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**Indian Stamp (Tamil Nadu Amendment) Act, 2004****31 of 2004**

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Statement of Objects and Reasons<sup>2</sup> In the Budget speech for the year 2004-2005, it has been announced:- (i) to reduce the rate of stamp duty to one per cent on the market value of the property subject to the maximum of Rs. 10,000 in respect of instruments of settlement, release, partition and partition on dissolution of partnership when the property transaction takes place within the family; (ii) to remove the complex system in the existing structure of stamp duty in respect of the instrument of lease and to rationalise the same; and (iii) to include letter, note or memorandum to be deemed to be an instrument evidencing an agreement relating to the deposit of title deeds. 2. Further it has been decided to modify the stamp duty in respect of certain instruments from two rupees and fifty paise to twenty rupees specified in the proviso to Articles 35, 45 and subclause (i) of clause (a) of Article 58 in the Schedule I to the Indian Stamp Act, 1899 (Central Act II of 1899). 3. To give effect to the above, the Government have decided to amend the said Central Act II of 1899, suitably. 4. The Bill seeks to give effect to the above decision. PREAMBLE An Act further to amend the Indian Stamp Act, 1899, in its application to the State of Tamil Nadu. BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fifth Year of the Republic of India as follows:- 1. Received the Assent of the President on the 20th November, 2004 - Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Issue No.297, Pages 115-117, dated November 25, 2004. 2. Vide T.N. Bill No. 12 of 2004 - Published in Tamil Nadu Government Gazette, Extra., Part IV, Section 1, Iss. No. 192, pages 48-51

dated 28th July 2004 - [2004 (2) CTAR 1.10}

## **1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Indian Stamp (Tamil Nadu Amendment) Act, 2004.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

## **2. Amendment Of Schedule 1 :-**

In Schedule 1 to the Indian Stamp Act, 1899, (Central Act II of 1899).-

(1) In Article 61, the following Explanation shall be added, namely:-

"Explanation.- For the purpose of this Article, notwithstanding anything contained in any judgment, decree or order of any Court or order of any authority, any letter, note, memorandum or writing relating to the deposit of title deeds whether written or made either before or at the time when or after the deposit of title deeds is effected, and if it is in respect of the security for any loan, such letter, note, memorandum or writing shall be deemed to be an instrument evidencing an agreement relating to the deposit of title deeds.";

(2) for Article 352, excluding the Exemption and Explanation thereunder, the following shall be substituted, namely:-

"35. LEASE, including an under lease or sub-lease and any agreement to let or sub-let-

(a) Where the period of lease is below thirty years One rupee for every Rs.100 or part thereof of the amount of rent, fine, premium or advance, if any, payable;

(b) Where the period of lease is thirty years and above and upto ninety-nine years. Four rupees for every Rs.100 or part thereof of the amount of rent, fine, premium or advance, if any, payable;

(c) Where the period of lease is above ninety-nine years. Eight rupees for every Rs.100 or part thereof of the amount of rent, fine, premium or advance, if any, payable:

Provided that in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed twenty rupees.";

(3) for Article 453, the following Articles shall be substituted,

namely:- "45. PARTITION-Instrument of [as defined by Section 2(15)]-

(a) If the instrument of partition is among family members. One rupee for every Rs.100 or part thereof of the market value of the property which is under partition, subject to the maximum of Rs.10,000 per share;

(b) In any other case. The same duty as a Bottomry Bond (No.16) for the amount of the value of the separated share or shares of the property. Provided that -

(a) When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument, effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than twenty rupees;

(b) Where the land is held on Revenue settlement and paying the full assessment or is an inam land assessed under the Tamil Nadu Inams (Assessment) Act, 1956 (Tamil Nadu Act XL of 1956) the value for the purpose of duty shall be calculated at twenty five times the annual revenue;

(c) Where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed twenty rupees.

