



2025:KER:53343

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.2008 OF 2024

AGAINST THE JUDGMENT DATED 15.01.2024 IN W.P(C).NO.15095 OF 2015  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS IN WPC:

- 1 THE REVENUE DIVISIONAL OFFICER  
ADOOR, PIN - 689645
- 2 THE SUB REGISTRAR  
KONNI, PIN - 689691

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER IN WPC:

THOMAS DANIEL  
S/O.E S DANIEL, ILLIRIKKAL HOUSE, KONNI,  
PATHANAMTHITTA DISTRICT, PIN - 689691

BY ADV.SRI.PHILIP T.VARGHESE  
BY ADV.SRI.THOMAS T.VARGHESE  
BY ADV.SMT.ACHU SUBHA ABRAHAM  
BY ADV.SMT.V.T.LITHA  
BY ADV.SMT.K.R.MONISHA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.1481 OF 2025 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1481 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.1930 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS IN WP(C) :

- 1 THE INSPECTOR GENERAL OF REGISTRATION,  
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,  
EX-MAJOR R BALAKRISHNAN NAIR ROAD, NEAR DISTRICT  
COURT, VANCHIYOOR, THIRUVANANTHAPURAM, KERALA,  
PIN - 695035
- 2 THE SUB REGISTRAR,  
OFFICE OF THE SUB REGISTRAR, ERNAKULAM, KOCHI,  
PIN - 682011
- 3 THE DISTRICT REGISTRAR,  
OFFICE OF THE DISTRICT REGISTRAR, ERNAKULAM, KOCHI,  
PIN - 682011
- 4 THE VILLAGE OFFICER,  
VILLAGE OFFICE, ERNAKULAM, ERNAKULAM, KOCHI,  
PIN - 682011

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONERS IN WP(C) :

- 1 REJEESH G,  
AGED 46 YEARS, S/O.GOPALAKRISHNAN NAIR, ATHAM HOUSE,  
PERUVARAM KARA, KOTTUVALLY VILLAGE, NORTH PARAVUR TALUK,  
NORTH PARAVUR PO, ERNAKULAM DISTRICT, PIN - 683513
- 2 M/S.HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED,  
DOOR NO.39/6457 OF COCHIN CORPORATION, RAVIPURAM  
JUNCTION, M.G.ROAD, THRIKKANARVATTOM DESOM, PERUMANOOR  
P.O., ERNAKULAM VILLAGE, KANAYANNUR TALUK, ERNAKULAM



2025:KER:53343

DISTRICT REPRESENTED BY ITS AUTHORIZED OFFICER  
SRI.SACHIN A.S, S/O. T K SHANAVAS, PIN - 682015

BY ADV.SRI.SHIJU VARGHESE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1482 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.17193 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1 & 2 IN WP(C):

- 1 THE INSPECTOR GENERAL OF REGISTRATION  
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,  
EX-MAJOR R BALAKRISHNAN NAIR ROAD, NEAR DISTRICT  
COURT, VANCHIYOOR, THIRUVANANTHAPURAM, PIN - 695035
- 2 THE SUB REGISTRAR  
SUB REGISTRY OFFICE, ALUVA, PIN - 683101

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER & 3RD RESPONDENT IN WP(C):

- 1 SEENA KANNAN  
AGED 47 YEARS  
W/O. AJITHKUMAR, EDAKKATTIL HOUSE, AMITY ASTER DALE  
VILLA, ALUVA P.O, PIN - 683101
- 2 AUTHORIZED OFFICER  
BAJAJ HOUSING FINANCE LTD, COCHIN, PIN - 682017  
  
BY ADV.SRI.JAISON JOSEPH  
BY ADV.SRI.JIMMY JOSEPH  
BY ADV.SMT.ARCHANA RAMANAN  
BY ADV.SMT.VEENA VALLIKANTHAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1490 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.11527 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENS 1 & 2 IN WP(C):

- 1 SUB REGISTRAR  
OFFICE OF THE MEENACHIL SUB-REGISTRAR, MEENACHIL,  
PALA, KOTTAYAM, PIN - 686575
- 2 THE VILLAGE OFFICER  
BHARANANGANAM VILLAGE OFFICE, KOTTAYAM, PIN - 686578

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER & 3RD RESPONDENT:

- 1 MANOJ JOHN KAPPEN  
AGED 50 YEARS  
VALIYAKAPPIL HOUSE, ANTHINADU.P.O., PALA, KOTTAYAM,  
PIN - 686651
- 2 SOUTH INDIAN BANK LTD.  
REGIONAL OFFICE, 1ST FLOOR , REGENCY SQUARE, K.K.ROAD,  
KOTTAYAM. REPRESENTED BY ITS CHIEF MANAGER.,  
PIN - 686002

BY ADV.SRI.MOHAN JACOB GEORGE  
BY ADV.SRI.ZAKEER HUSSAIN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1491 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.25722 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS IN WP(C) :

- 1 THE PRINCIPAL SUB REGISTRAR  
PRINCIPAL SUB REGISTRAR'S OFFICE, KOTTARAKKARA,  
KOLLAM, PIN - 691506
- 2 THE RECOVERY OFFICER  
DEBT RECOVERY TRIBUNAL-II, ERNAKULAM, PIN - 682036

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER IN WP(C) :

NOWFAL SALAM @ MOHAMMED NOWFAL  
AGED 45 YEARS  
S/O.ABDUL SALAM, MANAGING PARTNER,  
TASTY NUT INDUSTRIES, KILIKOLLOOR RESIDING  
AT PATTATHIL HOUSE, AYATHIL P O , KOLLAM DISTRICT,  
PIN - 691017

