing the parties to remit the said Deficit amount within fifteen(15) days from the receipt of this notice. Aggrieved by the said orders this appeal is filed by the appellant requesting to pass necessary orders treating the document as Release Deed among coparceners.

On receipt of the appeal filed by the petitioner, reasonable opportunity to put forth his arguments if any was given to the petitioner. When the case was posted for hearing on 12.09.2012 at 3.00 PM the Advocate for the petitioner had argued that in view of the judgment dated.21.02.2012 of the Hon'ble High Court of Andhra Pradesh in W.P.No.14963 of 2009 filed Sri G. Dayanand, published in 2012 (3) ALD 373 wherein it was held that "Release of joint-ownership of one co-owner in favour of rest of the co-owners or one of them, with or without consideration, does not amount to "Sale" – Fact that Release of share in a property by a co-owner is for consideration, its character does not change – It is not necessary that, release must be in favour of rest of the co-owners – As long as undivided share in a property is not in favour of stranger, but in favour of another co-owner, transaction, would remain the one of "Release" and not of a "Sale" – A "Release" Deed, therefore, would not attract Article 47-A of Indian Stamp Act." In the said judgment a reference to earlier judgment published in AIR 1973 Andhra Pradesh 275(Case Referred No.66 of 1971 Dt.06.10.1972) was also referred wherein it was also held that, "Relinquishment by co-owner of his right in property in favour of other co-owner (on receiving amount contributed by him in purchasing joint property) is a "Release" and not Conveyance." While stating as such the Advocate on behalf of the petitioner requested to set aside the Final Notice.No.G1/47/2010, dated.16.02.2010 issued by the District Registrar, Hyderabad(South) and to direct the Joint Sub-Registrar-I, R.O., Hyderabad(South) to release/return their document after registration immediately stating that their document is only a Release of co-parcenary Rights and the same was properly stamped.

The appeal filed by the petitioner has been examined in detail taking into consideration the recitals of the document, the arguments put forth by the Advocate on behalf of the petitioner, the relevant provisions of Stamp Law and other available connected records produced by the Advocate on behalf of

the petitioner. According to Article 46 of Schedule I-A deals with the chargeability of stamp duty relating to “release” which is as follows:

“any instrument not being a release provided for by sec-23 A, where by a person renounces a claim upon another person or against any specified property “3% “on consideration or M.V of the property whichever is higher over which the claim is relinquished”. The above said stamp duty has been reduced to 1% in respect of release deeds relating to release of rights in favour of family members [vide notification –II, G.O.M.sNo.1129 Revenue(Regn.1) dated:13.06.2005 with effect from 01.07.2005].

As seen from the pending document No.P1057/2009 in question it is stated therein that life interest only has been conferred on the releaser i.e., Sri P. Navin and his mother i.e., Smt P.R. Nappiniby virtue of registered Will Deed bearing No.127/2005 of Book-III in SRO, Banjara Hills, Hyderabad and as such it can be said that the releaser cannot relinquish more than that what has been conferred on him. He cannot relinquish the property over which he has no ownership right.

Further the Hon’ble High Court of Andhra Pradesh in its Judgment dated:03.08.2011 in W.P.No.19981/2010 filed by Smt G. Subbalakshmi W/o Late Visweswara Rao, Hyderabad, made it clear that a Release Deed is not required to be executed by all the coparceners joining the same deed or the release deed is required to be executed in favour of the remaining coparceners either and that the principal is to the extent the coparceners have relinquished their respective rights, the releasee of the document derives a corresponding benefit of increased proportion in the estate.

In another W.P.No.14963/2009 filed by Sri G. Dayanand S/o Late Sri Venkaiah, Hyderabad, the High Court of Andhra Pradesh delivered judgment on 21.02.2012 stating that even if the release of a share in the property by co-owner is for consideration, its character does not change and it is not necessary that the release must be in favour of rest of co-owners and that as long as the undivided share in a property is not in favour of a stranger, but is in favour of another co-owner, it would remain the one of release and not a sale.

In view of the above facts and circumstances of the case and provisions of law, and court decisions, it can be said that the document in question is a Release Deed in favour of family members relinquishing life interest and is chargeable under Article 46 of schedule I-A of the Indian Stamp Act, 1899 read with notification-II issued vide G.O.Ms.No.1129 Revenue (Regn.I) Department, dated:13.06.2005. Accordingly, the impugned Final Notice No.G1/47/2010, dated.16.02.2010 issued by the District Registrar, Hyderabad(South) is set aside. It is ordered to register and release the document collecting deficit duties if any accordingly if the document is otherwise in order.

**Sd/- Vijay Kumar**  
Chief Controlling Revenue Authority and  
Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyderabad

**PROCEEDINGS OF CHIEF CONTROLLING REVENUE AUTHORITY AND  
COMMISSIONER & INSPECTOR GENERAL OF REGISTRATION & STAMPS, A.P.,  
HYDERABAD.**

**PRESENT: SRI DR. VIJAY KUMAR, I.A.S.**

**Procs.No.CCRA1/16634/2010,**

**Dated:26.04.2013.**

**Between:-**

Sri T.Roop Kumar

Flat.No.203,BanjaraPrashant Apartments,

Road.No.12,Banjara Hills,Hyderabad

..... **Appellant**

**And**

The District Registrar,Hyderabad(South)

.....**Respondent**

**ORDER:-**

This is an appeal filed by Sri T.Roop Kumar before the CCRA against the orders of the District Registrar, Hyderabad(South) issued in Order No.G1/5266/2010,dt:21.10.2010, wherein the appellant was directed to pay the deficit stamp duty of Rs.2,38,210/-, TPT of Rs.86,610/- and Registration fee of Rs.20,555/- totaling to Rs.3,45,375/- when a pending document P546/2010 of R.O.(OB),Hyderabad (South) was referred to him impounding the same u/s 33 of the Indian Stamp Act. While doing so it was opined by the District Registrar, Hyderabad(South) that there are two distinct matters i.e., partition of two equal shares and also SALE of property to an extent of 433.09 sq.yards.

As seen from the contents of the orders dt:21.10.2010 issued by the District Registrar, Hyderabad(South) those orders were issued taking into consideration the representations dt:23.08.2010 and 16.10.2010 of the appellant.

As seen from the material available in the file Government vide G.O.Ms.No.1664/Revenue (UC.III) Department, dt:22.09.2005, allotted u/s 23(4) of the Urban Land (Ceiling and Regulation) Act,1976 the excess land of 942 sq.mts in Plot No.2/p in Sy.No.79/p FatheNagar (V),Balanagar(M) Ranga Reddy District in favour of 1. Sri T.Roop Kumar appellant herein and 2. Sri G.Subba Naidu as both of them werereported to be in possession of the excess land supported by the primary documents and it was ordered that their names shall be incorporated in Revenue, Registration and Survey records.

Based on the above orders issued in G.O.Ms.No.1664,dt:22.09.2005 the appellant and another wanted to get the above said property partitioned and accordingly executed a partition deed on 16.07.2010 dividing the above said property into two schedules, the first schedule containing structure with plinth area of 800 sq.ft along with an extent of 650sq.mtsequivalent to 786.629sq.yds allotted to the share of Sri T.Roop Kumar (Appellant) and an extent of 292.2 sqmths equivalent to 353.620 sq.yds allotted to the share of Sri G.Subba Naidu. The said document was presented for registration before the Joint sub-registrar RO(OB),Hyderabad(South) on 16.07.2010, and since the registering officer entertained a doubt as to the chargeability of the instrument, he impounded the same under sec.33 of I.S.Act and submitted to the District Registrar, Hyderabad (South) for taking further action. Consequently the District Registrar, Hyderabad (South) issued notices to the appellant and after giving a reasonable opportunity to represent the case, issued final orders dt:21.10.2010. Aggrieved by the said orders the present appeal has been filed.

On receipt of the appeal petition filed by the appellant he was given opportunity to represent his case, if any, and during the course of hearing the advocate on behalf of the appellant argued the case and requested the undersigned to treat the document as partition deed only chargeable under article 40 of Schedule IA of I.S.Act stating that the partition of the property was made as per the revised endorsement

of the special officer and competent authority, ULC, Hyderabad issued vide Procs.No.G/455/324/03,dt:20.01.2007. It was also argued that the partition of the property was made as per the sketch enclosed to the revised orders dated: 20.01.2007 of the Special Officer and as such inspite of the fact of the partition of property into unequal shares, it is a partition deed only and nothing else and thus requested to set aside the orders of the District Registrar, Hyderabad (South) dt: 21.10.2010.

The issue has been examined taking into consideration the arguments put- forth by the appellant, facts of the case and provisions of the stamp law. According to section 2(15) of the Indian Stamp Act,1899 instrument of partition means an instrument whereby co-owners of any property divide or agree to divide such property in severalty and includes a final order effecting partition passed by any revenue authority or any civil court and an award by any arbitrator directing a partition. A deed of partition necessarily presupposes that more than one person have a joint share/right in the property and basing on such right property is divided among the parties. According to sec 45 of the Transfer of Property Act in respect of presumption of equity in the absence of the evidence as to the interest in the fund to which the co-owners are respectively entitled or as to shares which they respectively advance, such persons shall be presumed to be equally interested in the property. In the absence of evidence showing the break up for what shares the consideration was paid, there is a presumption that the co-owners' interests are equal. It can be said that in the absence of specific mention about the shares of the co-owners in any deed, all co-owners will be treated as having equal shares in the properties there under. In the instant case the revenue department allotted an extent of 942 sq.mts. of surplus land in favour of the appellant and another and while doing so there was no mention of specifying shares among them and as such it can be said that both of them are entitled for equal shares in the property. Since the co-owners are joint owners of the undivided property, division of shares as mentioned specifically in the partition deed only shall be taken for deciding chargeability but not basing on the presumption that they have equal shares. In view of the above legal position, it can be safely concluded that under any circumstances, due to the division of the property into unequal shares among the co-owners partition cannot be treated as conveyance as the parties are co-owners having pre-existing right. Even in case of any rational and reasonable conclusion drawn that the co-owners were holding equal shares, the excess portion of property(more than half-share) falling to the schedule of one co-owner can be treated as release only but, certainly not as conveyance. In view of the facts and circumstances of the case, the orders of the District Registrar, Hyderabad(South) are set aside and the pending document No. P546/2010 of RO(OB), Hyderabad(South) is held as partition deed to the extent of equal shares between the parties and for the portion of the property in excess of half share, falling in the schedule of one co-owner it is held as release, thus the document in question is held as a Partition cum Release and chargeable to stamp duty accordingly.