Explanation.-For the purpose of this Article, the Word "Family" shall have the same meaning as defined in the Explanation to Article 58.";

(4) in Article 464, in clause B, in sub-clause (ii), for the expression "Three rupees for every Rs.100 or part thereof of the value of the separated share", the expression "One rupee for every Rs.100 or part thereof of the market value of the property which is under partition, subject to the maximum of Rs. 10,000 per share" shall be substituted;

(5) in Article 555,-

(a) in clause A, for the expression "The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the release", the expression "One rupee for every Rs.100 or part thereof of the market value of the property which is under release, subject to the maximum of Rs. 10,000";

(b) in clause C, for the expression "another co-owner", the

expression "another co-owner who is not a family member" shall be substituted;

(6) in Article 586, in clause (a), in sub-clause (i),-

(a) for the expression "The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the settlement", the expression "One rupee for every Rs.100 or part thereof of the market value of the property which is under settlement, subject to the maximum of Rs. 10,000" shall be substituted;

(b) in the proviso, for the expression "Two rupees and fifty paise", the expression "Twenty rupees" shall be substituted.

1. Article 6 of Schedule, before amendment, read as:

"6. Agreement relating to Deposit of title deeds, pawn or pledge, that is to say, any instrument evidencing an agreement relating to -

(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security); or

(2) the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or any existing or future debt -

(a) if such loan or debt is repayable on demand or more than three months from the date of instrument evidencing the agreement. Five rupees per every Rs. 1,000 or part thereof of the value of the loan or debt.

(b) if such loan or debt is repayable within three months from the date of such instrument. Two rupees and fifty paise for every Rs. 1,000 or part thereof of the value of the loan or debt."

2. Article 35 of Schedule 1, before amendment, read as:

"35. Lease including an under lease or sub-lease and any agreement to let or sub-let-

(a) where by such lease the rent is fixed and no premium is paid or delivered-

(i) where the lease purports to be for a term of less than one year; The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.

(ii) where the lease purports to be for a term of not less than one year but not more than five years; The same duty as a Bottomry Bond (No. 16) for the whole amount or value of the average annual rent reserved.

(iii) where the lease purports to be for a term exceeding five years

but not exceeding ten years; The same duty as a Conveyance (No.23) for a market value equal to the amount or value of the average annual rent reserved.

(iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years; The same duty as a Conveyance (No.23) for a market value equal to the twice the amount or value of the average annual rent reserved

(v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years; The same duty as a Conveyance (No.23) for a market value equal to three times the amount or value of the average annual rent reserved.

(vi) where the lease purports to be for a term exceeding thirty years but not exceeding fifty years; The same duty as a Conveyance (No.23) for a market value equal to fifty per cent of the market value of the property which is the subject matter of lease.

(vii) where the lease purports to be for a term exceeding fifty years but not exceeding one hundred years; The same duty as a Conveyance (No.23) for a market value equal to seventy five per cent of the market value of the property which is the subject matter of lease.

(viii) where the lease purports to be for a term exceeding one hundred years; The same duty as a conveyance (No.23) for a market value equal to the market value of the property which is the subject matter of lease.

(ix) where the lease does not purport to be for any definite term. The same duty as a conveyance (No.23) for a market value equal to the market value of the property which is the subject matter of lease.

(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved The same duty as a Conveyance (No.23) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease

(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved. The same duty as a conveyance (No.23) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered : Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed,

the duty on such lease shall not exceed two rupees fifty paise.

Exemption -Lease executed in the case of cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

Explanation.-When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlords share of cesses or the owners share of the municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent."

3. Article 45, before amendment, read as:

"45. Partition - Instrument of The same duty as a Bottomry Bond (No. 16) for the (as defined by S.2(15) amount of the value of the separated share or shares of the property.

