

IN THE COURT OF THE ADDL.DISTRICT JUDGE-III, ALAPPUZHA**Present : Sri.Suhaib M, Additional District & Sessions Judge – III****Wednesday 18th day of March, 2026 / 27th Phalguna, 1947****CMA No. 24/2023**

(Filed on :07.08.2023)

- Appellants** : 1. Arun Baby, aged 35 years, S/o.Baby Thomas, Pottasseril House, Ezhupunna South Muri, Kodamthuruth Village, Cherthala, Alappuzha.
2. Chinnu Joseph, aged 32 years, W/o.Arun Baby, Pottasseril House, Ezhupunna South Muri, Kodamthuruth Village, Cherthala, Alappuzha.
(By Adv.G.Harikumar)
- Respondent** : 1. District Registrar(General), Office of the District Registrar, Registration Complex, Alappuzha.
2. The State of Kerala, Represented by District Collector, Alappuzha, Civil Station, Alappuzha.
(By Additional Government Pleader)

This petition having been finally heard on 12.03.2026 and the court on 18.03.2026 passed the following.

O R D E R

This is an appeal filed under Section 45B of the Kerala Stamp Act, 1959 and Rule 9 of the Kerala Stamp(Prevention of undervaluation of Instruments) Rules 1968, being aggrieved by the Order having No.PUV/1232/2020 PKD dated 10/05/2023 of the District Registrar, Alappuzha.

2. The facts of the case narrated in the Memorandum of Appeal in brief, are as, follows:-The order passed by the first respondent is not sustainable either in law or on facts. The impugned order passed by the first respondent, without conducting any proper or lawful inquiry as contemplated under law,

cannot be sustained. The first respondent did not consider the nature of the property or the valuation of the land which had been transferred through documents by adopting the value of the adjacent land. The first respondent also failed to consider the income derived from the property or the building, as well as the importance of the locality. The commercial importance of the locality was not considered in any manner. The undervaluation was detected by the authorities on the basis of the audit report of the Principal Accountant General, but a copy of the same was not served on the appellant. The allegation regarding fixation of the value of the building on the basis of the rate under CPWD PAR 2019 is absolutely illegal and unknown to law. The second appellant had submitted a five-page reply on 18.02.2022 to the first notice dated 25.01.2022 before the first respondent. The second appellant again submitted a reply on 15.02.2023 before the first respondent in response to the conditional order dated 28.01.2023. She had also submitted another reply dated 27.06.2023. However, all these replies submitted by the second appellant were suppressed by the first respondent, who falsely stated that no reply had been submitted by the appellant. The impugned order passed by the first respondent enhancing the value of the property by a further amount of ₹1 Crore is without any legal or factual basis. Hence this appeal.

3. Heard both sides.

4. The following are the points that would arise for consideration in

the present appeal:-

1. Whether the impugned final order passed by the District Registrar, Alappuzha is to be interfered with as prayed for in the memorandum of appeal?
2. If so, what is the order to be passed?
5. **The points 1 and 2:-** The learned counsel for the appellant argued

that the impugned final order was passed arbitrarily, without following the due procedure, and the same is liable to be set aside. The learned counsel vehemently argued that no speaking order was passed by the first respondent and that the final order was passed without considering the issues raised by the appellant at the time of hearing. It was further submitted that a reply notice had been filed before the first respondent; however, the order was passed suppressing such material facts, and it was even falsely stated in the order that no reply notice had been submitted. Hence, the impugned final order, being a mechanical one, is liable to be interfered with. However, the learned counsel fairly submitted that the appellants are ready for composition of the alleged deficit amount, if the deficit amount is properly fixed after making due enquiry as contemplated under law.

6. S.45B of Kerala Stamp Act, 1959 deals with the subject as to instruments undervalued have to be dealt with. S.45B(1) says that if the registering officer has reason to believe that value of property or consideration has not been truly set-forth in the instrument, he may refer the same to

Collector for determination of value or consideration and proper duty payable thereon.

S.45B(2) says that on receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, by order, determine the value of the property or the consideration and the duty aforesaid; and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on the payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature.

7. The procedure for determination of the value or consideration and the proper duty under Section 45B of the Act has been dealt in R.4 of the Kerala Stamp(Prevention of undervaluation of Instruments) Rules 1968, Which read as follows.

“Procedure for determination of the value or consideration and the proper duty under 7[Section 45B.--

(1) A reference under sub-section (1) of 7[Section 45B] from a Registering Officer shall be accompanied by a statement in Form IA.

(1A) On receipt of such reference by the collector or where the Collector proposes to take action suo motu under sub-section (3) of 7[Section 45B], he shall issue a notice in Form II or Form IIA, as the case may be.

(a) to every person by whom, and

(b) to every person in whose favour the instrument has been executed, informing him of the receipt of the reference from the Registering Officer or, as the case may be, the Collector's proposal to take suo motu action, and asking him to submit to the Collector representations, if any, in writing to show that the value of the property or the consideration has been truly set forth in the instrument and also to produce all evidence that he has in support of his representation, within twenty-one days from the date of service of the notice.

(2) The Collector, may, if he thinks fit, record a statement from any person to whom a notice under 6[sub-rule (1A)] has been issued.

