

**IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.**

**PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,**  
**District Munsif, Ponneri.**

Tuesday, the 12<sup>th</sup> day of August 2025.

**I.A. NO.8 OF 2024**  
**IN**  
**O.S. NO.32 OF 2014**

1. S.Palani
2. Krishnamurthy
3. Chandra
4. Ramani

..... Petitioners/Plaintiffs

Versus

1. R.Emarose Ammal
2. E.Umamaheswari
3. R.Ashok Kumar

..... Respondents/Defendants

This petition came on 28.07.2025 before me for final hearing in the presence of Mr.R.Krishnaswamy, Learned counsel for the Petitioners/Plaintiffs and Mr.P.V.Murlidhar, Learned counsel for the Respondents/Defendants. Upon hearing both sides and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

**ORDER**

This petition has been filed by the petitioner Under Section 35 of the Indian Stamp Act to impound the original letter dated 29.03.1954 executed by Ponnammal and Ramalinga Mudaliar in favour of Vaduvambal and Swaminatha Mudaliar, which is filed along with this application, in respect of the northern 20 cents out of 40 cents in the suit property by collecting necessary stamp duty and penalty thereon.

**2. Brief averments of the affidavit filed by the petitioner are as follows:**

2.1. The petitioners are the plaintiffs in the suit. The suit is filed against the defendants seeking the relief of a declaration of the petitioners' rights and title in the

suit property, along with various other reliefs. The suit property, along with other properties, originally belonged to Bakkiammal, who had no issues. The said Bakkiammal executed a Will dated 20.07.1929, whereby the southern 20 cents of the 40-cent suit property was bequeathed in favor of her paternal grandmother, Vaduvambal, to be enjoyed by her during her lifetime, and thereafter by her children. As for the northern 20 cents of the 40-cent suit property, it was bequeathed to Ponnammal and her son Ramalingam. The late Ponnammal, along with her son Ramalingam, the predecessors of the defendants, executed a letter dated 29.03.1954, acknowledging that they had already released their northern 20 cents out of the 40-cent suit property to Vaduvambal and Saminatha Mudaliar, and that possession of the said land had already been delivered to the petitioners. When the suit was filed, only the Photostat copy of the said letter dated 29.03.1954 was submitted, as the original of the letter had been laminated. Hence the petitioners now seek to have the original laminated letter received in evidence, substituting it for the Photostat copy. When the laminated original letter was presented for marking, an objection was raised on the grounds that the document was neither duly stamped nor registered, and moreover, a part of the letter was partially destroyed, making it inadmissible.

2.2. The petitioner is ready and willing to pay the necessary stamp duty and penalty for the said letter dated 29.03.1954. Although the document was not registered, the petitioner intends to rely on it only for the collateral purpose of proving their possession of the land over the years. Therefore, the petitioner seeks to impound the document and pay the stamp duty and penalty for the letter dated 29.03.1954, in order to mark it as evidence, subject to objection regarding its non-registration. The petitioner has filed a separate application to explain the delay caused in the production of the original letter dated 29.03.1954, along with one other document. Hence this petition.

**3. Brief averments of the counter filed by the 3<sup>rd</sup> Respondent and adopted by other Respondents are as follows:**

The 3rd respondent in the above application is the 3rd defendant in the suit. The respondents submit that the suit was posted in the list, and at this juncture, the present application has been filed for marking the letter dated 29.03.1954, which is alleged to have been executed by the petitioner's father and maternal grandmother, Vaduvambal. In fact, the date on the said letter is not visible, and that portion is also not available. The petitioner has filed the present application to receive the said document without admitting the validity of the document. However, the document requires stamp duty and registration, and the document suffers from two defects, making it inadmissible in evidence, even for proving the collateral purpose of possession. The right claimed under the document cannot be considered, and it cannot be looked into for any purpose due to these defects. The petitioner, in their pleadings, has claimed that they are the owners of the property by virtue of adverse possession and are now claiming an independent title, which is totally contradictory. Moreover, the document is laminated, and its genuineness cannot be verified. Given these defects, both the application for condoning the delay in producing the document and the application for impounding should be dismissed, as the petitioners have no prima facie case or bona fide grounds in the present petition. Hence prays for dismissal.

**4. Evidence:**

Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court.

**5. Point for determination :**

Whether this petition can be allowed or not.

**6. Discussion and Findings :**

6.1. Heard both sides. Records perused. Before delving into the facts of the case, it is necessary to examine the document in dispute, namely, the letter dated 29.03.1954.