BY ADV.SRI.MOHAN JACOB GEORGE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1494 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.25608 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1 & 2 IN WPC:

- 1 SUB REGISTRAR  
OFFICE OF THE MEENACHIL SUB- REGISTRAR, MEENACHIL,  
PALA, KOTTAYAM., PIN - 686575
- 2 THE VILLAGE OFFICER  
LALAM VILLAGE OFFICE, KOTTAYAM, PIN - 686574

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER AND 3RD RESPONENT IN WPC:

- 1 DALY BIJI  
MYLADOOR HOUSE, ANTHINADU.P.O., PALA, KOTTAYAM,  
PIN - 686651
- 2 SOUTH INDIAN BANK LTD.  
REGIONAL OFFICE, 1ST FLOOR, REGENCY SQUARE, K.K.ROAD,  
COLLECTORATE.P.O., KOTTAYAM. REPRESENTED BY ITS CHIEF  
MANAGER, PIN - 686002

BY ADV.SRI.ZAKEER HUSSAIN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1504 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.6290 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/1ST RESPONDENT IN WPC:

SUB REGISTRAR  
OFFICE OF THE THRIKKAKKARA SUB REGISTRAR,  
THRIKKAKKARA KAKKANAD, PIN - 682030

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER & 2ND RESPONDENT IN WPC:

- 1 JITHIN JAMEEL  
AGED 42 YEARS  
RESIDING AT KUMBALATH HOUSE, PALLIPATTUMURI,  
THRIKKUNNAPPUZHA P.O. ALAPPUZHA - 690 515.  
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER  
MUHAMMED RAFI.T, AGED 37 YEARS, S/O.THAMEEM,  
RESIDING AT MADATHINKAL HOUSE, PANOOR,  
THRIKKUNNAPPUZHA.P.O, KARTHIKAPPALLY TALUK,  
ALAPPUZHA, PIN - 690515
- 2 FEDERAL BANK LTD  
LCRD/ERNAKULAM DIVISION, GROUND FLOOR, FEDERAL TOWERS,  
MARINE DRIVE, KOCHI. REPRESENTED BY ITS AUTHORISED  
OFFICER., PIN - 682031

BY ADV.MOHAN JACOB GEORGE  
BY ADV.SRI.ZAKEER HUSSAIN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:





2025:KER:53343

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1507 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.14650 OF 2024  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENT IN WPC:

THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR,  
MAVELIKKARA SRO, MAVELIKKARA P.O, ALAPPUZHA DISTRICT,  
PIN - 690101

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONERS IN WPC:

- 1 B. VIJAYAKUMAR,  
AGED 55 YEARS  
S/O. BALAN PILLAI, KALLELATHUTHARAYIL SIVADEVAM,  
PALLARIMANGALAM P.O, MAVELIKARA, ALAPPUZHA DISTRICT,  
PIN - 690107
- 2 THE FEDERAL BANK LIMITED, LCRD/MAVELIKKARA (SATELLITE)  
DIVISION, 1ST FLOOR, PADINJARETHALACKAL CHERIAN  
CHAMBERS, PUTHIYAKAVU, MAVELIKKARA, ALAPPUZHA DISTRICT  
REPRESENTED BY ASSITANT VICE PRESIDENT AND AUTHORIZED  
OFFICER, PIN - 690101

BY ADV.SRI.MOHAN JACOB GEORGE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



2025:KER:53343

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1539 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.5246 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1 & 2 IN WP(C) :

- 1 SUB REGISTRAR  
OFFICE OF THE KADATHURUTHY SUB REGISTRY, MARKET JUNCTIN,  
KADATHURUTHY, KOTTAYAM, PIN - 686604
- 2 THE VILLAGE OFFICER  
KOTHANALLOOR VILLAGE OFFICE, VAIKOM TALUK, KOTTAYAM,  
PIN - 686141

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER & THIRD RESPONDENT IN WP(C) :

- 1 SATHEESH BABU  
AGED 67 YEARS  
NEDIYATHU VILLA, CHIRAKKULAM ROAD, ETTUMANOOR,  
KOTTAYAM, PIN - 686631
- 2 SOUTH INDIAN BANK LTD.  
REGIONAL OFFICE, 1ST FLOOR, REGENCY SQUARE, K.K.ROAD,  
KOTTAYAM. REPRESENTED BY ITS CHIEF MANAGER,  
PIN - 686002

BY ADV.SRI.MOHAN JACOB GEORGE  
BY ADV.ZAKEER HUSSAIN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1540 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.8079 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/1,2 & 5TH RESPONENT IN WP(C):

- 1 STATE OF KERALA  
REPRESENTED BY ITS SECRETARY,REGISTRATION DEPARTMENT,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695035
  - 2 THE SUB REGISTRAR  
OFFICE OF THE SUB REGISTRAR, KAPPALANDIMUKKU,  
MATTANCHERRY, KOCHI, KERALA, PIN - 682002
  - 3 THE VILLAGE OFFICER  
RAMESWARAM VILLAGE, KOCHI TALUK, PULLARDESHAM ROAD,  
PALLURUTHY, KOCHI, KERALA, PIN - 682006
- BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER AND 3, 4 AND 6TH RESPONDENTS IN WP(C):