Necessary further action shall be taken on the above said pending document to release the document in the light of above conclusion after collecting the deficit duties if any, accordingly, if the document is otherwise in order.

**Sd/- Dr. Vijay Kumar**  
Chief Controlling Revenue Authority and  
Commissioner and Inspector General of  
Registration and Stamps,A.P., Hyderabad



**HON'BLE THE ACTING CHIEF JUSTICE  
SRI PINAKI CHANDRA GHOSE  
AND  
HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR  
WRIT APPEAL No. 622 OF 2011**

JUDGMENT : (per the Hon'ble the Acting Chief Justice)

This appeal is directed against an order dated 28th July, 2011 passed by the Hon'ble Single Judge in WVMP.No. 2196 of 2011 in WPMP.No. 16436 of 2011 in Writ Petition No. 13562 of 2011.

2) The case of the petitioner is that it has entered into a loan transaction with one M/s. ABC Engineering Works on 16th October, 2008. The financial arrangement between the petitioner and M/s. ABC Engineering Works was secured by hypothecation of the machinery. The loan transaction was of Rs. 58.63 Crores and additional security was created on behalf of the borrower by way of mortgaging certain immovable properties. A memorandum of deposit of title deeds was also executed to confirm the creation of equitable mortgage. The third party mortgagors have also agreed to sell their respective immovable properties in favour of the petitioner treating the basic market value of the property in question as consideration. Several sale deeds were executed. Those sale deeds were presented for registration.

3) It is the case of the writ petitioner that the Sub-Registrar declined to release the sale deeds presented before him for registration since they have suffered stamp duty only to the extent of market value of the respective properties conveyed by the conveyance deeds concerned, but not on Rs. 58.63 Crores. It is the case of the writ petitioner that loan transaction between the petitioner and the said ABC Engineering Works is an independent transaction. The additional security offered by the third parties was ultimately converted into transaction of sale by those third parties in favour of the petitioner company and the conveyance deeds have specifically mentioned the consideration for the said sale transaction which is confined to the market value of the property sought to be conveyed. The case of the writ petitioner is that the stamp duty has been paid on the basis of the market value treating the same as consideration and it is contended that the entire loan transaction cannot be taken or treated as consideration for these sale deeds.

4) The contention of the State is that in terms of Section 24 of the Indian Stamp Act, 1899 (for short, 'the Act'), if any property is transferred to any person in consideration, wholly or in part, of any debt due to him, such debt is deemed to be consideration and the transferee is chargeable with ad valorem duty in respect of the said consideration or the market value of the property transferred whichever is higher. Accordingly, it was submitted that since the total loan amount comes to Rs. 58.63 Crores, the said amount has to be taken as consideration.

5) The Hon'ble Single Judge held that if the entire loan transaction is to be treated as consideration for each of the sale deeds which have been executed by third parties in favour of the petitioner, the said consideration amount of Rs. 58.63 Crores would be multiplied by 26 times since there are 26 sale deeds. The Court held that the intention of the legislature cannot be as sought to be contended on behalf of the State. The consideration of a property is always confined to the market value. Therefore, the loan amount only to that extent will be discharged. Hence, the Court found that there is no reason to pass any order in favour of the State. It further appears that the petitioner was asked to deposit a sum of Rs. 5 lakhs with the Sub-Registrar. The Court further opined that if the writ petitioner fails in the writ petition, then the authority has a right to recover the deficit stamp duty. In these circumstances, the Court dismissed WVMP.No. 2196 of 2011 filed by the State authorities for vacating the interim order passed on 13.6.2011.

6) It is submitted by the learned Government Pleader appearing for the State authorities that in the writ petition, the petitioner has not questioned the order passed by the Registrar, the third appellant herein, under Section 24 of the Act. Therefore, the Court was wrong in holding that the provisions of Section 24 of the Act are not applicable to the facts of the case since the writ petitioner did not challenge this. He further submitted that the main ingredient of Section 24 of the Act constitutes transfer in consideration of the debt which has to be reckoned for calculating the stamp duty and this escaped from the mind of the Hon'ble Court. It is further pointed out that the direction of deposit of Rs. 5 lakhs was inadequate compared to the deficit stamp duty of Rs. 14.66 Crores. It is further contended that until and unless the order passed by the third appellant under Section 24 of the Act is set aside, no relief could have been granted in the said miscellaneous petition by the Hon'ble Single Judge. In these circumstances, he submitted that the interim order should be vacated by this Court and the appeal should be allowed.

7) To appreciate the issue, it is necessary to refer to Section 24 of the Act, which reads :

"24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule 1.

Explanation : In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage."

It appears to us prima facie the meaning of Section 24 is that where property is conveyed to a person for consideration, wholly or in part, of any debt due to him, subject either certainly or contingently to the payment or transfer of any money or stock whether or not charged on the property then the debt money or stock is to be deemed the whole or part as the case may be of the consideration in respect of which the conveyance is charged with ad valorem stamp duty. The Explanation to Section 24 of the Act provides that in the case of a sale of property subject to a mortgage or other incumbrance any unpaid mortgage money or money charged together with the interest (if any) due on the same shall be deemed to be part of the consideration for the sale. A contingent liability to the payment of any debt means such outstanding debt or possible adverse verdict which has to be complied with but which is not ascertained on the relevant date. A security for any contingent future payments also falls within the meaning of Section 24 of the Act.

8) In the instant case, on account of the loan transaction which the writ petitioner entered into with ABC Engineering Works, a security was created on behalf of the borrower by way of mortgaging certain immovable properties. A memorandum of title deeds was also executed to confirm the creation of equitable mortgage. Subsequently, the third party mortgagors agreed to sell their respective immovable properties in favour of the writ petitioner treating the basic market value of the properties in question as consideration and accordingly 26 sale deeds were executed. When these sale deeds were presented for registration, the Sub-Registrar, Jadcherla -appellant No.4 herein declined to release the same on the

ground that they have suffered stamp duty only to the extent of the market value of the respective properties and the entire loan amount of Rs.58.63 Crores has to be taken as sale consideration.

9) The object of Section 24 of the Act is very clear. That section means that when a purchaser purchases a property for a certain amount subject to the payment of another debt, actual or contingent, he is virtually purchasing the property for the said amount plus the amount of the debt and the aggregate of the two amounts ought to be treated as the true amount for which the property is being sold. Otherwise there is bound to be a difference between the true consideration and the consideration which is made liable to stamp duty.

10) A reading of Section 24 of the Act and the object of that provision makes it clear that for the purpose of stamp duty, the amount of the debt and the value of the property purchased have to be taken into account. If that be so, the writ petitioner is required to pay stamp duty on Rs.58,63,71,255/- plus the value of the property conveyed through sale deeds i.e.4,75,75,250/-. However, the writ petitioner states that the entire loan amount was secured mainly by the primary security of the hypothecated equipment and partially by the mortgage of immovable property though the entire loan amount is shown in the memorandum of deposit of sale deeds. If the sale consideration is shown as Rs.58.63 Crores, the entire loan receivables stand liquidated causing irreparable loss to the writ petitioner. But this cannot be a ground for us to take a different view than what is understood from the language of Section 24 of the Act.

11) In this connection, a reference may be made to the judgment of the Supreme Court in Somaiya Organics (India) Ltd. v. Board of Revenue. In the said judgment, the Supreme Court considered the object of section 24 of the Act and held that stamp duty would be payable on the sum total of amount of consideration for sale of lands and buildings plus the amount for which the equitable mortgage had been created. In our view, the principle laid down therein squarely applies prima facie to the facts of the case.

12) We are, therefore, of the view that the impugned order passed by the Hon'ble Single Judge is liable to be set aside and the writ appeal has to be allowed.

13) All the questions to be decided by the Writ Court finally.

14) The writ appeal is accordingly allowed. No costs.

15) The writ petition may be placed before the Hon'ble Single Judge for final hearing after four weeks from date. Liberty is given to the parties to mention before the Hon'ble Single Judge.

14th August, 2012.

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PINAKE CHANDRA GHOSE, ACJ

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VILAS V. AFZULPURKAR, J.

**Office of the Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyderabad**

Memo.No.S1/5124/2013

Date: 07.06.2013.

Sub:- Registration and Stamps Department Development Agreement cum GPA- chargeability of stamp duty when the land owners divided their shares according to the land contributed clarification

issued - Regarding.

Ref:- From the DIG (R&S), Guntur Lt.No.153/2013, dt: 20.02.2013.

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Through the reference cited the DIG(R&S), Guntur informed the C&IG that certain remarks were made by the District Registrar (MV&A), Guntur regarding the chargeability of certain development agreements with stamp duty, when the land owners i.e where two or more land owners coming together enter into development agreement cum GPA with the builder, divide the share of flats with clear individual schedule and boundaries treating the same as partition among the co-partners. The DIG(R&S), Guntur while stating as such requested to clarify whether such documents are to be classified as development Agreement cum GPA with partition among the land owners.

