



January 2025

Supreme Court clarifies that compromise decrees asserting pre-existing rights are not subject to registration or payment of stamp duty

In the recent case of *Mukesh vs. The State of Madhya Pradesh and Anr.*¹, the Hon'ble Supreme Court of India ("Supreme Court") adjudicated on the issue of whether compromise decrees that assert pre-existing rights necessitate registration under the Registration Act, 1908 ("Registration Act") and are subject to stamp duty under the Indian Stamp Act of 1899 ("Stamp Act"). The Supreme Court analysed Section 17(2)(vi) of the Registration Act and held that any decree or order of a court (except the decree or order expressed to be made on compromise and comprising immovable property other than that which is the subject-matter of the suit or proceedings) would not require compulsory registration. The Supreme Court further enlisted 3 (three) conditions which are required to be satisfied to fall under the exception of Section 17(2)(vi) of the Registration Act. The Supreme Court further held that stamp duty is not chargeable on an order/decreed of the court as the same does not fall within the documents mentioned in Schedule I or I-A read with Section 3 of the Stamp Act.

Brief facts

1. The appellant had filed a civil suit² ("Suit") before the First Civil Judge, Class-2, Badnawar, for declaration and permanent injunction against Abhay Kumar (**Respondent No. 2**), who is the adjacent landowner of the appellant, who attempted to sell the subject land to third parties, thereby dispossessing the appellant from the subject land.
2. Pending the Suit, both parties entered a compromise, based on which, the suit came to be decreed in favour of the appellant and a consent decree was passed on November 30, 2013 ("**Compromise Decree**").
3. Pursuant to the Compromise Decree, the appellant applied for mutation of the subject land before the Tehsildar concerned, who in turn referred the case to the Collector of Stamps, District Dhar (M.P). Upon perusal of the records, the Collector of Stamps initiated proceedings under Section 33 of the Stamp Act and consequently directed the appellant to pay a sum of INR 6,67,500 (Indian Rupees six lakh sixty-seven thousand five hundred) towards stamp duty, by order dated August 23, 2016 ("**Collector's Order**").
4. Challenging the Collector's Order, the appellant preferred a revision, which was dismissed by the Board of Revenue, Gwalior, Madhya Pradesh, *vide* order dated February 12, 2019 ("**Board's Order**"). Aggrieved by the same, the appellant preferred Miscellaneous Petition³ to quash the Collector's Order and Board's Order before the High Court of Madhya Pradesh, Bench at Indore (" **Madhya Pradesh HC**"). However, the Madhya Pradesh HC dismissed the said Miscellaneous Petition *vide* its order dated December 6, 2019 ("**High Court Order**"). The High Court Order

¹ 2024 INSC 1026

² Civil suit No. 47-A/2013

³ Miscellaneous Petition No. 3317 of 2019

upheld the Collector's Order determining stamp duty at INR (Indian Rupees six lakh sixty-seven thousand five hundred) payable by the appellant *qua* the subject land, acquired by him by way of consent decree, as affirmed by the Board's Order.

5. Therefore, being aggrieved by the High Court Order and the orders of lower authorities, the appellant filed an appeal before the Supreme Court.

Issues

1. Whether the Compromise Decree obtained by the appellant required registration under Section 17 of the Registration Act?
2. Whether the Compromise Decree is chargeable with stamp duty under the Stamp Act?

Findings and analysis

Re: Registration is not required if the conditions enumerated in section 17(2)(vi) of the Registration Act are satisfied.

1. The Supreme Court held that Section 17(2)(vi) of the Registration Act carves out the distinction between the property which forms subject-matter of the suit and the property that was not the subject-matter of the suit, but for which a compromise has been arrived at. If a compromise decree involves immovable property other than the property for which a decree is prayed for, such a property would not be exempt and would require registration. To avail the exemption from the mandate of compulsory registration of documents conveying immovable property, the compromise decree arrived must be only in respect of the property that is the subject-matter of the suit.
2. The Supreme Court further held that to fall under the exception of Section 17(2)(vi) of the Registration Act, the following conditions must be satisfied:
 - a) there must be a compromise decree as per the terms of the compromise without any collusion;
 - b) the compromise decree must pertain to the subject property in the suit; and
 - c) there must be a pre-existing right over the subject property, and the compromise decree should not create a right afresh.
3. The Supreme Court held that, in the instance case, in terms of the compromise entered into between the parties, the Suit was decreed in favour of the appellant. Hence, through the said Compromise Decree, the appellant did not obtain any new right, but he has asserted his pre-existing right/title/interest over the subject land. Thus, the appellant has satisfied the conditions enumerated in section 17(2)(vi) of the Registration Act. Hence, the subject land acquired by the appellant by way of Compromise Decree requires no registration.

Re: Stamp Duty is not chargeable as the Compromise Decree will not operate as conveyance since no right is transferred.

1. In respect of the issue relating to payment of stamp duty for mutation of the subject land, the Supreme Court referred to Section 3 of the Stamp Act and noted that stamp duty is not chargeable on an order/decreed of the court as the same does not fall within the documents mentioned in Schedule 22 I or I-A read with Section 3 of the Stamp Act. The Supreme Court (in the facts of the present case) held that the consent decree will not operate as conveyance, as no right is transferred and the same does not require any payment of stamp duty. Since the appellant has only asserted a pre-existing right and no new right was created through the consent decree, the document pertaining to mutation of the subject land is not liable to stamp duty.

2. The Supreme Court held that, in the instant case, the stamp duty imposed on the Compromise Decree was erroneous by both the Madhya Pradesh HC and the subordinate authorities. Consequently, the High Court Order was set aside, and the mutation of the revenue records in favour of the appellant was directed without the requirement of stamp duty.

Conclusion

This judgment establishes a critical precedent regarding the applicability of the Registration Act and the Stamp Act to consent decrees that do not establish any new rights in a property. The Supreme Court has conclusively determined that a compromise decree does not require registration if it satisfies the 3 (three) specified conditions. Furthermore, the Supreme Court clarified that when a document asserts a pre-existing right without creating any new rights through the consent decree, such a document is exempt from stamp duty. This judgment addresses potential ambiguities in transactions executed by compromise decrees and reinforces the principles surrounding registration and stamp duty compliance, offering clarity and guidance on such legal issues.

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