

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 6TH DAY OF DECEMBER 2017/15TH AGRAHAYANA, 1939

WP(C) .No. 16061 of 2017 (G)

PETITIONER:

DR.ABDUL RASHEED @ DR.A.R.BABU,
AGED 60 YEARS, S/O.ALIYAR KUNJU, HEERA,
T.C 5/2527 (5), TKV NAGAR, OPP. GOLF CLUB,
KOWDIAR P.O., PIN -695 033, SASTHAMANGALAM,
MANAGING DIRECTOR, M/S.HEERA SUMMER HOLIDAY
HOMES PRIVATE LIMITED, M.P. APPAN ROAD,
VAZHUTHACAUD, THIRUVANANTHAPURAM-695014.

BY ADVS.SRI.K.V.SADANANDA PRABHU
SRI.SERGI JOSEPH THOMAS
SRI.A.KEVIN THOMAS

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO
GOVERNMENT, REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM-695033.
3. THE DISTRICT REGISTRAR (GENERAL) ,
THIRUVANANTHAPURAM-695023.
4. THE SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR,
POOVAR, THIRUVANANTHAPURAM-695525.

BY SENIOR GOVERNMENT PLEADER SRI.B.VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-11-2017 ALONG WITH WPC. 16062/2017 & CONNECTED
CASES, THE COURT ON 06-12-2017 DELIVERED THE FOLLOWING:

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXHIBIT-P1: TRUE COPY OF THE RESOLUTION NO.13/2016
DATED 06/05/2016 OF HEERA SUMMER HOLIDAYS HOMES
PRIVATE LIMITED.
- EXHIBIT-P2: TRUE COPY OF THE SETTLEMENT DEED EXECUTED BY THE
PETITIONER DATED 13/06/2016.
- EXHIBIT-P3: TRUE COPY OF THE ORDER NO.I2-3338/2016
DATED 13/07/2016 OF THE DISTRICT REGISTRAR
(GENERAL) THIRUVANANTHAPURAM.
- EXHIBIT-P4: TRUE COPY OF THE ORDER NO.LR (A) 3-33901/2016
DATED 02/03/2016 OF THE LAND REVENUE
COMMISSIONER.
- EXHIBIT-P5: TRUE COPY OF THE NOTICE NO.104/2016
DATED 5.5.2017 ISSUED BY THE FOURTH RESPONDENT.
- EXHIBIT-P6: TRUE COPY OF THE APPLICATION DATED 17.7.2017
SUBMITTED BY THE PETITIONER BEFORE THE
FOURTH RESPONDENT.
- EXHIBIT-P7: TRUE COPY OF THE APPLICATION DATED 17.7.2017
SUBMITTED BY THE PETITIONER BEFORE THE
THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

'CR'

K. VINOD CHANDRAN, J.

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**W.P.(C)Nos.16061-G, 16062-G,
16063-G, 16091-J, 16093-J,
16098-J and 16109 of 2017 - K**

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Dated this the 06th day of December, 2017

Judgment

The above writ petitions filed by the same person, are concerned with an identical issue. The subject matter arises from different transactions by a Company; named M/S Heera Summer Holiday Homes (P) Ltd. The petitioner is the Managing Director (M.D) of the Company, which owned certain properties having substantial extents and executed instruments styled as settlement deeds, the stamp duty leviable in which, is the issue arising. Each of the documents need not be referred to, suffice it to notice that the Company settled different extents of property on the three children of the petitioner. The consideration shown in all the documents, was love and affection towards the respective beneficiary.

2. The documents were produced for registration before the Sub Registrar, the 4th respondent herein. When the documents were produced, initially registration fee was levied on the premise of it being a settlement deed. At the time of registration, on closer scrutiny, it was found that the executant was a Company, who settled the properties on the children of the M.D. The Sub Registrar treated the transaction to be a gift and directed payment of deficient registration fees and stamp duty. The presenter expressed his helplessness for want of sufficient funds and undertook to pay the deficient amounts as determined by the District Registrar. The Sub-Registrar hence impounded the documents and sent it to the District Registrar (General) for determination of stamp duty. One of the orders passed, as evidenced at Ext.P3 in W.P.(C) No.16061 of 2017 is referred to.

