

In the Court of the Additional Subordinate Judge at Kanchipuram

Present: Thiru.T.Thirumal, B.A.,B.L.,  
Additional Subordinate Judge.

Wednesday, the 19<sup>th</sup> day of November 2025

I.A. No.6/2025 in O.S No.374/2022

M.L.Kandasamy

.. Petitioner/ plaintiff

Vs.

1. K.Parvathi,
2. K.Saraswathy,
- 3.M.Deviga,
- 4.K.Vinayagam,
- 5.K.Poongodi,
- 6.The Kancheepuram Thiruvalluvar  
Silk Handloom Co-op Production &  
Sale Society (G 2054)
- 7.The Deputy Director,  
Handloom Weavers Co-op. Production &  
Marketing Society Ltd.,
- 8.The Commissioner,  
Handloom & Textiles, Chennai.
- 9.The Joint II Sub Registrar,  
Kanchipuram.
- 10.The District registrar,  
Kanchipuram.
- 11.The State of Tamilnadu,  
Rep.by District Collector,  
Kancheepuram.

...Respondents/Defendants

This petition came before me on 30.10.2025 for hearing in the presence of M/s.G.Karthikeyan Advocates for petitioner and M/s.R.Jaganathan and R.Lakshmi Advocates for 1 to 5 respondents 6<sup>th</sup> to 11<sup>th</sup> respondents called absent set exparte and upon hearing both side and having stood over for consideration till this day, this court delivered the following

ORDER

This petition is filed by the petitioner under Section 35(a) of The Indian Stamp Act r/w Section 151 CPC to refer the documentary evidence/instrument filed by the petitioner with the plaint to the Collector of Stamps in order to determine and to levy the deficit stamp duty payable thereon.

2. Brief averments in the petition are as follows:

The petitioner is the Plaintiff in the above suit. The petitioner filed this suit for declaration of title to the suit property, consequential permanent injunction. The petitioner is relying on important documentary evidence in order to prove his case in the suit, the same is an unregistered sale deed dated 04.04.2002 executed by one T.Kuppusamy and this petitioner, conveying the suit property for consideration. Since the sale deed was not registered the petitioner cannot mark the same in order to prove his title to the suit property. But it can collateral purpose that is to prove the nature and character his possession over the suit property. The said sale deed was executed on Rs.10/- NJ Stamp paper and thus it was with deficit stamping. The petitioner is always ready and ever willing to cure the deficit stamping by way of paying deficit stamp duty with penalty as per Sec.35(a) of the Indian Stamp Act. Hence, it is just to refer the instrument to the Collector of Stamps in order to levy deficit stamp duty payable thereon, otherwise the petitioner may not be able to prove his causing irreparable loss and injury. The petitioner undertake to pay whatever deficit stamp duty with penalty as and when it is levied. Hence, petition may be allowed.

3. Brief averments in the counter filed by the 4<sup>th</sup> respondent/Defendant and adopted by 1 to 3 and 5<sup>th</sup> respondents are as follows:

This respondent denies all the allegations in the petition. The plaintiff purchased the suit property on 04.04.2002 from one T.Kuppusamy through unregistered sale deed, for value of Rs.7,000/- and the said T.Kuppusamy, executed unregistered sale deed on the same day. It was allotted to the said T.Kuppusamy by the Kancheepuram Thiruvalluvar Silk Handloom Weavers Cooperative Production & Sales Society Limited. The total dues to the said society came to end on 04.11.2019 by paying remaining amount of Rs.78,842/-. The said executant T.Kuppusamy died on 10.07.2005 leaving behind his legal heirs. Since the several representations made to the society, the results are not favourable nor responsive, at last, the plaintiff filed this suit. As per the unregistered sale deed dated 04.04.2002, the T.Kuppusamy is said to have executed sale to the plaintiff herein. The plaintiff states that in plaint, the entire sale consideration was paid on 04.11.2019 to the Kancheepuram Silk Cooperative Society Limited, i.e. the 6<sup>th</sup> defendant herein. After paying entire sale consideration, the society have to duty bound to transfer the ownership. Till such time or not paying the entire sale consideration, the ownership remains vest with the society. Further, the Hon'ble Court usually has to impound the unregistered document/instrument for sale and the same is sent for the Collector to which the property is situated, for levying penalty on the unregistered document, Provided the ingredients of sale should be fulfilled. If anyone of the ingredients covered under Section 54 of the Transfer of Property Act is not