- 1 M/S.VTJ FISHERIES PVT. LTD.  
HAVING REGISTERED OFFICE AT CC XVIII/54, THOPPUMPADY,  
KOCHI- 682 005, REPRESENTED BY ITS MANAGING DIRECTOR  
SRI.JOSEPH J.VAYALAT, AGED 49, S/O.V.T.JOSEPH,  
VAYALATT HOUSE, MARY MAGDALENE CHURCH, MOOTHEdam,  
ERNAKULAM, PIN - 682304
- 2 THE AUTHORISED OFFICER  
FEDERAL BANK LTD, LCDR/ERNAKULAM DIVISION,  
GROUND FLOOR, FEDERAL TOWERS, MARIN DRIVE,  
ERNAKULAM, KOCHI, PIN - 682031
- 3 FEDERAL BANK LTD.  
M G ROAD, NORTH END, ERNAKULAM, KOCHI,



2025:KER:53343

REPRESENTED BY CHIEF MANAGER,  
PIN - 682031

4 DEPUTY SECRETARY  
KOCHI CORPORATION, ZONAL OFFICE, SDPY ROAD,  
PALLURUTHY, KOCHI, KERALA, PIN - 682006

BY ADV.SRI.PEEYUS A. KOTTAM  
BY ADV.SRI.LEO GEORGE  
BY ADV.SRI.P.PAULCHAN ANTONY  
BY SRI.K.JANARDHANA SHENOY, STANDING COUNSEL, KOCHI  
CORPORATION

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



2025:KER:53343

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1585 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.22150 OF 2023  
OF HIGH COURT OF KERALA

APPELLANT(S)/FIRST RESPONDENT IN WP(C):

THE SUB REGISTRAR  
SUB-REGISTRAR OFFICE, PUTHENCROUZ, PUTHENCROUZ,  
ERNAKULAM DISTRICT, PIN - 682308

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER AND SECOND RESPONDENT IN WP(C):

- 1 ANIL KUMAR PALATHINKAL  
AGED 62 YEARS  
S/O GEORGE P.U., PALATHINKAL HOUSE, N.F.GATE, OPPOSITE  
PETTAH BRIDGE, NADAMA VILLAGE, TRIPUNITHURA, ERNAKULAM  
DISTRICT, PIN - 682301
- 2 UNION BANK OF INDIA  
ASSET RECOVERY BRANCH, 2ND FLOOR, UNION BANK BHAVAN,  
M.G.ROAD, ERNAKULAM 682 035. REPRESENTED BY ITS  
AUTHORIZED OFFICER

BY ADV.SRI.GEORGE POONTHOTTAM (SR.)  
BY ADV.SMT.NISHA GEORGE  
BY ADV.SRI.ASP.KURUP  
BY ADV.SRI.SADCHITH.P.KURUP  
BY ADV.SRI.C.P.ANIL RAJ  
BY ADV.SRI.SIVA SURESH  
BY ADV.SMT.B.SREEDEVI  
BY ADV.SMT.ATHIRA VIJAYAN



THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947

W.A.NO.1672 OF 2025

AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C) .NO.2891 OF 2024  
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 2 & 3 IN WP(C) :

- 1 SUB REGISTRAR  
2ND FLOOR, PERUMPILLY BUILDING MAHATHMAGANDI ROAD,  
ABOVE KEERTHILAL JEWELLERY, KPCC JUNCTION, ERNAKULAM,  
PIN - 682011
- 2 STATE OF KERALA  
REPRESENTED BY ADDITIONAL CHIEF SECRETARY REVENUE  
THIRUVANATHAPURAM, PIN - 695001
- 3 SUB REGISTRAR  
2ND FLOOR, PERUMPILLY BUILDING MAHATHMAGANDI ROAD,  
ABOVE KEERTHILAL JEWELLERY, KPCC JUNCTION, ERNAKULAM,  
PIN - 682011

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)

RESPONDENT(S)/PETITIONER AND FIRST RESPONDENT IN WP(C) :

- 1 BINU THOMAS MELEDAM  
AGED 53 YEARS  
MELEDATHUKADAMAKARA VILAKKUVATTOM P O PUNALUR,  
KOLLAM-691305 PRESENTLY RESIDING AT:- A16B GARDEN  
COURT, PADIVATTOM CIVIL LINE ROAD,  
EDAPPALLY SOUTH P O, ERNAKULAM, PIN - 682024
- 2 THE AUTHORIZED OFFICER  
M/S HDB FINANCIAL SERVICES LTD, 2ND FLOOR,  
THE ART OF LIVING TOWER, 13 CROSS ROAD,  
SBT AVENUE, NEAR PASSPORT OFFICE PANAMPILLY NAGAR,  
KOCHI, PIN - 682036



2025:KER:53343

BY ADV.SRI.B.VINOD  
BY ADV.SRI.PRADEESH CHACKO

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:





2025:KER:53343

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&amp;

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 21<sup>ST</sup> DAY OF JULY 2025/30TH ASHADHA, 1947W.A.NO.1676 OF 2025AGAINST THE JUDGMENT DATED 19.05.2025 IN W.P(C).NO.6164 OF 2023  
OF HIGH COURT OF KERALAAPPELLANT(S)/RESPONDENTS 1 TO 4 IN WP(C):