3. The District Registrar found that the executant was a Company and hence there can be no settlement effected as

defined in Section 2(q) of the Kerala Stamp Act, 1959 (for brevity 'the Stamp Act'). Article 51(1) of the Stamp Act was found to be not applicable, since the settlement is not in favour of father, mother, husband, wife, son, daughter, brother or sister of a person. The execution was not by a person as understood in the said Article. It was found that the deed is one of gift and stamp duty is leviable under Article 31(ii) of the Stamp Act. The stamp duty leviable was determined under Article 31(ii) of the Stamp Act. When the person who produced the document, the petitioner was asked to remit the balance stamp duty and registration fees, he expressed his helplessness, for reason of his inability to generate sufficient funds. Appeals to the Land Revenue Commissioner failed, one of which is seen at Ext.P4. The petitioner was served with demand notices for the amounts due, as per Exhibit P-5, produced in all the writ petitions.

4. The learned Counsel for the petitioner submits that there could have been no impounding effected of a document

produced for registration under Section 33 of the Stamp Act. Section 33 of the Stamp Act is applicable only when an instrument not duly stamped; is produced in evidence or any person in charge of a public office comes across such instrument, in the performance of any such functions. It is argued that, at the time of determination of registration fees, the instrument should have been refused; as is provided under the Registration Act, 1908 and the Registration Rules. Section 51 of the Registration Act provides for Register-Books to be kept in the several offices, which includes Book 2 "Record of reasons for refusals to register". Section 71 of the Registration Act also mandates the reasons for refusal to register to be recorded in such Book.

5. The learned Counsel relies on the judgment of a Single Judge of this Court in **Assanaru Khan v. Sub Registrar [2017 (3) KLT 68]**. It is the specific contention of the learned Counsel that on such refusal being effected; if the petitioner does not take any further steps, the consequence would be that

the conveyance would not be acted upon, whether it be a settlement or a gift. The petitioner is unable to pay the stamp duty and hence the petitioner does not desire to proceed with the conveyance of the property. Let there be an order, directing the Sub Registrar to refuse the registration and there would be a quietus to the issue, prays the petitioner. **Assanaru Khan** even according to the learned Counsel, is not correct in saying that the document can be returned. On the refusal to register, the documents could be canceled and retained with the office of the Sub-Registrar is the submission. There being an ambiguity in the provisions, this Court has to adopt a view favouring the citizen, as has been held in **State Of Punjab Vs. Jullundur Vegetables Syndicate AIR 1966 SC 1295** and **District Registrar Vs. Canara Bank 2005 (1) SCC 496.**

6. The learned Government Pleader would seek to sustain the orders passed by the District Registrar and the Land

Revenue Commissioner. Section 33 of the Stamp Act empowers any officer in charge of a public office to impound an instrument, which is produced or comes before him in the performance of his functions; if it appears to him that such instrument is not duly stamped. The subject instrument with a stamp of Rs.1,000/- was produced before the Sub Registrar. The instrument having been produced in the course of performance of his functions, the officer was perfectly justified in having impounded the instrument. Section 34(b) of the Stamp Act is referred; to point out that it speaks of presentation before a Registering Officer for registration. Section 37 of the Stamp Act contemplates a situation, in which a Registering Officer impounds a document and provides for the further course of action to be taken. It is argued that as soon as the document is executed, it becomes liable to be stamped and only on registration can it be acted upon. The petitioner cannot escape from that consequence; on the plea now taken that he would rather not proceed with the

conveyance.

7. The learned Government Pleader relies on the judgment of this Court in **Manohar Kammath v. Ram Mohan Kammath [1991 (2) KLKT 714]**. Section 3, the charging section is read, to assert that the instrument is chargeable on its first execution; after the commencement of the Act. The definition of "chargeable" available in Section 2 also is to this effect. Read with the definition under Section 2(f) of the Stamp Act, which defines "executed" and "execution" as "signed" and "signature", it is imperative that any instrument, as mentioned in the schedule to the Stamp Act be duly stamped, in accordance with the levy under the Schedule; before or at the time of execution.