N.B- The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that -

(a) When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument, effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than two rupees fifty paise;

(b) Where the land is held on Revenue settlement and paying the full assessment or is an Inam laid assessed under the Tamil Nadu Inams (Assessment) Act, 1956 (Tamil Nadu Act XL of 1956) the value for the purpose of duty shall be calculated at twenty five times the annual revenue;

(c) Where a final order for effecting partition passed by any Revenue Authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an Instrument of Partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees fifty paise

4. Article 46, before amendment, read as:-

"46. Partnership-

A. Instrument of -

(a) where the capital of the partnership does not exceed Rs.500

Fifty rupees

(b) in any other case Three hundred rupees

B. Dissolution of -

(i) when such dissolution involves partition of immovable of a firm among the partners, who are not family members; (a) Thirteen rupees for every Rs.100/- or part thereof of the market value of the immovable property dealt with in such deed of dissolution, when such property is situated within the Chennai Metropolitan Planning Area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli.

(b) Twelve rupees for every Rs.100/- or part thereof the market value of the immovable property dealt with in such deed of dissolution when such property is situated in other areas.

(ii) when such dissolution involves partition of immovable properties of the firm among the partners who are family members or when such dissolution involves partition of movable properties Three rupees for every Rs.100/- or part thereof the value of the separated share.

Explanation - For the purpose of this Article, the word "family" shall have the same meaning as defined in the Explanation to Article 58.

(iii) in any other case One hundred rupees."

5 . Article 55, before amendment, read as:"55.

A. Release, that is to say any instrument (not being such a release as is provided for by section 23-A or a release referred to in clauses B, C and D of this Article) whereby a person renounces a claim upon another person or against any specified property. The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the release.

B. Release of Benami Right, in favour of real owner-

(a) of immovable property situated within the Chennai Metropolitan Planning Area and the Urban Agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli; Thirteen rupees for every Rs.100/-or part thereof of the market value of the property which is the subject matter of release.

(b) of immovable property situated in any other area; Twelve rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of release.

(c) of any other property. Seven rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter of release.

C. Release of Right in favour of co-owner, that is to say, any

instrument whereby a co-owner of a property renounces his claim in favour of another co-owner, on any specified property over which they have common right:

(i) if it relates to immovable property situated within the Chennai Metropolitan Planning Area or the Urban agglomeration of Madurai, Coimbatore, Salem and

Tiruchirappalli and the City of Tirunelveli. Thirteen rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of release.

(ii) if it relates to immovable property situated in any other area. Twelve rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of releases.

(iii) if it relates to any other property. Seven rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of release.

#### D. Release of right in favour of partner

(i) A release of right by a partner or partners in favour of other partners relinquishing his or their rights over the immovable property when the release is between family members who constitute the partnership or when the property is movable property. Three rupees for every Rs.100/- or part thereof of the market value of the immovable property which is the subject matter of release.

(ii) When such release is between partners who are not family members. (a) Rupees thirteen for every Rs.100/- or part thereof of the market value of the immovable property which is the subject matter of release when such property is situated within the Chennai Metropolitan Planning Area and the Urban Agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli.

(b) Twelve rupees for every Rs.100/- or part thereof of the market value of the immovable property which is the subject matter of release, when such property is situated in other areas.

Explanation.- For the purpose of this Article, the word "family" shall have the same meaning as defined in the Explanation to Article 58."

6. Article 58, before amendment, read as:

"58. Settlement.-

(a) instrument of (including a deed of a dower).- (i) if the instrument of settlement is in favour of a member or members of a family. The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the settlement:



Provided, that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed two rupees and fifty paise.

Explanation.-

For the purpose of this Article, the word "family" means father, mother, husband, wife, son, daughter, grand child. In the case of any one whose personal law permits adoption, "father" shall include an adoptive father "mother" an adoptive mother, "son" an adopted son and "daughter and adopted daughter.

(ii) in any other case -

(A) of immovable property situated within the Chennai Metropolitan Planning Area and the Urban Agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli. Thirteen rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of settlement.

(B) of immovable property situated in other areas. Twelve rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter of settlement.

(C) of any other property Seven rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter of settlement.

Exemption:

Deed of dower executed on the occasion of a marriage between Muhammadans.

(b) Revocation of.- The same duty as Bottomry Bond (No. 16) for a sum equal to the amount of value of the property concerned as set forth in the instrument of Revocation but not exceeding eighty rupees."