- 1 THE INSPECTOR GENERAL OF REGISTRATION  
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,  
EX-MAJOR R BALAKRISHNAN NAIR ROAD, NEAR DISTRICT COURT,  
VANCHIYOOR, THIRUVANANTHAPURAM, KERALA, PIN - 695035
- 2 THE SUB REGISTRAR  
OFFICE OF THE SUB REGISTRAR, PANAVALLY PANAVALLY P O,  
ALAPPUZHA DISTRICT, PIN - 688526
- 3 THE DISTRICT REGISTRAR  
OFFICE OF THE DISTRICT REGISTRAR, ALAPPUZHA  
ALAPPUZHA DISTRICT, PIN - 688011
- 4 THE VILLAGE OFFICER  
THAIKKATTUSSERY VILLAGE OFFICE, THAIKKATTUSSERY P O,  
ALAPPUZHA DISTRICT, PIN - 688528

BY SRI.MOHAMMED RAFIQ, SPECIAL GOVERNMENT PLEADER  
(TAXES)RESPONDENT(S)/PETITIONERS AND 5TH RESPONDENT IN WP(C):

- 1 ASHAMOL K P  
AGED 35 YEARS  
W/O.ANILKUMAR, CHEERAMKUNNEL HOUSE, AREEPARAMBU,  
CHERTHALA SOUTH VILLAGE, CHERTHALA SOUTH P O,  
ALAPPUZHA DISTRICT, PIN - 688539
- 2 M/S.HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED  
AGED 38 YEARS



2025:KER:53343

DOOR NO.39/6457 OF COCHIN CORPORATION, RAVIPURAM  
JUNCTION, M.G.ROAD, THRIKKANARVATTOM DESOM, PERUMANOOR  
P.O., PIN - 682 015, ERNAKULAM VILLAGE, KANAYANNUR  
TALUK, ERNAKULAM DISTRICT REPRESENTED BY ITS AUTHORIZED  
OFFICER SRI.SACHIN A S, S/O T K SHANAVAS, AGED 38.

3 MUHAMMED NADEEM  
HOUSE NO.11/116, R.K.PILLAI ROAD, THOPPUMPADY P.O.,  
PALLURUTHY VILLAGE, KOCHI TALUK (ADDITIONAL R5 IS  
IMPLEADED AS PER ORDER DATED 11.04.2024 IN I.A.NO.3  
OF 2023 IN WP(C).NO.6164 OF 2023), PIN - 682005

BY ADV.SRI.SABU JOHN  
BY ADV.SRI.SHIJU VARGHESE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
11.07.2025 ALONG WITH W.A.NO.2008 OF 2024 AND CONNECTED  
CASES, THE COURT ON 21.07.2025 DELIVERED THE FOLLOWING:

"C.R."**J U D G M E N T**

**[W.A NOS.2008/2024, 1481/2025, 1482/2025, 1490/2025,  
1491/2025, 1494/2025, 1504/2025, 1507/2025, 1539/2025,  
1540/2025, 1585/2025 1672/2025 & 1676/2025]**

**Dr. A.K. Jayasankaran Nambiar, J.**

As these writ appeals preferred by the State involve a common issue, they are taken up together for consideration and disposed by this common judgment. The issue that arises for consideration is whether a sale certificate, issued by a bank/revenue authority to a purchaser of immovable property, pursuant to a sale conducted at the instance of a bank/financial institution/court/revenue authority of the property of a revenue defaulter, will attract the levy of stamp duty under the Kerala Stamp Act, 1959?

2. The writ petitions, from which these appeals arise, were filed by various Banks/Financial Institutions/Auction purchasers who were informed that stamp duty would have to be paid on the sale certificates issued by/to them. It was the registering authority under the Registration Act, 1908 who informed them of this requirement, when the sale certificate in question was sent to the said authority for filing in Book No.1 as required in terms of Section 89(4) of the Registration Act. The writ court, by the judgments impugned in these appeals, allowed the writ petitions by holding that the sale certificates issued to auction



purchasers were not instruments that attracted the levy of stamp duty and, further, that the obligation of the registering authority under Section 89(4) of the Registration Act was only to file a copy of the sale certificate in Book No.1 and he could not insist on a payment of stamp duty on the original of the document as a condition for discharging his statutory duty. It is against the said findings that the State is in appeal before us.

3. The submissions of Sri. Mohammed Rafiq, the learned Special Government Pleader (Taxes) appearing on behalf of the State, briefly stated, is as follows:

- A certificate of sale is a title deed that records and evidences the right of ownership of immovable property in favour of the purchaser; the discharge of liability to pay the sale price; the acknowledgment of receipt of the sale price by the secured creditor; the factum of handing over possession of the property to the purchaser; the declaration as to the right of the purchaser to hold the property free from encumbrances and the termination of security interest held by the secured creditor over the property. The sale certificate is therefore an instrument within the meaning of the term under Section 2(j) of the Stamp Act.
- In Article 16 of the Schedule to the Stamp Act, a 'certificate of sale' is mentioned as an instrument chargeable to duty at the same rates as applicable to conveyances on consideration equal to the purchase money. The specific inclusion of the certificate of sale as an instrument in the Schedule is a legislative choice, and on a conjoint reading of Section 2(j) and Section 3(a) of the Stamp Act read with Article 16, there cannot be any doubt as regards whether a certificate



of sale qualifies as an instrument chargeable to stamp duty. It is also significant that a certificate of sale issued by the Income Tax Recovery Officer is liable to stamp duty as is a certificate issued by the Recovery Officer [DRT] **[See IN RE: Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 - [(2024) 6 SCC 1]; Smt. Shanti Devi L. Singh v. Tax Recovery Officer - [(1990) 3 SCC 605].**

- Section 17 of the Stamp Act provides that all instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution, and on a failure to comply with such procedure, a penalty is envisaged under Section 62 of the Stamp Act. Going by the definition of the expressions “executed” and “execution” under Section 2(12) of the Indian Stamp Act 1899, the stamping has to be done at the time of signing the instrument. Accordingly, the applicable stamp duty has to be paid at the time of signing of the sale certificate, and a non-payment of stamp duty will visit the executors of the document with penalty/prosecution under the Stamp Act.

