



**Office of the Commissioner & Inspector General of  
Registration & Stamps Department, A.P., Vijayawada.**

**Circular Memo No:S1/P/5860/2021**

**Date: 01.11.2021**

**SUB:** Registration and Stamps Department - Loss of Revenue on Registration of Partition deeds-among Family Members-Misinterpretation of Value of the Separated Shares concept - Revenue Loss to the Government Exchequer- Instructions on levy of Stamp duty & Registration Fees Issued – Reg.

**REF:** 1) U.O.Note No:1484117(i)/RM/1/2021of Finance (RM), Department, Dated: 18.08.2021

2. Government Note of SPL.CS (Revenue, R&S); Dated:27.08.2021.

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**1.** Vide reference 1 cited, it was informed that instruments of partition among family members are not levied with proper stamp duty resulting into huge revenue loss to the Government exchequer. It is also contended that provisions of **Hindu Succession Act, 1956**, and Provision of **Indian Succession Act, 1925** are not being followed while registering the partition deeds and levied short duties in this regard.

**2.** Vide reference 2 cited further instructions were issued to take necessary action on the issue.

**3.** The matter was examined. As per **Article 40 of Schedule-1A of Indian Stamp Act (ISA), 1899**, If the members of a family wish to divide their inherited joint right property (through Succession/ Survivorship) as per their own volition, the stamp duty and the stamp duty on the remaining separated shares shall be chargeable by exempting highest share value of property.

**4.** As per the **section of 6, 8 and 15 of the Hindu Succession Act-1956**, all the legal heirs will have equal right over the inherited property. In case of an unequal division of the property, the chargeability shall be levied over excess share on legitimate equal shares of properties under Release of Right vide **Article 46 of schedule-1-A of I.S.Act -1899**.

5. It is further noted that the parties have the right of division/partition on their volition and the partition cannot be insisted in any particular fashion.

**In view of the above, the following instructions are issued:**

**6. Deed of partition among family members with equal shares of properties:**

a) Levy of Stamp Duty @ 1%(Partition) after exempting one equal share;

Eg: In a deed if the executants/claimants are 4 members and voluntarily divide the joint right property equally as per their wish; then the Registering officer has to levy the stamp duty on remaining 3/4<sup>th</sup> equal shares after exempting 1/4<sup>th</sup> equal share.

b) **Deed of partition among family members with un equal share of Property :**

Levy of **Stamp Duty @ 1% (Partition)** after exempting highest share and **3%** stamp duty (currently) as **Release of Right** as on date the excess share over the legitimate equal share; and to levy Registration fees as per **standing order(S.O)-377(b)**.

Explanation :- For instance, if **4** parties divide their joint right property of **10 acres** in the ratio of **4:3:2:1**. Then the stamp duty may be exempted for highest share (4 acres). But the party who gets **4** acres and **3** acres has to pay the stamp duty under **Article-46 of schedule-1A of the ISA,1899** under the "release of right" for one and half-acre and half-acre value respectively, because the one and half acre and the half-acre they got is an excess share over the legitimate equal share as per the **Hindu Succession Act-1956**. It is clear that the parties who got shares of **2 acres** and **1 acre** had foregone their right over **0.5** acres and **1.5** acres respectively as per the provisions of **Hindu Succession Act-1956** for which the registering officers shall collect duty for this relinquishment of right on these **0.5** acres and **1.5** acres.

c) **Deed of partition among family members by including, self-acquired property of any of the family members along with Joint right property.**

The duty charge by on such instruments shall be @ **4%** (currently) as "conveyance" on the total value of the property without exempting major share



Explanation :- In the case of partition deed among family members, by including self-acquired property of any of the family members along with Joint right property, there is no pre-existing joint right for all the members over self-acquired property of one among family members. Hence the deed can be classified as conveyance deed as per **Article 20 of Schedule 1A of ISA, 1899** and corresponding stamp duty shall be levied on the total value of the property without exempting any share of the parties to the partition deed.

**d) Deed of partition made by including non-legitimate right holders(Class-II heirs getting precedence over Class-I heirs as per Hindu Succession Act,1956):**

The duty chargeable on such instruments shall be @ **4% currently** as **Conveyance** on total value of the property.

Explanation :- As per sections **8 to 13** of **Hindu succession Act, 1956** , Male Hindu died intestate and as **per Sections 15 & 16 ibid**, Hindu Female died intestate, each entry of heirs prefer over the succeeding entry. If each entry has more than one heir; all the heirs of same entry get equal share.

For instance if the partition deed includes non-legitimate right holders like **Class-II** heirs getting precedence over **Class-I** heirs or Agnates and Cognates getting precedence over **Class 1** or **Class II** heirs (**Class I ,II** heirs and agnates, cognates as referred in **Hindu Succession Act,1956**), the instrument shall be treated as conveyance and a corresponding stamp duty shall be charged on the total value of the property without exempting any share.

**7. The value to be taken for consideration.**

- (a) For assessing the immovable property - Registerable value on the date of registration of document i.e., either Approved Market Values (Market Value Guideline Register)available at each SRO or party declared value; whichever is higher.
- (b) For assessing the movable properties the value as declared (**Stock exchange Bullion**) by the parties.
- (c) The equal share means equal share in the total value of the property to be divided and that property includes both movable(cash, ornaments, precious metals& minerals, shares in stocks, bank deposits, life insurances etc.,) and immovable.

**All the Registration offices in the state are instructed to follow the above instructions without any deviation and DR (Regular), DR(MV & Audit) and DIGs are instructed guide the Sub Registrars working under their control for effective implementation of the above.**

Suggestions and difficulties in implementation of above instructions shall be sent to "pa.cig@igrs.ap.gov.in".

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Commissioner & Inspector General of  
Registration & Stamps, A.P., Vijayawada.,

To  
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