

A sale certificate issued by a revenue authority to an auction purchaser following the sale of immovable property that belonged to a revenue defaulter will not attract stamp duty

The Kerala High Court in the case of **Revenue Divisional Officer vs Thomas Daniel [WA No. 2008 of 2024]** dated **July 21, 2025**, has held that a sale certificate issued by a revenue authority to an auction purchaser following the sale of immovable property that belonged to a revenue defaulter will not attract the levy of stamp duty. Considering the interplay between the provisions under the Registration Act, 1908, and the Kerala Stamp Act, 1959, the Court held that even the original of the sale certificate concerned will not attract the levy of stamp duty under the Kerala Stamp Act, save in the exceptional circumstances when it qualifies to be an instrument as defined under the Kerala Stamp Act.

As far as the question of when a sale certificate becomes an instrument, the High Court observed that it is only when the sale certificate in question creates, transfers, limits, extends, extinguishes, or records a right or liability in praesenti, it becomes an 'instrument' for the levy of stamp duty. Since the sale certificate in the present case merely records the fact of a transaction of sale, without adjudicating or expressing any opinion on the rights or liabilities of the parties, it cannot be an 'instrument'.

The High Court further observed that a sale certificate, which is not an 'instrument' at the time of its issuance, can nevertheless metamorphose into one when its original is presented for registration before a registering authority. In that event, the registering authority would be called upon to examine the nature of the rights flowing to the person seeking registration of the certificate, after examining the document and satisfying himself that the document was properly executed, and thereafter copy the contents of the document maintained for that purpose. It is only when the sale certificate thus becomes an 'instrument' that it will attract the charge of stamp duty under the Kerala Stamp Act, and the duty chargeable in terms of Article 16 thereof becomes payable by the auction purchaser concerned.

Link

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