

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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

WP(C).No. 32257 of 2017 (F)  
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PETITIONER:  
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RELIANCE JIO INFOCOMM LTD.,  
PUKALAKKATTU KARIYATTU TOWER,  
MAMANGALAM, PALARIVATTOM,  
KOCHI-682025  
REPRESENTED BY ITS STATE FINANCE HEAD,  
KERALA MR.GEOMAN VALLATT, AGED 45 YEARS,  
S/O.LATE GEORGE VALLATT

BY ADVS.SRI.LAL K.JOSEPH  
SRI.A.A.ZIYAD RAHMAN  
SRI.V.S.SHIRAZ BAVA  
SRI.JOSEPH KURIAN VALLAMATTAM

RESPONDENT(S) :  
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1. STATE OF KERALA, REPRESENTED BY  
THE PRINCIPAL SECRETARY TO GOVERNMENT,  
DEPARTMENT OF REVENUE,  
THIRUVANANTHAPURAM - 695 001.
2. INSPECTOR GENERAL,  
DEPARTMENT OF REGISTRATION, VANCHIYUR PO.,  
THIRUVANANTHAPURAM, PIN-695035.
3. DISTRICT REGISTRAR,  
OFFICE OF THE DISTRICT REGISTRAR,  
FIRST FLOOR, TRANSPORT BHAVAN, FORT,  
S.STREET RD, THIRUVANANTHAPURAM, PIN-695023.
4. SUB REGISTRAR,  
SUB REGISTRAR OFFICE, KAZHAKKUTTAM,  
KULATHUR ROAD, KAZHAKKUTTAM PO.,  
TRIVANDRUM - 695582.

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5. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
THIRUVALLAM, THIRUVALLAM PO.,  
THIRUVANANTHAPURAM, PIN-695027.
  6. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
THIRUVANANTHAPURAM,  
TRANSPORT BHAVAN, FORT PO.,  
THIRUVANANTHAPURAM, PIN-695023.
  7. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
SASTHAMANGALAM, SASTHAMANGALAM PO.,  
THIRUVANANTHAPURAM, PIN-695010.
  8. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
MALAYANKEEZHU, MALAYINKEEZHU PO.,  
TRIVANDRUM, PIN-695591.
  9. THE SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
VENGANOOR, VENGANOOR PO.,  
THIRUVANANTHAPURAM, PIN-695521.
  10. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
NEYATTINKARA HOSPITAL JN,  
NEYATTINKARA PO., TRIVANDRUM PIN-695121
  11. SUB REGISTRAR,  
SUB REGISTRAR OFFICE,  
BALARAMAPURAM THENPAMUTTAM,  
BALARAMAPURAM PO.,  
THIRUVANANTHAPURAM PIN-695501

BY SRI.K.V.SOHAN, STATE ATTORNEY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 06-12-2017, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE CATEGORY (A) LICENSE  
DATED 23.6.2011 GRANTED BY GOVERNMENT OF INDIA,  
MINISTRY OF GOVERNMENT, DEPT OF TELE  
COMMUNICATION.
- EXHIBIT P1(A) : TRUE COPY OF THE FRESH CERTIFICATE OF  
INCORPORATION DATED 22/1/2013 ISSUED BY THE  
REGISTRAR OF COMPANIES, MAHARASHTRA MUMBAI.
- EXHIBIT P2: TRUE COPY OF THE DEED.NO.617/2014  
DATED 3.03.2017 SUBMITTED BEFORE THE  
4TH RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE SURRENDER DEED.NO.10/2014  
DATED 1.4.2017 SUBMITTED BEFORE THE  
5TH RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE SURRENDER DEED NO.1607/2014  
DATED 1.4.17 SUBMITTED BEFORE THE  
6TH RESPONDENT.
- EXHIBIT P5: TRUE COPY OF THE SURRENDER DEED.NO.673/2014  
DATED 1.4.2017 SUBMITTED BEFORE THE  
7TH RESPONDENT.
- EXHIBIT P6: TRUE COPY OF THE SURRENDER DEED NO.2414/14  
DATED 1.4.17 SUBMITTED BEFORE THE  
8TH RESPONDENT.
- EXHIBIT P7: TRUE COPY OF THE SURRENDER DEED NO.826/14  
DATED 1.4.17 SUBMITTED BEFORE THE  
8TH RESPONDENT.
- EXHIBIT P8: TRUE COPY OF THE SURRENDER DEED NO.2696/13  
DATED 1.4.2017 SUBMITTED BEFORE THE  
9TH RESPONDENT.
- EXHIBIT P9: TRUE COPY OF THE SURRENDER DEED NO.568/14  
DATED 1.4.2017 BEFORE THE 10TH RESPONDENT.
- EXHIBIT P10: TRUE COPY OF THE SURRENDER DEED NO.569/14  
DATED 1.4.2017 SUBMITTED BEFORE THE  
10TH RESPONDENT.
- EXHIBIT P11: TRUE COPY OF THE SURRENDER DEED NO.569/2014  
DATED 1.4.2017 SUBMITTED BEFORE THE  
10TH RESPONDENT.

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EXHIBIT P12: TRUE COPY OF THE SURRENDER DEED NO.918/14  
DATED 1.4.2017 SUBMITTED BEFORE THE  
11TH RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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**A.MUHAMED MUSTAQUE, J.**

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**WP.(C) No.32257 of 2017**

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**Dated this the 6<sup>th</sup> day of December, 2017**

**JUDGMENT**

The petitioner is a lessee. The lease was for the period of 20 years. The petitioner, after the period of three years, decided to surrender the lease. As per the Article 54 of the Kerala Stamp Act, 1959 (for short, the 'Act'), the stamp duty payable is as follows:

Surrender of lease:-

(a) When the duty with which the lease is chargeable does not exceed(One hundred rupees)	The duty with which such lease is chargeable.
(b) in any other case:	(Two hundred and fifty rupees)

2. The registering authority, however, insisted that the petitioner shall pay stamp duty as applicable on release under Article 48. Challenging the action of the registering authority, the petitioner approached this Court.

3. As seen from Exts.P2 to P12, it can be seen that the parties have decided to determine the lease. Under Section 111 of the Transfer of Property Act, the lease can be

determined by express surrender or implied surrender or any other form referred therein. In this case, Section 111(e) of the Transfer of property Act is applicable, which stipulates as follows:

“By express surrender, that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them.

4. The learned State Attorney relied upon the judgment of the Hon'ble Supreme Court in *Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited and Others*[2014(6) SCC 1] and argued that since there is re-conveyance of the unenjoyed interest, the stamp duty levied is not in accordance with Article 54. I do not find any merit in this argument. What has taken place is the determination of lease and it is a surrender of lease. According to the learned State Attorney, the lease was for 20 years and the lessee had enjoyed the property only for a period of three years and re-conveyance of their right to enjoy for remainder of 17 years of lease back to the landlord, has to be treated as re-conveyance of the interest to enjoy

the property. This Court is of the view that there is no merit in the argument. Once interest is transferred back to the landlord there is merger of lessor interest with larger interest of the landlord. In the sense, there is no further interest remains as far as the landlord is concerned. All interests that being enjoyed would be merged with larger interest of the landlord. Therefore, it cannot be said that the lessee is re-conveying the remainder period of the lease in favour of the landlord. The judgment relied by the Hon'ble Supreme Court has no relevance in the matter.

That be so, there is only determination of lease by express surrender by executing a document. Thus, Article 54 alone would apply for such determination of lease. Thus, the writ petition is allowed directing the registering authority to levy the stamp duty as applicable under the Article 54 of the Act and register Exts.P2 to P12 accordingly.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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