8. The learned Counsel for the petitioner admits and accepts that there could not have been a settlement deed executed by the Company. A Company is not covered under Article 51(1) of the Stamp Act, wherein the executant has to be a person and settlement has to be in favour of the executant's

father, mother, husband, wife, son, daughter, brother or sister. In the present case, the Company has executed the instrument and despite it being a juristic entity, it cannot be a person, competent to make a settlement, on the consideration of love and affection. As has been found by the District Registrar, the instrument also does not come under the definition of settlement as available in Section 2(q) of the Stamp Act.

9. **Assanaru Khan** (supra) has found that Section 33 of the Stamp Act "relates to instruments that are produced as evidence or **for such purposes** before public authorities and which are not sufficiently stamped"(sic). Section 33 of the Stamp Act does not employ the words such purposes. It speaks of every person having authority to receive evidence and every person in charge of a public office, before whom any instrument not duly stamped; is produced or comes in the performance of his functions. It cannot be said that only an Officer authorised to receive evidence or such purposes could carry out impounding

of an instrument. Any person, who is in charge of a public office, before whom the instrument, is produced or comes in the performance of his duties would be entitled to impound the document.

10. Section 34 of the Stamp Act makes an instrument; not duly stamped, inadmissible in evidence and unworthy of being acted upon, **registered** or authenticated, unless it is duly stamped. Proviso (b) to Section 34 mandates that when such an instrument is presented to a Registering Authority for registration, it shall be registered, if the party agrees to pay duty and penalty thereon, within seven days. This contemplates a situation as in the present case, when on refusal to pay the duty and penalty, the consequence is impounding. Section 37 speaks of the manner in which an instrument impounded is to be dealt with. By sub-section (2) except for the two situations contemplated in sub-section (1); every impounded instrument is to be send in original to the Collector. Sub-section (1) requires (i)

an authority who has admitted such instrument in evidence by receiving duty (under Section 36) and penalty (under Section 34) or (ii) a Registering Officer who has received duty (under Section 36) and penalty under (Section 34), to send an authenticated copy of the instrument to the Collector, with the certificate of duty and penalty levied.

11. A conjoint reading of Sections 33, 34 and 37 demonstrate that an insufficiently stamped instrument can be impounded on production of the same for registration, if the party does not agree to pay the duty and penalty . This Court hence would have had the duty to refer the case to a Division Bench; but for the decision of the Hon'ble Supreme Court in **2013 (9) SCC 332 Tirupati Developers vs. State of Uttarakhand**. There the question dealt with was the stamp duty leviable on eleven agreements for sale, which admittedly did not deliver possession. The State legislation had an Article which required an agreement of sale; without delivery being effected,

to be levied with a duty at 50% of the levy for a conveyance; with set off being permitted at the time of actual conveyance. The agreements stamped with a far lesser amount when presented for registration was impounded. The Court after referring to Section 33; which is in pari materia, held so in paragraph 11:

11..... As per the aforesaid provision, every person having, by law or consent of parties authority to receive the evidence or every person in charge of a public office is duty-bound to impound the instrument when produced before him, and he finds that such an instrument is not duly stamped. **The agreements in question were presented before the Deputy Registrar for registration who felt that the stamp duty on these documents was deficient. Therefore, it is rightly held by the courts below that the subject-matter of the documents fell under Section 33 of the Act and not under Section 47-A of the Act.** Presumably, knowing this legal position, this argument was, though taken before the Assistant Commissioner (Stamps) and was not, thereafter, pressed before the High Court.

12. It has to be observed in this context, that there is another procedure available under Section 45B of the Stamp Act;

when the Registering Officer has reason to believe that the value of the property or the consideration as shown in the document has not been truly set forth. As was noticed, the consideration as per the instrument was love and affection, which, though a juristic entity; the Company could not have had for the M.D's children. Section 28 of the Stamp Act makes it mandatory on the parties to the instrument, to fully and truly set forth in the instrument, the consideration and other facts and circumstances affecting chargeability of any instrument with duty or the amounts of duty with which it is chargeable. There are certain aspects distinguishing the procedure and consequence, in acting under Section 33 and Section 45B.