This document is admittedly unregistered and also suffers from a deficiency in stamp duty. The legal consequences of these deficiencies must be carefully considered in light of the applicable statutory provisions. It is pertinent to note that the document in question was sought to be introduced by the petitioner via I.A. No. 7 of 2024, filed under Order VII Rule 14(3) of the Code of Civil Procedure, 1908. The petitioner has filed this application seeking leave of the Court to receive the letter, through which they allege to have released their northern 20 cents out of 40 cents of the suit property to Vaduvambal and Saminatha Mudaliar, and that possession of the said land was also delivered.

6.2. On the other hand, the respondents, however, have raised serious objections to the admissibility of the impugned document as evidence, on the grounds that it is unregistered and unstamped. The respondents/defendants further contend that the letter is illegible, as part of it is not visible, and that due to these defects, it cannot be received as evidence, even for proving the collateral purpose of possession. Moreover, the respondents submit that the petitioners' claim of ownership of the property by virtue of adverse possession, coupled with a claim to an independent title, is contradictory. The respondents also point out that the delay in producing the document has not been adequately explained, and that the document is laminated, rendering its genuineness unverifiable.

6.3. Based on the rival contentions, before deciding the admissibility of the impugned document, it is essential to determine whether it requires registration and stamping. To make this determination, the nature and substance of the document must be examined in light of the recitals contained therein. A plain and holistic reading of its contents indicates that it is a letter through which particular portion of the property was released. In order to support its averment, the petitioner has relied on legal precedents, citing relevant case of the Hon'ble High Court of Madras in the case of *E.Venkatesan Vs. Thenmozhi*, CRP.No.4201 of 2022 dated 10.04.2024 wherein the said order explains the fact that the objection raised in respect of the genuineness and

admissibility of the document can be raised by the parties at the time of marking of documents and merely because of sending the documents for collection of Stamp duty will not amount to validate the document.

6.4. At this juncture, it is necessary to draw attention to Section 17 of the Registration Act, 1908, which provides as follows:

*“Section 17 of the Registration Act: 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 (20 of 1866) or the Indian Registration Act, 1871 (7 of 1871) or the Indian Registration Act, 1877 (3 of 1877) or this Act came or comes into force, namely:*

*(a) instruments of gift of immovable property*

*(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....”*

6.5. A plain reading of the aforesaid provision delineates the categories of documents that are mandatorily required to be registered. However, the consequence of non-registration is addressed under Section 49 of the Registration Act, 1908, which reads as under:

*“49. Effect of non-registration of documents required to be registered.*

*No document required by section 17 [or by any provision of the Transfer of Property Act, 1882 (4 of 1882)], to be registered shall—*

*(a) affect any immovable property comprised therein, or*

*(b) confer any power to adopt, or*

*(c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered:*

*1 [Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (3 of 1877) 2 , 3 \*\*\* or as evidence of any collateral transaction not required to be effected by registered instrument.]”*

6.6. It is also relevant to make reference to Section 35 of the Indian Stamp Act, 1899, which bears significance on the admissibility and enforceability of instruments that are not duly stamped. The said provision is reproduced hereunder:

***“35. Instruments 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 authenticated by any such person or by any public officer, unless such instrument is duly stamped: Provided that—*

*(a) any such instrument shall be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of any instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;*

*(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;*

*(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 proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure 1898 (V of 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.”*

6.7. Upon a plain reading of the aforementioned statutory provisions, their collective purport may be summarised as under:

- i) under Section 17 of Registration Act, 1908, to create, declare, assign, limit, or extinguish, whether in the present or future, any right, title, or interest in immovable property, is compulsorily registrable.*
- ii) Under Section 49 of the Registration Act, 1908, a document that is required to be compulsorily registered shall not be received as evidence of any transaction affecting immovable property unless it has been duly registered.*
- iii) Nonetheless, such a document may be admitted in evidence for the purpose of proving a collateral transaction which does not itself require registration.*
- iv) In terms of Section 35 of the Indian Stamp Act, 1899, any instrument that is unstamped or insufficiently stamped is inadmissible in evidence for any purpose, unless it is duly stamped in accordance with law.*
- v) However, such an instrument may be admitted in evidence upon payment of the requisite stamp duty along with the prescribed penalty, as contemplated under clause (a) of Section 35.*

6.8. Considering document about to be marked by the petitioner as a release deed, which could be inferred from the bare recitals of the letter dated 29.03.1954, it extinguishes/creates rights between the parties and is compulsorily registrable under Section 17 of the Registration Act, 1908, and must be duly stamped. The expression “for any purpose” under Section 35 of the Stamp Act is qualified by the further condition “unless such instrument is duly stamped.” If an unstamped or inadequately stamped release deed is produced in Court and sought to be marked as an exhibit, it must first pass the test of admissibility. Even for the limited purpose of proving a collateral transaction, the document must first be impounded, and the appropriate duty and penalty, as stipulated in clause (a) of Section 35 of the Indian Stamp Act, 1899, must be assessed and collected.