- In as much as under the Registration Act, sale certificates are subjected to a procedure which is tantamount to registration, a sale certificate, the copy of which has been filed in Book No.1, has to be seen as a registered document. It is therefore that a copy of the certificate of sale that is not duly stamped when received by the Registering authority under Section 89(4) of the Registration Act, cannot be acted upon and no mandamus ought to be issued to the Registering authority to file the same in Book No.1 **[See Sub Registrar v. Nadirsha - [2009 (1) KLT 630] and Gopalan Nair v. Government of Kerala - [1986 KLT 549]].**

4. Per contra, it is submitted by Sri. Mohan Jacob George and Sri.B.Vinod, the learned counsel who appeared on behalf of the



respondent Banks/Financial Institutions/Auction purchasers, that the impugned judgment of the learned Single Judge does not call for any interference in the light of the well-settled position in law, as evidenced by the judgments of the Supreme Court relied on by the learned Single Judge in the impugned judgment.

5. We have considered the rival submissions, and have also gone through the pleadings, statutory provisions and precedents cited before us. To decide the issue in these cases, we have to consider the interplay between the statutory provisions under the Registration Act, 1908 and the Kerala Stamp Act, 1959. While the former is a regulatory legislation traceable to Entry 6 of List III under the VII<sup>th</sup> Schedule to the Constitution of India, the latter is a fiscal legislation traceable to Entry 44 of List III, as qualified by Entry 63 of List II thereof. The enforcement of the provisions of a fiscal legislation has necessarily to be through the machinery provided under that legislation, and not through the machinery provided under a general regulatory legislation. We have chosen to begin our discussion with the said observation because we find that in these cases, the State has resorted to the provisions of the Registration Act to try and recover dues under the Kerala Stamp Act.

6. The larger question, however, is whether the charge of stamp duty under the Kerala Stamp Act is attracted to a sale certificate issued by a bank/financial institution/revenue authority to an auction purchaser? To answer the said question, we need to first notice the relevant statutory provisions under the Kerala Stamp Act, 1959.



2025 : KER : 53343

**Section 2 (j):**

**2. Definitions:** In this Act, unless the context otherwise requires:-

(j) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded but does not include a bill of exchange, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipt.

**Section 3:**

**3. Instruments chargeable with duty:-** Subject to the provisions of this Act and the exemptions contained in Schedule, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefore, respectively, that is to say -

(a) every instrument mentioned in the Schedule which, not having been previously executed by any person, is executed in the territories of the State of Kerala on or after commencement of this Act; and

(b) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed out of the State of Kerala on or after that day relates to any property situate, or to any matter or thing done or to be done, in the territories of the State of Kerala and is received in the territories of the State of Kerala:

Provided that no duty shall be chargeable in respect of-

(1) any instrument, executed by, or on behalf of, or in favour of, the Central Government of this or any other State Government in case where, but for this exemption, the Central Government or the State Government, would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for sale, transfer or other disposition either absolutely or by way of mortgage or otherwise of any ship or vessel or any part, interest, share or property of or in any ship or vessel.

**Section 10:**

10. Duties how to be paid:- (1) Exempt as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps-

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the Government may by rules direct.

(2) The rules made under sub section (1) may, among other matters, regulate,-

(a) in the case of each kind of instrument - the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps - the number of stamps which may be used.

**Section 17:**

**17. Instruments executed in the State of Kerala:-** 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.

**Section 30:**

**30. Duties by whom payable:-** In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,-

(a) in the case of any instrument described in any of the following articles of the Schedule, namely,—



No.2 (Administration Bond),  
 No.6 (Agreement relating to deposit to title deeds, pawn or pledge),  
 No.13 (Bond),  
 No.14 (Bottomary Bond),  
 No.25 (Customs Bond or Central Excise Bond),  
 No.30 (Further Charge),  
 No.32 (indemnity Bond),  
 No.37 (Mortgage Deed),  
 No.48 (Release),  
 No.49 (Respondentia Bond),  
 No.50 (Security Bond or Mortgage Deed),  
 No.51 (Settlement),  
 No.55 (c) (Transfer of any interest secured by a Bond or Mortgage Deed), by the person drawing, making or executing such instrument;  
 (b) In the case of a conveyance (including a reconveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease by the lessee or intended lessee;  
 (c) in the case of a counterpart of lease ----- by the lessor;  
 (cc) in the case of a certificate of enrolment in the roll of advocates maintained by the State Bar Council ----- by the Advocate enrolled.  
 (d) in the case of an instrument of exchange ----- by the parties in equal shares;  
 (e) in the case of a certificate of sale ----- by the purchaser of the property to which such certificate relates; and  
 (f) in the case of an instrument of partition ----- by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue Authority or Civil Court or Aabitrator, in such proportion as such Authority or Court or arbitrator directs.