In this connection it is informed that prior to the year 1995 Article-6(B) was not existing in schedule IA of I.S Act and the same was inserted through amendment vide A.P.Act, 1995 to make provision for the chargeability of the agreements relating to construction/ development / Sale of immovable property. Since there is a separate Article 6 (B) for development agreements and since the Government from time to time, lastly vide with G.O.Ms.No.1178/ Rev (Regn.I) Department dt:11.10.2010 specified the chargeability with stamp duty in respect of development Agreement -Cum - GPA, such stamp duties as fixed by Government from time to time should only be taken into consideration and such documents be charged with stamp duty according to the rates specified therein.

The development Agreements are generally executed by the parties viz., owners or the land and the developers entrusted with the work of development of the property, laying down certain conditions as to the incurring of expenditure and sharing of developed property, sale of developed property units, along with all other incidental matters as per the terms and conditions of the development agreement. This is a legally permitted process arising out of the contractual obligation in the development agreement cum G.P.A. and in view of G.O.M.S.No.1178, dt:16.09.2010 wherein a specific rate of Stamp Duty was fixed for charging the development agreement cum GPA. Hence, the question of existence of distinct matters does not arise.

On examination of the matter in depth, it seems that the District Registrar (MV&A), Guntur made the audit remarks without any legal basis but only by stretching his imagination. Agreement is covered by a separate article which will not create any ownership, but only creates contractual obligation for a working arrangement of develop/construct immovable property and deal with such property as GPA holder of land owner(s). Hence, by no means it can be classified as agreement cum GPA with partition. Sharing developed property in a particular ratio is also one of the terms and conditions of development Agreement -Cum-GPA.

In view of the above facts, circumstances of the case and provisions of stamp law, the DIG (R&S), Guntur is directed to examine the remark with reference to the above legal position and dispose of the cases where such far fetched remarks on Development agreement cum GPA documents were made by DR (MV&A), Guntur.

**Sd/- Dr. Vijay Kumar**  
Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyderabad.

**O/o the Commissioner and Inspector General of  
Registration and Stamps, A.p., Hyd.**

Memo.No. S1/ 11217/2010

Dt: 26.07.2013

Sub: Revenue (Registration and Stamps) Department - I.S Act, 1899- Stamp Duty payable in respect of Settlement Deeds and Gift Deeds failing under article 49-A (a)(b) and article 29 of Schedule - I-A- Reg.

Ref: Government Memo No. 12883/Regn.I/A2/ 2013-1, dt: 02.05.2013.

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Attention of all the Registering officers is invited to the subject cited. Through the reference cited Government issued clarification as follows.

" A settlement is a transfer of property in lieu of pre-existing claim or right. After 'settlement' the claim / right gets extinguished. Only in such cases the transactions attract Article 49. Gifts are without any consideration or not in lieu of any claim or right. Gifts in favour of family members are purely borne out of love and affection. Charging them under Article 49 is not only erroneous but also create legal problems. A gift by a father to his son or daughter out of his self-acquired property cannot be called settlement chargeable under Article 49 because there is no claim or right of the Donee in the property. Similarly gifts to a spouse also cannot be charged under Article 49 unless there is a pre-existing right or claim in the property, which is sought to be extinguished by the transaction.

In any case there are two distinct articles: one for 'settlement' and another for 'gift' and creating a third situation calling 'gift settlement' is thoroughly erroneous and illegal. It was informed that this practice is going on for several decades in the Department. It needs correction.

Hence, all the Registering officers in the State are instructed to decide the nature and classification of the documents titled as " gift settlement deeds" under one of the above two categories i.e., either as settlement or as gift, keeping in view, the above clarification in the Government memo in the reference cited.

**Sd/- Dr. Vijay Kumar**

Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyd.

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH**

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF AUGUST  
TWO THOUSAND AND THIRTEEN

PRESENT

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**  
**WRIT PETITION NO: 20717 OF 2013**

Between:

Kolli Venkata Raja Sekhar S/o K. Gopala Krishna, Occ: Business, R/o Villa No:178, Indu fortune Fields, Phase XIII, KPHB, Hyderabad.

**.....PETITIONER**

AND

1. The Government of Andhra Pradesh, represented by its Secretary,  
Department of Stamps and Registration, Secretariat, Hyderabad.

2. The District Registrar, Ranga Reddy District, 1st& 2nd Floor, Prashanti Nagar,  
Balanagar, Rangareddy District.

3. The Sub-Registrar, Shamshabad, Ranga Reddy District.

**.....RESPONDENT**

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**WRIT PETITION NO. 20717 OF 2013**

**ORDER**

Kolli Venkata Raja Sekhar, the petitioner, created a family trust titled 'K.G.K.Family Private Trust' under registered Trust Deed No. 269/BK-iv/2012 dated 22.11.2012. The beneficiaries of this trust were the petitioner, his wife and two sons. The Trust Deed reflects that Nutakki Vittal and Vasireddy Vinod Kumar were appointed as trustees for the administration of this trust.

The petitioner thereafter executed Settlement Deed dated 30.03.2013 settling his absolute property in favour of the trust. This Property, admeasuring Acs. 31.00 Gts., is situated in Madanpally Village, Shamshabad Madanpally Village, Shamshabad Mandal, Ranga Reddy District.

When the said Settlement Deed was presented for registration before the Sub-Registrar, Shamshabad, it was kept pending registration as Document No.P86/2013. This was because the Sub-Registrar, Shamshabad addressed letter dated 01.06.2013 to the District Registrar, Rangareddy District, seeking a clarification as to the classification of this document. By Memo dated 18.06.2013 to the District Registrar, Ranga Reddy District, stated that the subject documnet fell under Article 49.A(b) of Schedule I-A to the Indian Stamp Act, 1899 (for brevity, 'the Act of 1899') and directed the Sub-Registrar to take action in the matter and admit the document if it was other wise in order. Consequent thereto, the Sub-Registrar, Shamshabad, issued Memo dated 09.07.2013 calling upon the petitioner to pay the deficit stamp duty of Rs.4,65,000/- treating the document as one covered by Article 19.A(b) of Schedule I-A to the Act of 1899. Aggrieved thereby, the petitioner is before this Court.

It is the contention of the petitioner that as the beneficiaries of the trust were none other than his own family members, the registration authorities should not have classified the Settlement Deed as one falling under Article 49.A(b) and ought to have treated it as one coming within the ambit of Article 49.A(a) of Schedule I-A to the Act of 1899.

The issue that falls for consideration is as to which clause of Article 49.A of Schedule I-A to the Act of 1899 would apply to the subject document.

Article 49.A of Schedule I-A to the Act of 1899, to the extent relevant, reads as under:

49. Settlement -  
A.Instrument of (including  
a deed of dower)-

(a) settlement in favour of a member or members of a family

forth in such settlement:

is stamped with the stamp required for an instrument of settlement and an instrument agree

tioned in Article 6.

Explanation:- For the purpose of this article "family" means father, mother, husband, wife, brother, sister, Son, daughter and includes grand-father, grand mother, grand child, adoptive father or mother, adopted son or daughter.

(b) in any other case

thereof of the market value of the property matter of settlement.

The same duty as a Bottomry Bond (No.14) for a sum equal to the amount or market value of the property settled as set

Provided that, where an agreement to settle

instrument of settlement in pursuance of such ment is subsequently executed, the duty on such instrument shall be the duty as men

Six rupees for every hundred rupees or part

which is the subject

It is manifest from a bare reading of the above Article that a settlement deed in favour of members of a family would fall within clause (a) and not clause (b) of Article 49.A.

The petitioner executed the Settlement Deed dated 30.03.2013 settling Acs.31.00 Gts. of land situated in Madanpally Village, Shamshabad Mandal, Ranga Reddy District, which was absolutely owned by hi, in favour of 'K.G.K. Family Private Trst' represented by its trustee, Vasireddy Vinod Kumar. The Trust Deed dated 22.11.2012 reflects that this trust was created for the beneficiaries detailed in Schedule-II. Schedule-II contains the names of the petitioner, his wife and two sons. The object of the trust, as set out in the Trust Deed, is to utilize the trust funds and the income generated thereon for the benefit and maintenance of the beneficiaries. The two trustees were nominated to administer to this family trust and the Trust Deed reflects no relationship between them and the petitioner. The Trust Deed provides that the trustees would only be entitled to annual trusteeship fee of Rs. 5,000/- each. Though the Trust Deed vests the petitioner with the liberty to amend the list of beneficiaries set out in Schedule-II, the very nomenclature of the trust indicates that it is a private family trust.

As pointed out by the Supreme Court in S.N. MATHUR V/s. BOARD OF REVENUE, the principles relating to charging of stamp duty are well settled. They are:

- i) The object of the Stamp Act is generation of revenue. It is therefore a fiscal enactment and has to be interpreted accordingly.
- ii) Stamp duty is levied with reference to the instrument and not in regard to the transaction, unless otherwise specifically provided in the Act.
- iii) Stamp duty is determined with reference to the substance of the transaction as embodied in the instrument and not with reference to the title, caption or nomenclature of the instrument.
- iv) For classification of an instrument, that is, to determine whether and instrument comes within a particular description in an Article in the Schedule to the Act, the instrument should be read and constructed as a whole.
- v) Where an instrument falls under two or more descriptions in the Schedule to the Act, the instrument shall be chargeable with only one duty,

that is the highest of the duties appli  
where an instrument relates to several distinct  
the aggregate amount of duties to which separate

cable to the different description. But  
matters, it shall be chargeable with  
instruments would be chargeable.