found, the said document does not view as sale under the Transfer of Property Act. Unless or otherwise the legal heirs demand the transfer of ownership, as per the Society rules and regulations, the transfer of ownership cannot be transferred. And further without the legal heirs consent of late Kuppusamy transfer the ownership cannot be done, as per the Tamil Nadu Society Registration on laws, bye-laws, rules and regulations. In view of the reason stated in the above, it is just and necessary, that this Court may be pleased to dismiss the application.

4. The point for consideration is

Whether this petition can be allowed?

5. Either on the side of the petitioner or on the side of the respondent, no oral or documentary evidence adduced.

6. On Point:

Heard both sides. The learned petitioner counsel argued that the petitioner is relying on important documentary evidence in order to prove his case in the suit, the same is an unregistered sale deed dated 04.04.2002 executed by one T.Kuppusamy and this petitioner, conveying the suit property for consideration. Since the sale deed was not registered the petitioner cannot mark the same in order to prove his title to the suit property. But it can collateral purpose that is to prove the nature and character his possession over the suit property. The said sale deed was executed on Rs.10/- NJ Stamp paper and thus it was with deficit stamping. The petitioner is always ready and ever willing to cure the deficit stamping by way of paying deficit stamp duty with penalty as per Sec.35(a) of the Indian Stamp Act. Hence, it is just to refer the instrument to the Collector of

Stamps in order to levy deficit stamp duty payable thereon, otherwise the petitioner may not be able to prove his causing irreparable loss and injury. The learned Respondent counsel argued that the Hon'ble Court usually has to impound the unregistered document/instrument for sale and the same is sent for the Collector to which the property is situated, for levying penalty on the unregistered document, Provided the ingredients of sale should be fulfilled. If anyone of the ingredients covered under Section 54 of the Transfer of Property Act is not found, the said document does not view as sale under the Transfer of Property Act. Unless or otherwise the legal heirs demand the transfer of ownership, as per the Society rules and regulations, the transfer of ownership cannot be transferred. And further without the legal heirs consent of late Kuppusamy transfer the ownership cannot be done, as per the Tamil Nadu Society Registration on laws, bye-laws, rules and regulations.

On perusal of records, the said deed executed on 04.04.2002. It reflects as a sale deed. But it is not a registered one as well as not properly stamped. Finally it shows this deed is one of the unregistered sale deed. The executant of the deed is a only allottee of the Society. He has not got the sale deed in his favour from the allottee society. In the above said circumstances the allottee has executed a unregistered sale deed to the parties concerned. Now the petitioner is willing to payment of stamp duty penalty for the purpose of marking the document for the collateral purpose. However the petitioner cannot cure the registration. Any have in the event of payment of the stamp duty penalty it may be treated as other than the sale deed like a receipt or otherwise may be treated as a agreement of sale.

This petition filed only for the limited purpose for payment of stamp duty penalty.

In this petition itself this Court not able to decide whether the sale deed legally enforceable or not. It could be decided only in the main suit not on the Interlocutory Petition filed u/s 35(a) of Indian Stamp Act. On considering the both side arguments the reason stated by the petitioner is considered. If the petition is dismissed, the petitioner/plaintiff would be put to loss and hardship. Further, in the interest of justice to avoid multiplicity of court proceedings, this petition has to be allowed. The petitioner is directed to take progressive steps payment of stamp duty penalty without any delay.

In the result this petition is allowed. No costs.

Dictated to the Shorthand writer, typed by her, corrected and pronounced by me in open court, this the 19<sup>th</sup> day of November 2025

Sd./T.Thirumal.  
Additional Subordinate Judge  
Kanchipuram.

Exhibits and Witnesses on both side: NIL

Sd./T.Thirumal.  
Additional Subordinate Judge  
Kanchipuram.