(3) The Collector, may, for the purpose of his enquiry,-

- (a) call for any information or record from any public office, officer or authority under the Government or a local authority; and*
- (b) examine and record statements, from any member of the public, officer or authority under the Government or a local authority; and*
- (c) inspect the property after due notice, to the parties concerned.*
- (4) After considering the representations, if any, received from the person to whom notice under sub-rule (1A)] has been issued and after examining the records and evidence before him, the Collector shall pass an order in writing provisionally determining the value of the properties or the consideration and the duty payable. The basis on which the provisional value or consideration was arrived at shall be clearly indicated in the order.”*

8. Principles for determination of value or consideration has been dealt in rule 5 of the same Rules, which is as follows:

Principles for determination of value or consideration.--

“The Collector shall, as far as possible, have also regard to the following points in arriving at the provisional value or consideration, namely:-

- (a) in the case of lands,-*
 - (i) nature of the land or ground such as garden, wet and the like;*
 - (ii) other factors, which influence the valuation of the land in question;*
 - (iii) points, if any, mentioned by the parties to the instrument or any other person which require special consideration;*
 - (iv) value of adjacent lands or lands in the vicinity;*
 - (v) average yield from the land, nearness to road and market, level of land, transport facilities, facilities available for irrigation, such as tank, wells, etc;*
 - (vi) the nature of crops raised on the land;*
 - (vii) the use of land, domestic, commercial, industrial or agricultural purposes;*
- (b) in the case of house sites,-*
 - (i) the general value of house sites in the locality;*
 - (ii) nearness to roads, railway station, bus route etc;*
 - (iii) nearness to market, shops and the like;*
 - (iv) amenities available in the place like public offices, hospitals and educational institutions;*
 - (v) development activities, industrial improvements in the vicinity;*
 - (vi) valuation of sites with reference to taxation records of the local authorities concerned, if any;*
 - (vii) any other features having a special bearing on the valuation of the site;*
- and*
- (viii) any special feature of the case represented by the parties;*
- (c) in the case of buildings,-*
 - (i) type and structure;*

- (ii) locality in which constructed;*
 - (iii) plinth area;*
 - (iv) ear of construction;*
 - (v) kind of materials used;*
 - (vi) rate of depreciation;*
 - (vii) fluctuation in rates;*
 - (viii) any other features that have a bearing on the value;*
 - (ix) property tax with reference to taxation records of the local authority concerned;*
 - (x) the purpose for which the building is being used and the income, if any, by way of rent per annum secured on the building; and*
 - (xi) any special feature of the case represented by the parties;*
- (d) properties other than lands, house sites and buildings,-*
- (i) the nature and condition of the property;*
 - (ii) purpose for which the property is being put to use, and*
 - (iii) any other special features having a bearing on the valuation of the property.”*

9. The Procedure after arriving at provisional value or consideration has been stated in Rule 6 of the same Rules, which reads as follows:-

“The Collector shall communicate a copy of his order provisionally determining the value of the properties for the consideration thereof and the duty payable to all the persons who are liable to pay the duty along with a notice in Form III or Form IIIA, as the case may be] and call upon the parties to lodge their objections, if any, to such determination of the value or consideration within the time specified in the notice. The Collector shall also hear the parties on the date specified in the notice or on such other day as may be fixed by him.”

10. I have gone through the records of the proceedings maintained by the District Registrar/Collector in connection with the issuance of the impugned final order. The records submitted by the first respondent contain copies of the reply submitted by the second appellant, wherein it was specifically contended that the market value shown in the document was correct. Further, the reason for stating that exact market value was set forth in the document was also

stated in the reply notice. However, the final order dated 10.05.2023 shows that the market value of the property was fixed without considering any of the matters raised in the said reply.

11. What is stated in the impugned order is that the appellants did not appear before the office and did not submit any reply. It is further stated that, in such circumstances, on examining the documents available in the office and the report of the Sub Registrar, it was found that there was undervaluation and that the amount shown in the document was not correct, and that the actual market value of the property was ₹2,90,00,000/-. Accordingly, it was concluded that the appellants were liable to pay an amount of ₹1,98,800/-.

12. As stated above, the principles for determination of value or consideration have been dealt with in Rule 5 of the aforementioned Rules. Therefore, at the time of fixing the market value, the parameters contained in the said Rules are required to be followed. On going through the impugned order, it appears that the same has been passed in a mechanical manner without considering any of the objections raised by the appellants. Hence, I find that the said order is erroneous, having been passed without taking into account the objections raised by the appellant. Therefore, the said order is liable to be interfered with.

In the result, this appeal is allowed and by setting aside the impugned final order issued by the District Registrar and the matter is remanded back to

the District Registrar for re-determination of the dispute whether there is undervaluation in the document registered in favour of the appellants, by giving opportunity of being heard to them. The District Registrar shall scrupulously follow the procedure in Rule 4, 5, 6, 7 and 15 of Kerala Stamp(Prevention of undervaluation of instruments) Rules 1968 and S.45B of the Kerala Stamp Act before passing final order.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open Court, on this, the 18th day of March, 2026).

Sd/-
SUHAIB. M
Additional District Judge-III

APPENDIX-NIL

Id/-
Additional District Judge-III