Section 2(24) of the Act of 1899 defines "Settlement" to mean, amongst others, a non-testamentary disposition of property for the purpose of distributing the property of the settler among his family. Black's Law Dictionary defines 'disposition' as 'the act of transferring something to the care or possession of another; or relinquishment or giving up of property'. 'Disposition', as observed in S.N.MATHUR, is a term of wide import which encompasses any devise or mode by which property can pass and includes giving away or giving up by a person of something which was his own (see COMMISSIONER OF GIFT TAX, MADRAS V/s, N.S.GETTY CHETTIAR AND CONTROLLER OF ESTATE DUTY, ANDHRA PRADESH V/s. KANCHARLA KESAVA RAO)

Though the petitioner is himself a beneficiary of the trust, he divested himself of his absolute rights in the settled property and the settlement was unconditionally made for the benefit and maintenance of his family members. There was thus a patent 'desposition' of his property and the document was clearly one falling under Article 49.A(a) of Schedule I-A to the Act of 1899. The District Registrar, Ranga Reddy District, initially understood this in the proper perspective as is evident from his memo dated 18.06.2013, which reads as under:

"Memo No. 2825/G1/2013

Dt. 18.06.2013

Sub: Regn. and Stamps - Pending Document No.P. 86/2013 - Computation of Stamp duty for settlement of immovable property in favour of private family trust - Clarification sought - Issued - Regarding.

Ref: Lr.No. 64/2013, Dt.01.06.2013 of S.R. Shamshabad.

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With reference to the letter cited, the Sub-Registrar is informed that the executants Sri K.V.Raja Shekar had created a trust by name KGK Family Private Trust and Sri V. Vinod Kumar S/o B. pullaiah was made as a trustee for the administration of the said family trust and the executants setting and the executants setting and extent of 31-00 Acres in different Sy. Nos. situated at Madanpally Village Shamshabad Mandal for the welfare and maintenance of his family members comprising of himself, wife and two sons and therefore it cannot be said that the property was settled in favour of Sri. Vasi Reddy Vinod Kumar S/o B.Pullaiah.

Hence the Pending Document falls under article 49 A(b) of Schedule IA to Indian Stamp Act. The Sub-Registrar is therefore directed to take action and admit the document if it is otherwise in order.

Sd/-

DISTRICT REGISTRAR  
RANGA REDDY DIST.

To  
The Sub-Registrar  
Shamshabad, Ranga Reddy District.

Continued Page on No. 20

Having appreciated that the trust was created as family trust as the property was settled for the welfare and maintenance of the family members, comprising the settler, his wife and two sons, and that V. Vinod Kumar was only a trustee thereof, the District Registrar correctly opined that it could not be said that the property was settled in favour of V.Vinod Kumar. However, contradicting himself thereafter, the District Registrar observed that the pending document would fall under Article 49.A(b) of Schedule I-A to the Act of 1899. It appears that the District Registrar was himself in some doubt while coming to this conclusion as is evident

from the overwriting in the Memo extracted supra. This overwriting is sought to be explained in the counter by starting that it was a typographical error. However, the inescapable fact remains that the first paragraph of the Memo contradicts the second paragraph.

By the subject document the petitioner settled his absolute property in favour of a family trust created for himself, his wife and two sons. Though the petitioner adopted the methodology of creating an intervening family trust and thereafter settled the property on the trust, the fact remains that the settlement is essentially for distributing the property of the settler amongst his family members. The interpolation of the family trust would therefore not exclude the settlement effected under the subject document from the ambit of clause (a) of Article 49.A of Schedule I-A to the Act of 1899.

On the above analysis, the writ petition is allowed. The sub-Registrar, Shamshabad, shall treat the Settlement Deed, kept pending registration as Document No. P.86 of 2013, as one falling under Article 49.A(a) of schedule I-A to the Indian Stamp Act, 189 and collect stamp duty thereon accordingly. In the event the said document is found to otherwise fulfill the requirements of the Registration Act, 1908 and the Indian Stamp Act, 1899, the Sub-Registrar, Shamshabad, shall complete the registration formalities and release the document in accordance with the due procedure. WPMP No.25397 of 2013 shall stand closed in the light of this final order.No order as to costs.

**SD/- PUSHPA DESHMUKH**  
**ASSISTANT REGISTRAR**  
SECTION OFFICER

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue (Registration and Stamps) Department – Indian Stamp Act, 1899 – Reduction of Stamp Duty payable in respect of certain documents under schedule I-A to the Indian Stamp Act, 1899 – Orders – Issued.

### REVENUE (REGISTRATION-I) DEPARTMENT

G.O.Ms.No. 581

Dated: 30.11.2013  
Read the following:

1. G.O.Ms.No. 162, Revenue (Regn-I) Dept., dated: 30.03.2013.
2. G.O.Ms.No. 150 to 153, M.A. & U.D. Dept., dated: 06.04.2013.
3. G.O.Ms.No. 226, P.R. & RD (Pts-I) Dept., dated: 06.04.2013
4. From the C&IG, R&S, Hyd. Lr.No.S1/11217/2010, Dt.23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

### ORDER:

@ @ @

1. In the reference 1<sup>st</sup> read above, orders were issued reducing the stamp duty payable on sale deeds from 5% to 4% in all the areas of A.P. State under Article 47-A of Schedule I-A of the Indian Stamp Act, 1899 with effect from 01.04.2013. In the references 2<sup>nd</sup> and 3<sup>rd</sup> read above, orders were issued reducing the transfer duty on transfer of property in all the Municipalities, Municipal Corporations and Panchayats in the State to 1.5%.
2. Consequent on reduction of stamp duty payable on sale deeds and also reduction of transfer duty to 1.5%, Government, after careful examination rationalize the rates of stamp duty by bringing down the duty payable in respect of certain documents under Schedule I-A of the Indian Stamp Act, 1899.
3. Accordingly, the following notification will be published in the extraordinary issue of A.P. Gazette dated: 02.12.2013.

### NOTIFICATION

In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of Indian Stamp Act, 1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty payable in respect of following documents under Schedule I-A to the Indian Stamp Act, 1899:

Article of Schedule 1-A	Nature of Document	Existing Stamp Duty	Rate of Stamp duty now fixed
Article 6 (B)	Sale Agreement with possession	5% (adjustable)	4% (adjustable)
	Sale Agreement without possession	5% (adjustable)	0.5% (Notadjustable)
	Sale Agreement cum GPA	6% (5% adjustable & 1% not adjustable)	5% (4% adjustable & 1% Not adjustable)
	Development / construction Agreement	5% (adjustable)	0.5% (Notadjustable)
	Development /construction Agreement cum GPA	1% (Notadjustable)	1% (Notadjustable)

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**VINOD K. AGRAWAL**  
PRINCIPAL SECRETARY TO GOVERNMENT

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue(RegistrationandStamps) Department–IndianStampAct,1899 Reduction of Stamp Duty payable in respect of certain documents under schedule I-A to the Indian Stamp Act, 1899–Orders–Issued.

### REVENUE(REGISTRATION-I) DEPARTMENT

G.O.Ms.No.582

Dated:30.11.2013

Read the following:

#### ORDER:

1. G.O.Ms.No.162, Revenue(Regn-I) Dept., dated:30.03.2013.
2. G.O.Ms.No.150 to 153, M.A.& U.D.Dept., dated:06.04.2013.
3. G.O.Ms.No.226, P.R.&RD (Pts-I) Dept., dated:06.04.2013
4. From the C&IG, R&S, Hyd. Lr.No.S1/11217/2010, Dt.23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

@ @ @

1. In the reference 1st read above, orders were issued reducing the stamp duty payable on sale deeds from 5% to 4% in all the areas of A.P. State under Article 47 - A of Schedule I-A of the Indian Stamp Act, 1899 with effect from 01.04.2013. In the references 2nd and 3rd read above, orders were issued reducing the transfer duty on transfer of property in all the Municipalities, Municipal Corporations and Panchayats in the State to 1.5%.
2. Consequent on reduction of stamp duty payable on sale deeds and also reduction of transfer duty to 1.5%, Government, after careful examination rationalized the rates of stamp duty by bringing down the duty payable in respect of certain documents under Schedule I-A of the Indian Stamp Act, 1899.
3. Accordingly, the following notification will be published in the extraordinary issue of A.P. Gazette dated: 02.12.2013.

#### NOTIFICATION

In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of Indian Stamp Act, 1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty payable in respect of following document under Schedule I-A to the Indian Stamp Act, 1899:

Article of Schedule I-A	Nature of Document	Existing Stamp Duty	Rate of Stamp duty now fixed
Article 16	Certificate of Sale	5%	4%
Article 20	Conveyance	5%	4%
Article 27	Exchange of Property	5%	4%

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**VINOD K. AGRAWAL**  
PRINCIPAL SECRETARY TO GOVERNMENT

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue (Registration and Stamps) Department – Indian Stamp Act, 1899– Reduction of Stamp Duty payable in respect of certain documents under schedule I-A to the Indian Stamp Act, 1899– Orders – Issued.

### REVENUE(REGISTRATION-I) DEPARTMENT

G.O.Ms.No.583

Dated:30.11.2013  
Readthefollowing:

#### ORDER:

1. G.O.Ms.No.162,Revenue(Regn-I) Dept.,dated:30.03.2013.
2. From the C & IG, R&S, Hyd. Lr.No.S1/11217/2010, Dt.23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

@ @ @

1. In the reference 1st read above, orders were issued reducing the stamp duty payable on saledeeds from 5% to 4% in all the areas of A.P. State under Article 47-A of Schedule I-A of the Indian Stamp Act,1899 with effect from 01.04.2013.
2. Consequent on reduction of stamp duty payable on sale deeds, Government, after careful examination rationalize the rates of stamp duty by bringing down the duty payable in respect of certain documents under Schedule I-A of the Indian Stamp Act,1899.
3. Accordingly, the following notification will be published in the extraordinary issue of A.P. Gazette dated:02.12.2013.