13. Under Section 33 the Sub-Registrar being **of the opinion** that the instrument is not duly stamped directs the party to make good the deficiency and on failure to do so carries out the impounding. This is because the Statute by Section 39 empowers the Collector, in the event of such impounding to

determine the duty leviable as also the penalty. On impounding the party could pay the duty and penalty in which event the instrument will be dealt with under sub-section (1) of Section 37. Otherwise under sub-section (2) of Section 37, the instrument is sent to the Collector, who stamps the instrument under Section 39, and also levies penalty, which can be challenged in a revision before the Government under Section 54(1). The proceedings under Section 33 confers power to levy penalty while under Section 45B, penalty cannot be levied. Under Section 45B, the instrument will be registered and then sent to the Collector for determining the value or consideration; when the Sub-Registrar **has reason to believe** that the value of the property or the consideration is not truly set forth. An appeal against the Collectors order under Section 45B would lie to the District Court. The words used in Section 45B is "reason to believe" while it is "in his opinion" in Section 33. Section 33 indicates a definitive opinion of the Registering Officer while section 45B is

invoked when the Registering Officer harbours a doubt as to the value and consideration which has to be determined by the District Collector in a duly constituted enquiry.

14. The issue of refusal under the Registration Act and Rules does not arise; since the provisions therein cannot affect the exigibility of stamp duty. The Registration Rules have been framed by the Inspector General of Registration with the approval of the Government. Refusal to register is under Chapter XXIII of the Registration Rules. Rule 190 of the Registration Rules speaks of refusal of registration for reason of the presentation having been made in the wrong office, in which event, there need not be any order of refusal entered in Book 2. Rule 191 of the Registration Rules speaks of the "usual" reasons for refusal coming under one or more of the heads mentioned as I to XIX. The wrong description of an instrument, the real nature of the transaction having not been disclosed, undervaluation or the consideration being not correctly put forth, are not reasons,

which are enumerated under Rule 191 of the Registration Rules. In any event, the Rule only speaks of the usual reasons for refusal and the specific use of the word "usually" indicates that there could also be other reasons which, if put forth, has to be entered in Book 2.

15. The question then is whether refusal can be made under Rule 207 of the Registration Rules as has been found in **Assanaru Khan** (supra). **Assanaru Khan** (supra) after holding that the presentation of a document for registration stands on a completely different footing from that contemplated under Section 33 of the Stamp Act; went on to hold that the Registering Officer at the first instance ought to have acted under Rule 207 of the Registration Rules on determination of remittance of fees. Then the person, producing the document could either remit the fees or seek return of the document without registration was the finding. This is also on the reasoning that when the document remains unregistered for more than 120

days it ceases to have any legal sanctity.

16. This Court, with all the respect at its command, is unable to agree with the said dictum; of the person producing the instrument for registration, having an option: either to register the document on remittance of proper fees and stamp duty or seek return of the document without registration. Again, this Court would have made a reference to a Division Bench; but for the decision of the Supreme Court in **Tirupati Developers** and of the Division Bench of this Court in **Manohar Kammath**.

17. It has to be emphasized that the rules framed under the Registration Act cannot control the levy of duty under the Stamp Act. Under Section 3 of the Stamp Act every instrument mentioned in the Schedule is chargeable on its execution in the territories of the State of Kerala. Section 2 (b) defines "chargeable" as applied to any instrument executed or first executed after the commencement of the Stamp Act. Section 17 mandates that: "All instruments chargeable with duty

and executed by any person in the State of Kerala shall be stamped before or at the time of execution". The liability hence arises on the execution.

18. **Manohar Kammath** considered the correctness of **1988 (2) KLT 433 Gopalan Vs. Chellappan**, in which a learned Single Judge held that an unregistered mortgage deed was not chargeable to stamp duty; since to make the instrument valid, it should not only be executed and attested but also registered. The Division Bench was considering the challenge against the impounding order and levy of stamp duty and penalty; by an Execution Court before whom the unregistered lease deed was produced. Referring to the definitions of "instrument" {S. 2(j)}, "executed" & "execution" {S.2(f)} and "chargeable" {S.2(b)} as also Section 17, it was held so in paragraph 14:

14. The definition of executed and execution in a way restricts and confines it to mean signed, and signature. It is possible to say that it may include the signatures of all persons, who are required by the character of the document to sign in the document. This we

say because there may be cases where both parties have to sign in the document, and if one of the parties alone has signed, it will be difficult for us to hold that the document is executed. **This is important because the chargeability of stamp duty depends upon execution of the document.** It is also perhaps possible to hold in this context that if a document had to be signed by attesting witnesses in order to make it a valid execution of the document the signatures of the attesting witnesses are also to be necessary to treat the document as an instrument, executed falling within the definition of that category of instruments, chargeable with stamp duty. **But, once a document is complete in execution in the sense that all persons required to be signed in the document have signed, then at once, the chargeability under the Stamp Act is attracted. A liability to stamp duty is brought down upon the instrument with reference to the relevant articles as soon as it is executed.** We give emphasis to this aspect of the matter, for the reason that the liability to stamp duty is the cause for holding that the instrument is not properly stamped, and the liability commences and continues as soon as the instrument is executed. **Perhaps, the instrument may not be valid in law for other reasons. Nevertheless, it attracts the liability for stamp duty, when the execution of it is completed.**

As to the decision in **Gopalan** it was held so:

17. Now we shall examine the decision reported in 1988 (2) K.L.T. 433, The learned single Judge was considering a document, the recitals of which

constituted a mortgage, it was executed but was not registered. His Lordship has referred to S.59 of the Transfer of Property Act and said that the section provides that such a document can have legal effect only by a registered instrument signed by the mortgager and attested by at least two witnesses. Further, His Lordship said that one of the attributes of a valid mortgage is transfer of an interest in immovable property and not a purported transfer and to call such an instrument a valid mortgage, it should not only be executed and attested, but it should also be registered (emphasis given by us). To put it differently it is not enough if the document purports to effect a transfer. Saying so, since the document was found not registered, the learned single Judge held that the document is not chargeable with stamp duty. The observation that the document is invalid or will not transfer right in the property and really it will not effect a transfer at all may not be jurisprudential and strictly correct, but in the sense that the document is not enforceable, it can be said that there is valid mortgage created by the document. But, the question is whether such a document is chargeable with stamp duty. That has to be decided with reference to the Stamp Act. As we said earlier, the Stamp Act provides at what point of time, a document falls to be chargeable with duty and the time is before or at the time of execution of the instrument. **When once the document purporting to be a mortgage is executed, at once it invites and attracts by virtue of S. 17 the liability to be charged with stamp duty. There is no escape from it.**

19. Holding the law laid down in **Gopalan** to be not good law the revision was dismissed finding that "if a document

is perse invalid, on account of the fact that it has not been properly executed; it cannot be said that even though it is not a valid document in law, stamp duty has to be paid. When a document is executed and that document requires further formalities to be complied with, like registration for making it an enforceable document, it cannot be said that it is not a valid document, for the purpose of stamp duty" (sic: paragraph: 25)

20. Apposite would be the reference made by the Division Bench to **AIR 1963 SC 1307 New Central Jute Mills Vs. State of West Bengal** and the quote extracted: "Primarily, the liability to stamp duty arises on execution."

21. The legal position as to the liability to the duty arising on the execution being crystal clear; the proposition that the Court cannot strain the language of a statute to hold a subject liable to tax does not apply here. **Jullundur Vegetables Syndicate**, held that the Courts cannot interpret a

fiscal statute supplying deficiencies; which if present shall be interpreted in favour of the tax payer. There are no deficiencies in the Stamp Act as has been found above. The vice of excessive delegation, unfettered exercise of discretionary power, oppressive and arbitrary nature of the power conferred; the grounds, which led to the amended Section 73 of the Andhra Pradesh statute being struck down in **Canara Bank** does not have any bearing or relevance to the Kerala Stamp Act or Section 33. Significant would be the observation in **Canara Bank** that fiscal statutes unlike remedial statutes and those designed to advance public policy, shall be construed strictly. There is no scope for equity or judiciousness if the letter of law is clear and unambiguous. The benefit of any ambiguity or conflict in the different provisions; it was held should go in favour of the subject. But there is no ambiguity in the statute dealt with in the instant case.