6.9. However, an unregistered document suffers the consequences of non-registration. An exception to this is where the document is introduced as evidence of a “collateral transaction.” Therefore, it becomes important to consider whether the petitioner seeks to mark the impugned document to prove a primary transaction or merely a collateral one. In support of the aforementioned contention, reference may be made to the judgment of the Hon’ble Madras High Court dated 05.01.2016 in *N.K. Surana v. Ramu and others*, in C.R.P.(PD).No.171 of 2013 wherein the relevant portion is extracted hereunder:

*“As per the above provisions of both the Acts, the sale deed in question has to be properly stamped and registered before the competent authority and if the sale deed is not duly stamped, the defect cannot be cured under Section 35 of the Indian Stamp Act and it is also not admissible in evidence, since it conveys title of the property to the transferee. Therefore, the argument of the learned counsel for the revision petitioner/D2 that the above sale deed has to be impounded for paying stamp duty and penalty and to be registered and marked, is not sustainable. The above decisions relied on by the learned counsel for the revision petitioner/D2, are not applicable to the facts of the case and the decision*

*relied on by the learned counsel for the respondents/plaintiffs, is applicable to the facts of the present case.”*

6.10. Further, reliance may also be placed on the decision in *Amertham v. Thannace*, reported in 2020 (4) CTC 395, wherein the same proposition was held that:

*"an Unregistered Sale Deed cannot be admitted in evidence as Plaintiff claims title and Suit itself is for Declaration of Title based on unregistered Sale Deed. Collateral transaction must be independent and divisible from transaction, which requires registration."*

6.11. Upon perusal of the affidavit and other materials, it appears that the petitioner seeks to receive the impugned document to prove possession over the suit property. At this stage, it is useful to refer to the judgment of the Honourable Madras High Court in *B. Manjula vs. Subramania Udayar*, in CRP No.1534 of 2022 wherein the relevant portion reads as follows:

*“In the case in hand, the respondent/defendant filed a petition to cure the deficit stamp duty by seeking an order to impound the document. He had also chosen to pay the stamp duty with penalty, but that does not cure the mandatory requirement of registration as contemplated under Section 17 of the Registration Act. If the document is not registered under Section 17 of the Act, then its admissibility is questionable as per Section 49 of the Registration Act. When the plaintiffs have filed a suit for title, the defendant cannot succeed merely by establishing possession but must establish title. Therefore, it cannot be said that the endeavour of the respondent/defendant is to prove possession over the suit property and not title. It is not the case of the respondent/defendant that he was in adverse possession of the suit property continuously, to the knowledge of the plaintiffs, and perfected his title by adverse possession. His sole contention is that he obtained title by virtue of a*

*sale letter dated 05.03.1983 executed in his favour by the original owner, Kanniyappa Udaiyar. In such a case, it was obligatory for the defendant to get the sale deed registered in order to place it in evidence before the Court. Since the unregistered sale letter does not convey title, the learned Trial Judge ought not to have admitted Ex.B1 in evidence. In view of the above reasons, I hold that the unregistered sale letter dated 05.03.1983, marked as Ex.B1, should be rejected as inadmissible.”*

In the above case, the Honourable Madras High Court categorically held that, in suits for declaration, parties cannot mark an unregistered and unstamped document merely by stating that they intend to do so for collateral purposes, because in declaration suits the parties are required to prove their title and not mere possession.

6.12. In the present case, although the petitioner has prayed to mark the release letter for the purpose of proving possession, this Court finds it difficult to accept such a submission. This suit is filed seeking the relief of declaration with a permanent injunction, and the defendant cannot succeed merely by establishing possession; he must prove title. Therefore, it cannot be said that the petitioner's intention is limited to proving possession rather than title, as he relies upon and traces his title through this document. Even though the petitioners have expressed willingness to rectify the defects, the Court finds that these procedural shortcomings are significant enough to prevent the document from being admitted in evidence. The document in question is inadmissible in evidence due to the clear deficiencies in its registration and stamp duty . Hence, in the interest of avoiding multiplicity of litigation and to ensure that the suit is decided without further delay, the Court is inclined to dismiss the present petition.

7. **RESULT:**

In the result, this petition is dismissed. No costs.

Dictated to Stenographer, transcribed by her in the computer, printed, corrected and pronounced by me in open court on this the 12<sup>th</sup> day of August 2025.

**DISTRICT MUNSIF,  
PONNERI.**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF,  
PONNERI.**

Fair/ Draft Order  
I.A.No.8/2024  
O.S.No.32/2014  
Date:12.08.2025  
DMC,PNI.