#### NOTIFICATION

In exercise of the powers conferred byclause(a) ofsub-section(1) of section 9 of Indian Stamp Act, 1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty payable inrespect of following documents under Schedule I-A to the Indian Stamp Act,1899:

Articleof Schedule1-A	Natureof Document	Existing StampDuty	Rate of Stamp duty now fixed
Article 35-A	Mortgage with possession	5%	2%
Article28(a),(b), (i)	Further charges with possession of the property	5%	2%
Article 28(b) (ii)	Further charges with out possession	3%	0.5%
Article 35(b), (ii)	Mortgage with out possession: A) in favourof Govt. or Local Bodies or UDAs to ensure compliance to building / layoutrules. B)Other than (A).	0.5% 0.5%	Rs.5000/- 0.5%

(BY ORDER AND IN THENAMEOFTHEGOVERNOR OF ANDHRA PRADESH)

**VINOD K.AGRawal**  
PRINCIPALSECRETARY TOGOVERNMENT

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue(RegistrationandStamps) Department–IndianStampAct,1899– ReductionofStamp Duty payableinrespectofcertain documentscomesunder schedule I-AtotheIndian Stamp Act,1899– Orders– Issued.

### REVENUE(REGISTRATION-I) DEPARTMENT

G.O.Ms.No.584

Dated:30.11.2013

Read the following:

From the C&IG, R&S, Hyd. Lr.No.S1/11217/2010, Dt.23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

#### ORDER:

@ @ @

1. Government, aftercareful examination rationalize the rats of stamp duty payable in respect of certain documents under Schedule I-A of the Indian Stamp Act,1899.
3. Accordingly, the following notification will be published in the extraordinary issue of A.P. Gazetted dated:02.12.2013.

#### NOTIFICATION

In exercise ofthe powers conferred byclause(a) ofsub-section(1) of section 9 of Indian Stamp Act,1899 (Act II of 1899), the Governor of Andhra Pradesh here by reduces the Stamp Duty payable inrespect of following documents under Schedule I-A to the Indian Stamp Act,1899:

<b>Articleof Schedule1-A</b>	<b>Natureof Document</b>	<b>Existing StampDuty</b>	<b>Rate of Stamp duty now fixed</b>
Article 41B(a)	Reconstitution of partnership firm	5% on the market value of the immovable property remaining with the firm	3% on the market value of the property remaining with the firm
Article 41C (a)	Dissolution of partnership firm	5% on market valueequal to the property distributed or giventothe partners.	3%of the market value of the property given or distributed tothe partners
Article 46C	Release of right of redemption of a mortgage with possessorof the right to obtain reconveyanceof propertyalready conveyed	The samedutyas a conveyance for the amount of such consideration as set forth in the release	Rs.1000/-

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue (Registration and Stamps) Department – Indian Stamp Act,1899– Reduction of Stamp Duty payable in respect of certain documents under schedule I-A to the Indian Stamp Act, 1899 – Orders– Issued.

### REVENUE(REGISTRATION-I) DEPARTMENT

G.O.Ms.No.585

Dated:30.11.2013  
Readthefollowing:

1. G.O.Ms.No.162,Revenue(Regn-I) Dept.,dated:30.03.2013.
2. From the C&IG, R&S, Hyd. Lr.No. S1/11217/2010, Dt.23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

#### ORDER:

@ @ @

1. In there ference 1st read above, orders were issued reducing the stampduty payable on saledeeds from 5% to 4% in all the areas of A.P. State under Article 47-A of Schedule I-A of the Indian Stamp Act,1899 with effect from 01.04.2013.
2. Consequent on reduction of stamp duty payable on sale deeds, Government, after careful examination rationalize the rates of stamp duty by bringing downtheduty payableinrespectof certaindocumentsunder ScheduleI-A oftheIndianStamp Act,1899.
3. Accordingly, the following notification will be published in the extraordinary issueof A.P. Gazettedated:02.12.2013.

#### NOTIFICATION

In exercise ofthe powers conferred byclause(a) of sub-section(1) of section 9 of Indian Stamp Act,1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty payable in respect of following documents under Schedule I-A to the Indian Stamp Act,1899:

<b>Articleof Schedule1-A</b>	<b>Natureof Document</b>	<b>Existing StampDuty</b>	<b>Rate of Stamp duty now fixed</b>
Article 49-A(a)	Settlement in favour of family members	3% of the market value of the property.	1% of the market value of the property.
Article 49A(b)	Settlement in other cases	6% of the market value of the property.	2% of the market value of the property.
Article29	Gift in favour of relatives as defined u/s 56(2) of IT Act, 1961 and Govt./ local bodies/ UDAs	5% of the market value ofthe property.	1% of the market value of the property.
	Gift in other cases	5% of the market value of the property.	4%of themarketvalue ofthe property.
Article 40	<u>Partition Deeds:</u> In favour of family members In favour of others	1% of the market value of the separated share or share of the property 3% of the market value of the separated share or share of the property.	0.5% of the market value of the separated share or shareof theproperty (subject to maximum of Rs.20,000/-) 1%

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**VINOD K.AGRAWAL**  
PRINCIPAL SECRETARY TO GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Revenue (Registration and Stamps) Department–Indian Stamp Act, 1899– Reduction of Stamp Duty payable in respect of certain documents comes under schedule I-A to the Indian Stamp Act, 1899–Orders– Issued.

REVENUE (REGISTRATION-I) DEPARTMENT

G.O.Ms.No.588.

Dated:04.12.2013

Read the following:

1. From the C&IG, R&S, Hyd. Lr.No.S1/11217/2010, Dt. 23.05.2013, 30.3.2013, 22.6.2013 and 01.7.2013.

ORDER:

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Government, after careful examination rationalize the rates of stamp duty by bringing down the duty payable in respect of certain documents under Schedule I-A of the Indian Stamp Act, 1899.

3. Accordingly, the following notification will be published in the extraordinary issue of A.P. Gazette dated : 05.12.2013.

NOTIFICATION

In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of Indian Stamp Act, 1899 (Act II of 1899), the Governor of Andhra Pradesh hereby reduces the Stamp Duty payable in respect of following documents under Schedule I-A to the Indian Stamp Act, 1899:

Article of Schedule 1-A	Nature of Document	Existing Stamp Duty	Rate of Stamp duty fixed
Article 31(a)(i)	Leased deeds for less than 1 year	0.4% of total rent	0.4% on the total rent
Article 31(a)(ii)	Leased deeds for 1-5 years: For residential properties In other case	0.4% of total rent 0.4% of total rent	0.5% on average annual rent 1% on average annual rent
Article 31(a)(iii)	Leased deeds for 5-10 years: For residential properties In any other case	0.4% of total rent 0.4% of total rent	1% on average annual rent 2% on average annual rent
Article 31(a)(iv)	Leased deeds for 10-20 years	0.6% of the total rent	6% on the average annual rent reserved
Article 31(a)(v)	Leased deeds for 20-30 years	0.8% of the total rent	15% on the average annual rent reserved

----	Article 31(a)(vi)	Lease deeds for more than 30 years or in perpetuity higher.	5% of the market value of the property or value of ten times of AAR whichever is higher.	3% of the market value of the property	
-----	----	Article 31(b)	Lease granted for fine, premium or money advanced without rent.	5% of the market value of the property or the amount or value of such fine or premium or advance as set forth in the lease, whichever is higher.	2% on fine, premium or money advanced
-----	----	Article 31(c)	Lease granted for fine, premium or for money advanced in addition to the rent.	5% on fine, premium or money advanced in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered	2% on fine, premium or money advanced in addition to the duty which would have been payable on such lease, if no fine premium or advance had been paid or delivered
-----	----	Article 31(d)	Where lessee undertakes to effect improvements and make over to less or at the time of termination of lease.	5% on the value of the improvements contemplated to be made by the lessee as set forth in the deed in addition to the duty chargeable under clauses (a)(b) or (c).	2% on the value of improvements.
-----	----	Article 33(b)	License granted for on the lumpsum amount.	5% on the lumpsum amount untasset forth in the license.	2 %
-----	----	Article 33(c)	License granted for amount	5% on the lumpsum amount advanced as set forth in the license in addition to the duty which would have been payable on such license if no	2% on the lumpsum amount advanced as set-forth in license in addition to the which would have been payable on such license lumpsum amount
			the		
			duty		
			if no		
			advanced		

delivered. lumpsum amount had been paid or  
advanced had been  
paid or delivered

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(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)  
**VINOD K. AGRAWAL**  
PRINCIPAL SECRETARY TO GOVERNMENT

**O/o the Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyderabad.**

Circular Memo.No.CCRA1/21727/2012

Dt: 22.10.2013

Sub:- Public Services - R&S Department - Document.No. 7239/2005 of Registrar office (OB), Nellore on account of adoption of wrong door no.-W.P.No.38413/2012 filed by Sri. Somisetty Venkata Sesha Rao S/o Subba Rao, Occ: Business, R/o.Vinjamur Village and Mandal of Nellore District - Petition filed before Hon'ble High Court of A.P. - Instructions issued - Reg.

Ref:- 1. From District Registrar Ongole, Lr.No.MV/756/2009, dt: 20.11.2012.