### **Section 31:**

**31. Adjudication as to proper stamp:-** (1) When any instrument, whether executed or not and previously stamped or not is brought to the Collector, and the person bringing it applies to have the opinion of that officers as to duty, if any, with which it is chargeable, and pays a fee of such amount not exceeding ten rupees and not less than one rupees) as the Collector may in each case direct, the Collector shall determine the duty, if any, with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duly, or the amount of the duly with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application, until such abstract and evidence have been furnished accordingly:

Provided that-

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding except in any enquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

### **Section 33:**

**33. Examination and impounding of instruments:-** (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an Officer of Police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in this performance of his functions, shall, if it appears to him that such instrument in no duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed:





2025 : KER : 53343

Provided that-

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit to do, any instrument coming before him in the course of any proceeding other than proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in his behalf.

(3) For the purpose of this section, in cases of doubt, the Government may determine-

(a) what offices shall be deemed to be public offices; and

(b) who shall be deemed to be persons in charge of public offices.

#### **Section 34:**

**34. Instrument not duly stamped inadmissible in evidence, etc:-** No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence or shall be acted upon, registered or authentication by any such person or by any public officer, unless such instrument is duly stamped.

Provided that-

(a) any such instrument not being an instrument chargeable with a duty of twenty paise or less than twenty paise shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty to ten rupees or, when ten times the amount of the proper duty or deficient portion thereof exceeds ten rupees, of sum equal to twenty times such duty or portion;

(b) any such instrument, when presented to a Registering Officer for registration, shall be registered, if the party agrees to pay the duty and penalty due thereon as decided by the Registering Officer and pays the same within seven days from the date.

(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code Of Criminal Procedure, 1898;

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by Section 32 or any other provision of this Act.

#### **Section 37:**

**37. Instruments impounded how dealt with:-** (1) When the person impounding as instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence or when he is a registering officer to register such instrument upon payment of a penalty as provided by Section 34 or of duty as provided by Section 36, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector or to such person as he may appoint in this behalf.

(2) in every other case, the person so impounding an instrument shall send it in original to the Collector.

#### **Section 42:**

**42. Prosecution for offence against Stamp Law:-** The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence the law relating to stamps in respect of such instrument:



Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

**Section 46:**

**46. Recovery of duties and penalties:-** All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

**Article 16:**

**16.** Certificate of sale (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or by the Government, Collector or other Revenue Officer.

The same duty as on a conveyance (No.21 or 22 as the case may be) for a consideration equal to the amount of the purchase money only.

7. The provisions of the Kerala Stamp Act extracted above clearly indicate that if a document satisfies the criteria of being an “instrument” as defined under Section 2(j) of the Act, it attracts the charge under Section 3, and the procedural provisions under the Act that follow facilitates the collection of revenue due in respect of that instrument from the person liable to pay the same. Towards that end, the statutory provisions also permit the instrument in question to be impounded by persons in charge of a public office or those empowered by law to receive evidence and those empowered to receive evidence by consent of parties.

8. The question as to whether a sale certificate qualifies to be an ‘instrument’ for the purposes of the Stamp Act and, if so, at what stage, has been considered by the Supreme Court in a plethora of cases. It would suffice for our purposes to notice only the recent judgment of the Supreme Court in **State of Punjab & Another v. Ferrous Alloy**



**Forgings (P) Ltd. & Ors - [2024 SCC Online SC 3372]**, where after referring to the earlier precedents in **Municipal Corporation of Delhi v. Pramod Kumar Gupta - [(1991) 1 SCC 633]**, **Smt. Shanti Devi L. Singh v. Tax Recovery Officer - [(1990) 3 SCC 605]**, **B. Arvind Kumar v. Govt. of India - [(2007) 5 SCC 745]**, the court found for the purposes of the Registration Act that, a sale certificate issued to the purchaser pursuant to the confirmation of an auction sale, is merely evidence of such title and does not require registration under Section 17(1) of that Act. The court also observed that it is not the issuance of the sale certificate that transfers the title in the property in favour of the auction purchaser and that the title is transferred upon successful completion of the sale and its confirmation by the competent authority after all objections against the sale have been disposed of. This last observation of the court is significant for our present purposes since, as already noticed, the definition of ‘instrument’ under the Kerala Stamp Act, takes within its fold only such documents by which “any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded”. Accordingly, it is only if and when the sale certificate in question creates, transfers, limits, extends, extinguishes or records a right or liability *in praesenti* that it becomes an ‘instrument’ for the purposes levy of stamp duty. A sale certificate, at the time of its issuance to an auction purchaser, does none of the above since it only records the fact of a transaction of sale having been concluded between the parties, without going further to adjudicate or express any opinion on the rights or liabilities of the parties to the said transaction. We are therefore clear in our minds that, at the time of its issuance to an auction



purchaser, a sale certificate cannot be seen as an “instrument”, and consequently will not attract the levy of stamp duty under the Kerala Stamp Act.