22. The learned Counsel for the petitioner also relied on the judgment of the Division Bench of this Court in **Periyar Real Estates v. State of Kerala [2002 (1) KLT 806]**, especially to contend that the construction of a statute should not be in such a manner as to result in manifest injustice and harsh consequences, which are to be avoided as long as the objective of the statute cannot be achieved. The decision under the Stamp Act was concerned with the construction of Section 45B. Whether a document, is to be returned or retained with the Sub Registrar or the District Registrar; when there is a dispute as to the stamp duty payable on the instrument. Section 45B, mandated a reference to the District Registrar, when the registering Officer has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument.

23. The State argued that the document itself has to be referred to the District Registrar. The petitioners asserted such an interpretation would be counter to the obligation of the Registering Officer to return the document as soon as the formalities connected with the registration are completed under Section 61(2) of the Registration Act. The "reference" as spoken of in Section 45B of the Stamp Act was found to be the reference of the doubt or dispute for resolution thereof by the appropriate authority and not the document itself. A contrary interpretation was also found to render the provision under Section 45B of the Stamp Act repugnant; to the extent it is inconsistent with the Registration Act. Though the assent of the President was received by the Stamp Act, the specific provision of Section 45B brought in by an amendment did not have such an assent and hence the obligation of the Registering Officer under the Registration Act to return the

document would prevail, was the finding.

24. The Court also drew a distinction from the provision for impounding. It is pertinent that the provision for impounding under Section 33 was originally available in the Stamp Act, which received the assent of the President and hence this would prevail despite the obligation of the Registrar under the Registration Act to return the document. Furthermore, the liability to Stamp Act, as is found in the impugned order is not by an interpretative process and the liability arises from the charging provision, as available in the statute; on the execution of a document. Pertinently to avoid any unjust and harsh consequences; there is a specific provision for adjudication and determination of the stamp duty {Section 31} even prior to the execution.

25. The Stamp Act provides for an adjudication in the event of a doubt as to the stamp duty. Section 31 address

the concern raised in **Assanaru Khan** that the person presenting the document having not been properly advised of the actual stamp duty to be paid. Section 31 provides for such an adjudication of stamp duty of an instrument even before execution. Then, the parties could decide not to execute an instrument for reason of their inability to pay the duty determined. Once executed, as per the binding precedents the liability to duty arises and as held by the Division Bench; "there is no escape from it". Definitely it can be acted upon only after registration but the liability to stamp duty does not depend upon registration, as held in **Manohar Kammath**.

26. The submission of the petitioner that having no sufficient funds, he is not intending to proceed with the conveyance cannot be countenanced after execution. A similar contention, of cancellation of the agreements of sale, in **Tirupati Developers** was negatived by the Supreme Court in the

following manner:

13. Last attempt of Ms Makhija was that no adjudication was permissible at all because of the reason that these agreements for sale were subsequently cancelled, that too within two months of the execution thereof. **We are of the opinion that the subsequent conduct of the parties in cancelling the agreements cannot be a reason for not taking action under Sections 33/38 of the Act.** That action was necessitated when the documents were produced before the Deputy Registrar and he found the same to be deficient. The subsequent cancellation would be of no avail. In any case, keeping in view this aspect the High Court reduced the penalty to 15% of the deficit stamp duty, thereby giving sufficient succour to the appellant.

27. The instruments hence would have to be registered and the liability to stamp duty is of the grantee as per sub-section (b) of Section 30 of the Stamp Act. The recovery of duties and penalty are to be made from the sale of movables of the person from whom it is due or by other process for the recovery of arrears of land revenue as seen from Section 46 of the Stamp Act. The beneficiary is the person liable to pay and the duties can be recovered by proceeding against the properties conveyed by way of gift, under the

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& connected cases

Kerala Revenue Recovery Act, by attachment and sale of the properties. The demand is made as against the petitioner the M.D. of the Company as seen from Ext.P5 produced in all the writ petitions, who was acting on behalf of his children and who had the liability to pay the stamp duty if it were a settlement. The official respondents will have to proceed against the beneficiaries after issuing notice and on refusal to pay; proceed against their movables or the subject properties involved in the transaction, under the Kerala Revenue Recovery Act.

Writ Petitions are devoid of merit. They shall stand dismissed with further direction to proceed in accordance with the directions, herein above. No order as to Costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB/06/11/2017

// true copy //

P.A to Judge