2. C&I.G.'s Memo.No. CCRA1/21727/2012, dt: 24.11.2012.

3. From District Registrar Ongole, Lr.No.MV/756/2009, dt: 29.11.2012 along with Lr.No.Opn./ AGR/Rev.(GO(A&R), dt: 29.11.2012 of G.P. for revenue (G) (A&R) Hon'ble High court build- ings A.p., Hyderabad.

4. C&I.G.memo.No. CCRA1/21727/2012, dt:03.12.2012.

5. Judgment dated : 30.04.2013 of Hon'ble High Court of A.P., Hyd, in W.P.No.38413/2012 filed by Sri Somisetty Venkata Sesha Rao S/o Subba Rao Occ: Business, R/o.Vinjamur Village and Mandal of Nellore District.

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The attention of all the District Registrars in the State is invited to the instructions issued through Circular Memo.No. S1/24387/2000, dt.25.09.2009 wherein all the authorized officers were instructed to collect the deficit duties U/s 41-A of I.S.Act in cases where no steps were taken for filling prosecution cases against the parties under section 27 and 64 of IS Act. It was also instructed to determine the actual deficit amount by levying reasonable penalty equal to 1% of the deficit stamp duty detected per month from the date of execution of the deed to the date of payment and collect the same. Subsequently vide this office circular memo No.S1/24387/2000, dt.27.11.2009 it was clarified that the instructions issued vide this office circular memo dt.25.09.2009 are applicable to all the cases including pending cases previously detected as well as cases detected in the month of 10/2009 and 11/09 and the future cases also where no prosecution against the parties was launched /contemplated as per the provisions of A.P Stamp (Inspection of Properties) Rules, 1998 (G.O.Ms.No.34 Revenue dt.08.1.1998) and all the authorized officers were also directed to add a certificate U/s 42 of I.S.Act on the original documents showing the deficit stamp duty, deficit regn. fee and deficit transfer duty and penalty separately in all those cases where the stamp duty and penalty were collected by the authorized officers.

They are informed that, the Hon'ble High Court of A.P., dt: 30.04.2013 in W.P.no. 38413/2012 has passed the following order, while disposing the case covering similar issue filed by Sri Somisetty Venkata Sesha Rao and others challenging the order passed by the District Registrar Prakasam levying 3 times of deficit stamp duty as penalty.

"The writ petition is accordingly allowed, setting aside the impugned proceedings passed by the District Registrar, Prakasam District, confirmed in appeal by the Chief controlling Revenue Authority & Commissioner and Inspector General of Registration and Stamps, A.P., The authorities shall proceed against the petitioner in terms of the memo dt: 27.11.2009 and the petitioner shall abide by such orders as may be passed by the authorities in keeping with the

said memo."

In view of the above orders of the Hon'ble High court, the instructions of C&I.G (Registration and Stamp) issued vide memo.No.S1/23487/2000 dt: 25.09.2009 read with circular memo No. S1/24387/2000, dt.27.11.2009 for issue of orders determining the actual deficit amounts along with reasonable penalty as instructed there in shall to be followed in all cases to ensure speedy disposal of cases and realisation of stamp duty arrears.

All the District Registrars in the State are directed to follow the instructions issued in this regard in the above cited memo and settle all the pending cases within a period of 3 months and to launch a special drive under the personal supervision of the Deputy Inspectors General concerned.

The District Registrar Prakasam is directed to implement the Hon'ble High Court order dt: 30.04.2013 issued in W.P.No.38413/2012 and dispose off the case urgently.

Encl: As above.

**Sd/- Dr. Vijay Kumar**

Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyd.

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH  
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF APRIL TWO THOUSAND AND THIRTEEN  
PRESENT

THE HON'BLE SRI JUSTICE SANJAY KUMAR  
WRIT PETITION NO: 38413 OF 2012

Between:

Somisetty Venkata Sesa Rao, S/o. Subba Rao, aged 42 years, Occ: Business R/o.Vinjamr Village and Mandal, Nellore District.

.....PETITIONER

AND

1. The chief Controlling Revenue Authority & Commissioner and Inspector General of Registration and Stamps, A.P., Hyderabad.
2. The Deputy Inspector General of Registration and Stamps, Guntur.
3. The District Registrar of Assurances, Prakasam District at Ongole, (the Collector under Section 41-A of the Indian Stamp Act, 1899).
4. The Sub-Registrar, Registration and Stamps, Ongole, Prakasam District.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issued a writ, order or a direction, more particularly one in the nature of Writ of Mandamus declaring the proceedings No.MV/768/2005, dated 10-5-2007 of the District Registrar, Prakasam District at Ongole, as confirmed by the first respondent in Prcs. CCRA1/10184/2007, dated 20.11.2007 and the instructions of the first respondent in Memo.No.CCRA1/21727/2012, dated 3.12.2012, ad being illegal, arbitrary, unreasonable and contrary to the provisions of the Indian Stamp Act,1899 and set-aside the said proceedings with a further direction directing the respondents to receive the deficit stamp duty of Rs.60,73,400/- without any penalty and drop all further proceedings with reference to the registered document No.7239/2005 of the petitioner.

WPMP NO. 13684 OF 2013

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to receive the deficit stamp duty of Rs.60,73,400without penalty.

WPMP NO.48732 OF 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to receive the deficit stamp duty of Rs.60,73,400/- by staying further proceedings in pursuance to the orders dated 10.5.2007 of the District Registrar, Ongole, 20.11.2012 of the first respondent.

Counsel for the Petitioner: Sri N. ASWANI KUMAR

Counsel for Respondents : GP FOR REVENUE

The Court made the following : ORDER

**HON'BLE SRI JUSTICE SANJAY KUMAR WRIT PETITION No.38413 of 2012**

**ORDER:-**

The Petitioner assails the proceedings dated 10.05.2007 of the District Registrar, Prakasam District, confirmed by the Chief Controlling Revenue Authority & Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh, under the proceedings dated 20.11.2007

2. By the proceedings dated 10.05.2007, the District Registrar, Prakasam District, called upon the petitioner to pay Rs.60,73,400/-towards stamp duty along with penalty at three times the deficit stamp duty, aggregating to Rs.2,42,93,600/-. This order stood confirmed in appeal by the Chief Controlling Revenue Authority & Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh, vide proceedings dated 20.11.2007.

3. It is now brought to the notice of this Court that the Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh, issued Memo No.S1/24387/2000 date 27.11.2009 stating thus:

" The attention of all the Authorized Officers is invited to the reference 2nd cited wherein it was directed that where no steps were taken so far for prosecuting the parties under Section 27 and 64 of I.S. Act in all such cases they may collect the loss of duties under Section 41-A of I.S.Act by determining the actual deficit amounts along with reasonable penalty (which can be equal to 1% penalty per month on the deficit stamp duty payable from the date of execution of the deed to the date of payment) and collect the deficit duty and penalty and make necessary endorsements and the Authorized officers were further directed to pass final orders determining the loss of stamp duty and reasonable penalty and issue notice to the affected parties for payment of total amount within 15 days from the date of notice and in case if the parties fail to pay the loss within stipulated time the Authorized officers shall launch prosecutions against the parties concerned under the provisions of the Section 64 of the I.S. Act,1899."

4. The above procedure was made applicable to all cases including pending cases where no prosecution was launched against the parties.

5. Sri N.Ashwin Kumar, learned counsel for the petitioner, states that his client is willing to abide by the directions contained in the afore-stated Memo dated 27.11.2009

6. The learned Assistant Government Pleader for Revenue states that as long as the petitioner is held liable to pay some amount towards penalty, he has no objection to the case of petitioner being dealt with under the Memo dated 27.11.2009.

7. The writ petition is accordingly allowed setting aside the impugned proceedings passed by the district Registrar, Prakasam District, confirmed in appeal by the Chief Controlling Revenue Authority & Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh the authorities shall proceed against the petitioner in terms of the Memo dated 27.11.2009 and the petitioner shall abide by such orders as may be passed by the authorities in keeping with the said Memo. W.P.M.P.Nos.13684 &48732 of 2012 shall stand closed in the light of this final order. No order as to costs.

That Rule Nisi has been made absolute as above witness the Hon'ble Sri N.V.Ramana the Acting Chief Justice on this Monday, the Thirtieth day of April. Two Thousand and Thirteen.

Sd/- **M.VIJAYA BHASKER**  
ASSISTANT REGISTRAR  
SECTION OFFICER

**O/o the Commissioner and Inspector General of  
Registration and Stamps, A.P., Hyderabad.**

Circular Memo.No.MV3/21629/2012

Dt: 28-10-2013

Sub:- Revenue (Registration and Stamps) Department -House No.1, HIG-A at Gachibowli, registered but documents not released from Sub-Registrar Office, Ranga Reddy -Permission for release of documents - Instructions - Issued - Reg.

Ref:- Government of Andhra Pradesh, Revenue (Regn.I) Dept Memo No. 32109/Regb.I/A2/2013- 1 dated 15-10-213.

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A copy of the reference cited is communicated herewith to all the District Registrars in the state for strict implementation for all the pending cases and future cases also. They are instructed to expedite the clearance of all such cases and report compliance within a week positively.

The receipt of the memo shall be acknowledged forthwith.

Encl: As above.

**Sd/- M.Syam Kishore**

For Commissioner and Inspector General  
Registration and Stamps, A.P., Hyderabad

.....  
Memo.No.32109/Regn.I/A2/2013-I

Dt: 15.10.2013

Sub:- Revenue (Registration and Stamps) Department -House No.1, HIG-A at Gachibowli, registered but documents not released from Sub-Registrar Office, Ranga Reddy -Permission for release of documents - Instructions - Issued - Reg.

Ref:- From the C&IG., of R&S., Hyderabad, Lr.No.MV3/21629/2012.