9. The next question that arises would be, whether a sale certificate can partake the character of an ‘instrument’ at any stage after its issuance? In our view, there may be circumstances when the auction purchaser seeks a registration of the sale certificate with a view to firmly securing his rights in relation to the property covered by the sale certificate. Recently, in **Uma Devi & Ors v. Anand Kumar & Ors - [(2025) 5 SCC 198]**, the Supreme Court quoted with approval its earlier decision in **Suraj Lamp & Industries (P) Ltd (2) v. State of Haryana - [(2012) 1 SCC 656]**, where it was observed that:

“Registration provides safety and security to transactions relating to immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified”

10. As is apparent from the above observations of the Court, the registration of a document, that is otherwise not compulsorily registrable under the Registration Act, confers certain advantages to the person securing rights under the said document, subject to an adjudication process at the instance of the registering authority concerned. These



aspects were noticed by the Supreme Court in **Smt. Shanti Devi L. Singh v. Tax Recovery Officer and Others - [(1990) 3 SCC 605]**, where while clarifying the distinction between the process of registration of a document and a mere filing of the same in terms of Section 89 (4) of the Registration Act, the Court found as follows:

“7. This takes us to the second question as to whether filing of a copy of the certificate in Book No. 1 within the meaning of Section 89 is tantamount to the registration of the document under the Registration Act or it is a totally different concept. The registration of a document under the Act is conditional on the fulfillment of several requirements (Sections 32 to 35). The document has to be presented for registration by a person competent to do so. The persons executing the document should appear before the Sub-Registrar and admit or deny execution of the document. The Sub-Registrar may conduct an enquiry, where needed, to satisfy himself as to the proper execution of the document. He will decide to admit the document to registration only if he is satisfied on this. What he has to do once he admits a document to registration is laid down in Sections 51 to 67. First, he is bound to endorse full particulars and details of the registration on the document presented to him and also obtain the signature of every person presenting the document. He should then, without delay copy the entire document in the appropriate book maintained for the purpose (which, in respect of non-testamentary instruments relating to immovable property, is Book No. 1). The entries in each book have to be consecutively numbered year-wise and corresponding entries should be contemporaneously made in current indices to be maintained in every office. The officer should affix his signatures to the endorsements made in his presence and then endorse a certificate on the document that it is registered together with the registration particulars which shall be signed, sealed and dated by him. The document is then returned to the person presenting it for registration. The books and indices are available for public inspection and certified copies thereof are to be given to parties applying for them. This, in brief, is the process of registration.

8. On the other hand, the process of filing that is contemplated under the Act is somewhat different though the Act does interchange the two expressions in some places. For instance, Section 51(2) itself refers to all documents or memoranda *registered* under Section 89 being entered or filed in Book No. 1. But there appear to be vital differences between the two processes:

- (i) It is the original of a document that is registered whereas only copies or memoranda are filed;
- (ii) The executant of a document which is required to be registered, has to present it for registration and go through the attendant and subsequent processes described above. A copy to be filed under Section 89 or memoranda that are filed under Sections 64 to 66 is simply transmitted to the concerned Sub-Registrar for being filed. Apparently, the procedure of presentation is dispensed with in regard to the latter because they are issued by public authorities discharging their official duties.
- (iii) Additional particulars relevant to a document admitted to registration need to be got endorsed thereon from time to time as contemplated in Sections 58 and 59 but this rule does not apply to a copy or memorandum filed under the Act.
- (iv) When a document is registered, the entirety of the document has to be copied out into the relevant book and the original document returned to the person who presents the document with necessary endorsements. This requirement is absent in the case of a copy or memorandum which is just filed.
- (v) Where a document is registered, a certificate of registration has to be issued which will be admissible to prove the due registration of the document.

9. There are thus some differences between the two procedures and this aspect has been touched upon in some very early decisions under the Registration Act, 1877: vide, *Fatteh Singh v. Daropadi*, [1908] *Punj. Rec. Case No. 142*; *Siraj-un-nissa v. Jan Muhammad*, 2 *All WN* 51, *Masarat-un-nissa v. Adit Ram*, [1883] *I.L.R.* 5 *All.* 568 (F.B.). Reference may also be made to *Premier Vegetable P. Ltd. v. Staate of M.P.*, *AIR* 1986 *M.P.*



258. We need not, however, consider for the purposes of this case whether filing and registration mean one and the same thing for all purposes and 'what the legal effect of these differences is. For, though the processes are different, the purchaser at a court or revenue sale is under no disadvantage because of the lack of registration. The certificate of sale itself not being a compulsorily registrable document: vide Section 17(2)(xii), the transfer of title in his favour is not vitiated by the non- registration of the certificate. The copy of the certificate filed in Book No. 1 contains all the relevant details. These details are reflected in the indices maintained under Section 55 which are open to inspection to all persons. [We may point out here that Section 55(2) only refers to memoranda filed but it seems clear, particularly in the light of various State amendments, that the index to Book No. 1 should also contain the details of copies of document filed by him]. These requirements are sufficient to ensure that any person intending to purchase or deal with the property is put on notice about the principal contents of the certificate of sale provided he inspects the relevant book and/or index. It is sufficient to say, for the purposes of this case, that all that the Sub-Registrar required to do is to file the copy of the certificate in Book No. 1 and no more. He does not have to copy out the certificate or make any other entries in Book No. 1."

11. We would think, therefore, that the precedents referred to above amply clarify that a sale certificate, which is not an 'instrument' at the time of its issuance, can nevertheless metamorphose into one when its original is presented for registration before a registering authority. In that event, the registering authority would be called upon to examine the nature of the rights flowing to the person seeking registration of the certificate, after examining the document and satisfying himself that the document was properly executed, and thereafter copy the contents of the document into Book No.1 maintained for that purpose. It is only when the sale certificate thus becomes an 'instrument' that it will attract the charge of stamp duty under the Kerala Stamp Act, and the duty chargeable in terms of Article 16 thereof becomes payable by the auction purchaser concerned.

12. In this context, we must hasten to add that even if an instrument is insufficiently stamped, and is liable to be impounded, what is affected is only its admissibility in evidence and not its validity as the document that it purports to be. This position is now well settled and was



recently restated by a larger bench of the Supreme Court in **IN RE: Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 - [(2024) 6 SCC 1]**. We cannot therefore accept the submission of the learned Government Pleader appearing on behalf of the appellant State that the copy of an unstamped sale certificate cannot be seen as a valid document, including for the purposes of the Registration Act.