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The attention of the commissioner and Inspector General (R&S), is invited to reference cited, and he is informed that it has already been amply clarified that the instructions issued in Govt. Memo No.33174/Regn.I/A2/2012-1, dt. 12-11-2012 are not in contravention of the statutory provisions of Section 47(A)(6) of Indian Stamp Act, As such, sending the same proposal again and again is unwarranted.

2) However, to expedite clearance of such cases, the following instructions are issued.

i) The consent of the Department in the Government need not be sought when one of the parties to the document is either the State Government or the Central Government.

ii) The proposals for consent could be submitted by the Sub-Registrars directly to the C&IG., The C&IG., the C&IG ., can send them directly to the concerned Administrative Department in the Government.

iii) The consent need not be taken in case of A.P.Housing Board registering the houses in favour of original allottees. This is applicable only for registration in favour of original allottees and not to any third party.

**Sd/- Vinod K.AGRAWAL,**

PRINCIPAL SECRETARY TO GOVERNMENT

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH  
AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY THE SIXTH DAY OF FEBRUARY TWO THOUSAND AND TWELVE  
PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY  
WRIT PETITION NO: 9378 OF 2009

Between:

1.M/s. Bhagyanagar Investments & Trading Private Limited, A company incorporated under companies At, 1956, having its Registered Office at Plot No.18, Nagarjuna Hills Panjagutta, Hyderabad - 500082.

2. M/s.G.B. Trading & Investment Private Limited, A Company incorporated under Companies at, 1956, having its Registered Office at Plot No.5/a, Vengal Rao nagar Hyderabad - 500 038.

3. M/s. Infotech infn & Trading Private Limited, A Company incorporated under companies At.1956, having its Registered Office at Plot No. 5/a, Vengal Rao nagar Hyderabad - 500 038.

4. M/s. Golkonda Finance & Trading Private Limited, A Company Incorporated under companied at, 1956, having its Registered Office at Plot No.5/A, Vengal Rao nagar Hyderabad - 500 038.

5. Mr. P.V.Ramana Reddy, S/o P. Sankar Reddy, R/o.Plot No.28, Vivekananda Enclave, Road No.2, Banjara Hills, Hyderabad.

....PETITIONER(S)

AND

1. The Sub-Registrar, champapet, Ranga Reddy District.

2. The A.P. Wakf Board, Rep. by its Chief Executive Officer, Huz House, Nampally, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus (i) declaring the action of the respondent No.1 in not registering the approved layout LP.No. 26.25 Guntas of Sy.No. 302 and 303 part of Mamidipally Village, Saroornagar Mandal, Rangareddy District as arbitrary, illegal, violative of Art. 14,21 &300-A of the constitution of India; (ii) to direct the Respondent No1 to register the Sale Deed vide pending document No. 137/09 dated 6-4-2009 and other such documents for the plots in this layout; (iii) declaring the Gazette Notification No. 6-A Dated 9-2-1989 in so far as the land in Sy.No.302 & 303 of Mamidipally Village, saroornagar Mandal, Ranga Reddy district as arbitrary , illegal and violative of Article 14,21 & 300-A of the Constitution of India and consequently quash the same.

**WPMPNO. 29917 OF 2009:-**Petition under Section 151 of CPC Praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to direct the 1st respondent to register the documents in respect of the other plots in the layout bearing No.L.P.No.10/HADA/Layout/07 dated 1-11-2007 in Survey Nos. 302 and 303 of Mamidipally Village, Saroornagar Mandal, R.R.District.

**WPMP.NO.12254 OF 2009 :-** Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to suspend the

affidavit filed therewith , the High Court will be pleased to suspend the Gazetted Notification No. 6-A dt.9-2-1989 in so far as the land in sy.No. 302 & 303 of Mamidipally Village, Saroornagar Mandal, RR District Notified at SI No.2913 during the pendency of the W.P.

**WPMP.No.550 OF 2010:-** Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to direct the office to post W.P.No.9378 of 2009 "for being mentioned" for tomorrows.

**Counsel for the Petitioners:** Sri K. RAMA KRISHNA REDDY SENIO COUNSEL FOR SRI G. MADHUSUDHAN REDDY.

Counsel for the Respondent No.1: The G.P FOR REVENUE

Counsel for the Respondent No.2: SRI M.A.K. MUKHEED, SC FOR A.P. WAKF BOARD

The Court made the following JUDGMENT:-

**THE HON'BLE MR JUSTICE NARASIMHA REDDY**

Writ Petition No.9378 of 2009

**JUDGMENT:**

The petitioner purchased different extents of land totalling to AC.26.25 guntas in Sy.No.302 and part of 303 of Mamidipally village. Saroornagar Mandal Ranga Reddy District with an intention to develop the land and to put it to residential and other related purposes, the petitioners applied to the Revenue Divisional Officer West and South to accord permission to convert its use to one of non-agricultural purposes. They paid a sum of Rs.1,06,50,000/- towards the stimulated fee permission was accorded vide proceedings dated 22-08-2007. Necessary approval is also said to have been accorded by th Hyderabad urbon Development Authority and a clearance by the Hyderabad Metro Development Authority.

The land was divided into plots and necessary deeds of transfer in respect of places covered by roads and common areas in the lay-out were executed in favour of the concerned local authorities. About 25 plots out of the lay-out were sold between April and November 2008. A sale deed dated 06-4-2009 executed in favour of one of hte prospective purchasers of the petitioners was presented for registration before the 1st respondent. The document was kept pending by assigning No.P-137/2009, Two days thereafter the 1st respondent made an endorsement on 08-04-2009 to the effect that the document cannot be registered in view of the information received from the A.P. Wakf Board the 2nd respondent herein to the effect that the land belongs to them. Obviously he was applying the prohibition contained under section 22-A of the Registration Act,1908 introduced through A.P. Act. 19 of 2007 Hence this wirt petition.

The petitioners contend that the claim of the 2nd respondent that the land in Sy.Nos. 302 and part of 303 of Mamidipally village, belongs to them is untenable in law. It is pleaded that the land was covered by the provisions of the Andhra Pradesh (Telangana Area) Abolision of inams Act 1955 for short the inams act) and that their predecessors in title were granted Occupancy Right Certificate (ORC) by the authorites under the said enactment. It is also stated that the notification dated 09-02-1989, published by the Government, under the wakf Act, 1954 (for short the wakf Act) in relation to the lands in sy.Nos. 302 and 303 of Mamidipally Village is contrary to the provisions of that Act, According to the petitioners no survey as contemplated under the relevant provisions of the wakf Act was conducted much less, the petitioners or their predecessors in title were put on notice. They place relaiance upon the judgement rendered by this court in b.Gowra Reddy. Government of Andhra pradesh. which in turn was affirmed by the Division Bench of this Court.

The Principal contest to the Writ petition is by the 2nd respondent. A detailed counter affidavit is filed stating that the land in Sy. Nos. 299 to 306 of Mamidipally village was held by a wakf institution and notification in respect of the said properties was published on 09-02-1989. According to them, survey in respect of the land was conducted in the year 1960 but due to lack of proper infrastructure and funds, notification could not be made, soon thereafter. It is further stated that the publication of notification is only a formal step and once a property is held by a wakf institution, it remains so, till a valid transfer in accordance with law takes place. They have also raised an objection as to the maintainability of the writ petition stating that the only remedy available to the petitioners was the one to institute proceedings before the wakf Tribunal, and that even for such a remedy the limitation stipulated under the wakf Act had expired.

Sri K. Rama Krishna Reddy learned Senior Counsel appearing on behalf of the petitioners submits that the predecessors in title of the petitioners were granted ORCs in the year 1980 after issuing notice to the affected parties and conducting enquiry and that the 2nd respondent or any institution on its behalf did not submit any claim at all. He contends that with the issuance of ORC. The recipient thereof gets absolute right and a notification issued on behalf of the 2nd respondent almost a decade thereafter does not have any bearing upon the rights, that are derived from the ORC. He submits that in case the 2nd respondent felt that the ORC ought not to have been issued in respect of the land. It was supposed to avail the remedies under the said enactment, but no steps were taken in that direction.

Learned Senior counsel submits that the wakf Act prescribed a detailed procedure to be followed. Whenever a notification under section 4 thereof was to be issued and that even according to the respondents such a procedure was not followed. He submits that conducting of survey before publication of notification is an important step and any notification must be preceded by the contemporary survey and examination of the claims of the persons interested in the land. He contends that a survey conducted in the year 1960 can by no stretch of imagination constitute the basis for publication of notification in the year 1989. He submits that the facts of the present case are similar to those in B.Gowra Reddy's case (supra).

Learned Government pleader for Revenue and Sri M.A. Mukheed learned standing counsel for the 2nd respondent on the other hand, submit that the writ petitioners cannot assail the implementation of section 22-A of the Registration Act, as long as the land in question is covered by a notification issued under the wakf Act. They contend that limitation to institute proceedings under the wakf Act, Vis -a-vis the notification published thereunder has expired long back. They submit that once a land is notified as wakf. The prohibition ordained under Section 22-A of the Registration Act operates and the 1st respondent has no option except to refuse registration of the documents in relation thereto learned counsel submit that the conducting of survey under the wakf Act is almost a preparatory exercise and that no private individual has any right to participate therein. It is also urged that mere delay in publication of the notification does not tell upon its legality.

The A.P.State Legislature intended to prohibit registration of documents owned by the Government and accordingly introduced section 22-A of the Registration Act in the year 2004. The said provision contemplated publication of a notification in the gazette, enlisting the survey numbers, or other particulars of the lands, as regards which prohibition was to operate. That provision was challenged in a batch of writ petitions. This Court has set aside the same following the judgment of the Supreme Court. Thereafter another provision with the same number but different text was introduced through A.P. Act, 19 of 2007. The Provision reads.

**"Sec22-A: Prohibition of Registration of certain documents:-**

1. The following classes of documents shall be prohibited from registration namely:-
  - a) Documents relating to transfer of immovable property the alienation or transfer of which is prohibited under any statute of the state or Central Government.
  - b) Documents relating to transfer of immovable property by way of sale agreement of sale, gift exchange or lease in respect of immovable property owned by the state or Central Government executed by persons other than those statutorily empowered to do so.
  - c) Documents relating to transfer of property by way of sale agreement of sale, gift, exchange or lease exceeding (ten) 10 years in respect of immovable property, owned by Religious and Charitable Endowments falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 or by Wakfs falling under the wakfs Act, 1995 executed by persons other than those statutorily empowered to do so.
  - d) Agricultural or urban lands declared as surplus under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 or the Urban Land (Ceiling and Regulation) Act, 1976;
  - e) Any documents or class of documents pertaining to the properties the state Government may by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational, Cultural, Religious and Charitable institutions, those attached by Civil, Criminal, Revenue Courts and Direct and indirect Tax Laws and others which are likely to adversely affect those interests.
- 2) For the purpose of clause (e) of sub-section (1) the State Government shall publish a notification after obtaining reasons for and full description of properties furnished by the District Collectors concerned in the manner as may be prescribed.
- 3) xxx
- 4) xxx

A perusal of this discloses that the prohibition would apply not only in respect of the documents pertaining to the lands owned by the State or Central Governments, but also those, held by religious institutions such as charitable endowment institutions and the wakfs. It is only in respect of the properties covered by clause (e) of sub-section (1) The publication of Notification is required under sub section (2). Mere existence of information pertaining to the properties covered by clauses (a) to (d) of sub-section (1) is sufficient for a Registrar to refuse registration of documents pertaining to such properties.

In the instant case, the registration of document submitted by the petitioners is refused on the ground that it is in relation to wakf property Admittedly, there existed a notification dated 09-02-1989 under the wakf Act 1954 as regards the said property if the matter were to have been as simple as that no exception can be taken to the refusal of registration, However, it is not so.

The land in Sy.Nos. 302 and part of 303 of Mamidipally Village was covered by the provisions of the inams Act. By operation of that Act, a land notified as 'inam' straightway vests in the Government and such of the persons, who are in possession of the same, for the period stipulated thereunder are entitled to be granted ORC. The Revenue Divisional Officer is conferred with the power to issue such certificates after conducting enquiry under section B of that Act. In the year 1980 the persons who are in occupation of the inam land in Mamidipally village, submitted applications before the Revenue Divisional Officer for grant of ORCs. Enquiry as stipulated under that Act was conducted and ORCs were issued. Thereby absolute

rights, Vis-a-vis the land are conferred upon them. It is thereafter that a notification was issued under the wakf Act, 1954, on 09-02-1989.

With the publication of a notification under section 4 of the wakf Act, 1954 which is similar to the provisions under the wakf Act, 1995 serious consequences as regards ownership flow. For all practical purposes the rights if any exercised by third parties over such land, stand extinguished once a notification is issued. That is why a remedy is provided for under that Act itself, to seek the relief vs -a vis the notifications. Three questions assume significance in this behalf:

Viz.

- a) Whether a notification under the wakf Act 1954 shall have the effect of extinguishing the rights determined under another enactment;
- b) Whether the notification dated 09-02-1989 under the wakf Act issued in respect of the land in Mamidipally Village can be treated as valid ; and
- c) Whether the starting point for computation of limitation for institution of proceedings to challenge the notification under the Wakf Act by third parties would be the date of notification.

It has already been mentioned that the predecessors in titles of the petitioners were granted ORCs in the year 1980 by the concerned Revenue Divisional Officer. The inams Act has its origin to the agrarian reforms that have been introduced in the early 1950's. Constitutional Acts have to be amended to save laws, that were enacted for that purpose. The typical feature of the Inams Act is that , with its coming ino force the lands covered by it vest, as a first step in the Government. Certain rights are conferred upon the persons who are in enjoyment of the property on the notified dated. Once an ORC is issued the person becomces virtually an absolute owner. Whatever be the effect of the publication of notification under the Wakf act, it does not have the effect of erasing the rights, that were conferred upon a citizen under the inams Act. There is nothing in the Wakf Act, which adds overriding power to a notification issued under it, vis-a-vis the rights conferred under a different statute.

Further the publication of a notification under the Wakf Act is only a step to add statutory flavour to the rights which a wakf institution is supposed to be having already. By itself, the notification does not bring about any changes as to ownership. That is the reason behind the detailed exercise which is required to be undertaken, before the notification is published. This includes conducting of survey where the nature of rights held by wakf institution as on the date, are ascertained. The notification is declaratory in its nature, than being constitutive of independent legal regime. If, in the course of enquiry or survey, it is found that a piece of land is enjoyed by a third party and not by wakf institution it may not be feasible to issue notification. In such an event, the concerned wakf may assert its rights by instituting proceedings before the wakf Tribunal. Therefore, the mere publication of a notification under Section 4 of the Wakf Act, 1954, does not have the effect of extinguishng the rights, that are conferred on third parties under a statute earlier to it.

The petitioners submit that the notification dated 09-02-1989 published in respect of Sy.Nos.302 and part of 303 is untenable and defective. Their principal contention is about the non-conducting of survey and enquiry. Section 4 of the Wakf Act, be it 1954 or 1995 reads;

**Sec.4: Preliminary survey of wakfs:**

- 1) The State Government may by notification in the Official Gazette, appoint for the State a Survey Commissioner of Wakfs and as may additional or Assistant Survey Commis-

sioners of wakfs as may be necessary for the purpose of making a survey of wakfs existing in the State at the date of the commencement of this Act.

- 2) All Additional and Assistant survey Commissioners of Wakfs shall perform their functions under this Act under the general supervisions and control of the Survey Commissioner of Wakfs.
- 3) The Survey Commissioner shall, after making such inquiry as he may consider necessary, submit his report in respect of wakfs existing at the date of the commencement of this Act in the State or any part thereof to the State Government containing the following particulars namely;-
  - a) The Number of wakfs in the State showing the shia Wakfs and Suni wakfs separately.
  - b) The nature and objects of each wakf;
  - c) The gross income of the proeprty comprised in each wakf;
  - d) The amount of land revenue, cesses, rates and taxes payable in respect of each wakf;
  - e) The expenses incurred in the realisation of the income and the pay or other remuneration of the mutawalli of each wakf and
  - f) Such other particulars relating to each wakf as may be prescribed.
- 4) The Survey Commissioner shall while making any inquiry have the same powers as are vested in a Civil Court under the Code of Civil Procedure. 1908 (5 of 1908) in respect of the following matters namely:-
  - a) Summoning and examining any witness:
  - b) requiring the discovery and production of any document:
  - c) requisitioning any public record from any court or office:
  - d) issuing commissions for the examination of any witness or accounts.
  - e) making any local inspection or local investigation.
  - f) such other matters as may be prescribed.
- 5) if during any such inquiry, any dispute arises as to whether a particular wakf is a shia wakf or suni wakf and there are clear indications in the deed of wakf as to its nature the dispute shall be decided on the basis of such deed.
- 6) The State Government may by notification in the Official Gazette direct the Survey Commissioner to make a Second or subsequent survey of wakf properties in the state and the provisions of sub-section (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1).

Provided that no such second or subsequent survey shall be made until the expiry of a period of twenty years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3)

From this it is clear that a detailed survey is required to be conducted. The publication of the

notification must be soon, though not immediate, after the survey. The reason is that, any events that occur between the date of survey, and date of publication of the notification would render the very exercise futile. If any substantial development takes place between the two events the survey conducted earlier can not at all constitute the basis for publication. Even otherwise unreasonable delay would defeat the very objective underlying the provision.

It was way back in the year 1960 that the survey in respect of the land in sy.Nos299 to 306 of Mamidipally village was conducted under section 4 of the wakf Act, 1954. The publication was made only in the year 1989. In the period of three decades, that has intervened several legislative and administrative changes have taken place. The inams Act came into force and in the course of its implementation the ORCs were granted in respect of the lands. Had any survey been conducted immediately preceding the publication in the year 1989, the fact that the petitioners or their predecessors in title had in possession and enjoyment of the property, as absolute owners or were issued ORCs could have been noticed, and issuance of notification would certainly have become doubtful. By no stretch of imagination, the survey conducted in the year 1960, can be said to be the basis for publication of a notification in the year 1989. Therefore the notification dated 09-02-1989 cannot be said to be in conformity with the provisions of the wakf Act.

This court, in B. Gowra Reddy's case (supra) dealt with the manner in which the notification under challenge here in was issued, and expressed the view that it does not accord with law. The principle laid down there in covers the facts of this case also.

The third contention arises on account of the objection raised by the 2nd respondent, to the effect that the petitioners cannot challenge the notification at this stage. When its right to file a suit under the Act is barred.

The question as to whether the limitation and other aspects covered by sections 4 to 6 of the wakf Act would apply in relation to proceedings initiated by third parties also was dealt with by the Hon'ble Supreme Court in **Board of Muslim wakfs, Rajasthan V. Radha Kishan**. It was held that the notification would become final and conclusive as between the wakf Board and the Mutawalli on the one hand, and the persons interested in the wakf, on the other, but not against the persons who are not interested in the wakf. The petitioners herein did not claim any interest in the wakf concerned.

For the foregoing reasons the writ petition is allowed, as provided for

The miscellaneous petition filed in this writ petition also shall stand disposed of.

There shall be no order as to costs.

Sd/-

ASSISTANT REGISTRAR