13. We must now deal with the provisions of the Registration Act, and particularly those that deal with the role of the registering authority under Section 89 (4) thereof.

**Section 17(1) (b) & (c):**

**17. Documents of which registration is compulsory.—** (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:—

(a) xxxxxxxx

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest.

**Section 17 (2) (xii)**

**17. Documents of which registration is compulsory.—**

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer.

**Section 18(f):**

**18. Documents of which registration is optional.—**Any of the following documents may be registered under this Act, namely:—

(f) all other documents not required by Section 17 to be registered.

**Section 23:**

**23. Time for presenting documents.—**Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration



unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

#### **Section 32:**

**32. Persons to present documents for registration.—** Except in the cases mentioned in Sections 31, 88 and 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office,—

(a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or

(b) by the representative or assign of such a person, or

(c) by the agent of such a person, representative or assign, duly authorised by power-of-attorney executed and authenticated in manner hereinafter mentioned.

#### **Section 48:**

**48. Registered documents relating to property when to take effect against oral agreements.—** All non-testamentary documents duly registered under this Act, and relating to any property, whether movable or immovable, shall take effect against any order agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession and the same constitutes a valid transfer under any law for the time being in force:

Provided that a mortgage as defined in section 58 of the Transfer of Property Act, 1882 (4 of 1882), shall take effect against any mortgage-deed subsequently executed and registered which relates to the same property.

#### **Section 58:**

**58. Particulars to be endorsed on documents admitted to registration.—**

(1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under Section 89, there shall be endorsed from time to time the following particulars, namely:—

(a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

#### **Section 59:**

**59. Endorsements to be dated and signed by registering officer.—**The registering officer shall affix the date and his signature to all endorsements made under Sections 52 and 58, relating to the same document and made in his presence on the same day.

#### **Section 60:**

**60. Certificate of registration.—**(1) After such of the provisions of Sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word “registered”, together with the number and page of the book in which the true copy of the document has been filed.





2025 : KER : 53343

**Section 61:****61. Endorsements and certificate to be copied and document returned.—**

(1) The endorsements and certificate referred to and mentioned in Sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in Section 21 shall also be filed along with the true copy of the document.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person, who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in Section 52.

**Section 89:****89. Copies of certain orders, certificates and instruments to be sent to registering officers and filed.—**(1) xxxxx

(2) Every Court granting a certificate of sale of immovable property under the Code of Civil Procedure, 1908 (5 of 1908), shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) xxxx

(4) Every Revenue Officer granting a certificate of sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

(5) Every Court passing-

(a) any decree or order creating, declaring, transferring, limiting or extinguishing any right, title or interest to or in immovable property in favour of or of any person, or

(b) an order for the attachment of immovable property or for the release of any immovable property from attachment,

shall send a copy of such decree or order together with a memorandum describing the property, as far as may be practicable in the manner required by Section 21, to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such decree or order is situate, and such officer shall file the copy and memorandum in his Book No.1.

(6) Every officer issuing a written demand before the attachment of the immovable property of a defaulter under the Revenue Recovery Act for the time being in force shall-

(a) send a copy of such written demand together with a memorandum describing the property, as far as may be practicable in the manner required by Section 21; and

(b) where such written demand is withdrawn or attachment of the property is lifted or the property is sold and the same is confirmed, send a memorandum indicating that fact and describing the property, as far as may be practicable in the manner required by Section 21,

to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property to which the written demand relates is situate and such registering officer shall file the copy of the written demand and the memoranda in his Book No. 1.

14. The distinction between the process of registration of a document and a mere filing of a document in terms of Section 89(4) has already been noticed above through the judgment in **Smt.Shanti Devi L. Singh (supra)**. What is also clear from the statutory provisions under



2025 : KER : 53343

the Registration Act is that the stringent regulations envisaged thereunder are in respect of the documents in original. In other words, when it comes to copies of the documents, the statute does not prescribe stringent terms. It is with this understanding that we must analyse the role of the registering authority with regard to sale certificates presented before him for filing in terms of Section 89(4) of the Registration Act. As was observed by the Supreme Court in **Ferrous Alloy Forgings (P) Ltd. (supra)**, the sale certificate issued by the authorised officer is not compulsorily registrable. Under Section 89(4) of the Registration Act the registering authority is only required to file a copy of the sale certificate as and when it is forwarded to him by the authorised officer. Such filing of the copy of the sale certificate is merely intended to inform persons interested in the property, of the circumstances under which the property came into the hands of its present title holder. It is only when the said title holder uses the original of the sale certificate for some other purpose that the requirement of payment of stamp duty etc. would arise.

15. The upshot of the above discussions is that we find the judgments impugned in these writ appeals to be legally unassailable. While the registering authority under the Registration Act cannot exercise his powers under Sections 33 or 34 of the Kerala Stamp Act in relation to the copy of a sale certificate that is sent to him for filing in terms of Section 89(4) of the Registration Act, even the original of the sale certificate concerned will not attract the levy of stamp duty under the Kerala Stamp Act, save in the exceptional circumstances when it



qualifies to be an instrument as defined under the Kerala Stamp Act.

The Writ Appeals preferred by the State, therefore, fail and are accordingly dismissed. No Costs.

Sd/-  
**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-  
**P.M. MANOJ**  
**JUDGE**

prp/