

M.A. Venkatachalapathi Vs. State of Mysore and ors.

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Court : Karnataka

Decided On : Oct-22-1965

Reported in : AIR1966Kant323; AIR1966Mys323; (1966)1MysLJ21

Judge : K.S. Hegde, ;T.K. Tukol and ;D.M. Chandrashekar, JJ.

Acts : Mysore Stamp Act, 1957 - Schedule - Article 44; Indian Partnership Act - Sections 46

Appeal No. : W.P. No. 278 of 1964

Appellant : M.A. Venkatachalapathi

Respondent : State of Mysore and ors.

Judgement :

Chandrashekar, J.

1. In the Writ Petition out of which this reference to the Full Bench has arisen, the petitioner has challenged the order of the Revenue Authorities directing him to pay additional stamp duty and penalty on an instrument executed in his favour. The Division Bench before which the Writ Petition came up for hearing has referred to the Full Bench, the following question:--

'Whether the deed in question is a release deed falling within Article 44 of the Mysore Stamp Act, 1957, or whether it is a conveyance falling under Article 19 of

that Act.'

(2) The necessary implication of this question, I think is whether the instrument is chargeable to stamp duty under Article 44 of the Mysore Stamp Act, 1957, or under Article 19 of that Act.

(3) The instrument in question is styled as a deed of release and was executed on 12-3-1962 the instrument as the first party and M.A. Venkatachalapthy, referred to as the second party who is the petitioner in this Writ Petition.

(4) The preamble portion of the instrument recites that Donthy Bheemaiah, the father of the first party and the second party constituted a partnership firm with equal shares under a registered deed of partnership dated 3-11-1956 and were carrying on business. Both parties were kartas of their respective families. Donthy Bheemiah died on 24-11-1961. After his death the first party who became the karta of the family, became the partner in place of Donthy Bheemiah. It is further recited that the accounts of the said business were taken and the assets and liabilities and profits and loss of the firm were ascertained on 13-4-1962, the correctness of which was accepted by both parties. By mutual agreement the first party retired from business from 16-4-1962.

(5) The operative portion of the instrument states that the first party shall have nothing to do with the business carried on by the partnership that the entire business is left solely to the second party with all its assets and liabilities and that the business shall henceforth be carried by the second party in his own name and in his own building for his own profit and at his own cost and risk.

(6) But para 5 of the instrument states that the assets of the partnership include a piece of land which was purchased in the name of Donthy Venktataswamiah for a debt due to the partnership and that this land shall continue to be owned as joint property of both parties each being entitled to half share until the property is partitioned separately.

(7) Para 6 of the instrument states that in consideration of a sum of Rs. 30,036-24, being the capital and profits of the business due to the first party he (the first party)

releases to the second party all the share and interest of the first party as the karta of the joint family to the partnership firm, the business assets, bank balance, book debts, decree debts and other debts and claims of the partnership outstanding against other person, except the piece of land referred to in para 5 and 'to hold the same to the second party absolutely.'

(8) Para 8 of the instrument states that the second party shall pay, discharge and fulfill all debts, liabilities and obligations of the partnership business and that at all times thereafter effectually indemnify the first party and his legal representatives from all proceedings, costs, claims and expenses in respect of the partition business.

(9) Para 7 of the instrument states that if Income-tax or Sales-tax is assessed on the erstwhile partnership business for the period prior to 16-1-1962, both parties should bear the tax liability equally and if any refund of tax is received, it should be shared equally between them.

(10) The net effect of these clauses in the instrument is that in consideration of a certain sum of money, the first party gives up in favour of the second party his share in and the second party becomes the full owner of all the assets and liabilities of the dissolved firm except the following:--

(i) The piece of land and.

(ii) The liability to pay Income-tax and Sales-tax and the right to obtain refund of such tax, in respect of the business of the firm, for the period up to 16-1-1962.

(11) A stamp duty of Rs. 15 was paid on this instrument on the footing that it was a release. Both the Assistant Commissioner, Bangalore, and the Chief Controlling Revenue Authority, held that the instrument was chargeable as a deed of conveyance and an ad valorem duty of Rs. 915 had to be paid along with a certain penalty.

(12) Mr. M.P. Somasekhara Rao, the learned counsel for the Petitioner contended before us that the substance of the transaction evidenced by the instrument, is a release by which the first party relinquishes certain of his rights and interests in

certain properties of the dissolved firm and that there is a consequent argumentation of the rights and interests of the second party. On the other hand, the learned Government Pleader contended that the transaction in substance is a conveyance of half the undivided interest of the first party in certain assets of the erstwhile partnership firm in favour of the second party.

(13) The question, as formulated and referred to by the Division Bench does not require us to consider whether the instrument in question is an instrument of partition between the first party and the second party. Further, the latter question is settled by the following pronouncement of a Full Bench of this Court in Nanjunda Setty v. State of Mysore 1963(2) Mys LJ 75(AIR 1964 Mys 124):--

'.....Where the release results in the releaser getting exclusive right to a portion of the common property, what happens in reality is a division of the common property. If, on the other hand, the releaser gets as consideration for the release cash or other property which does not form part of the common property, such a release does not results in any division of the common property, such a release does not result in any division of the common property into exclusive shares. Such would be the case where the releases pays from out of his separate funds the consideration for the release.....'

(14) I shall now set out the relevant provisions of the Stamp Act. as this instrument was executed on 12-3-1962, the Mysore Stamp Act, 1957(which will hereinafter be referred to as the 'Act'), as it stood before it was amended by the Mysore Stamp (Amendment) Act, 1962, will be applicable, as the amending Act came into force on 1-10-1962.

(15) Article 19 in the Schedule to the Act is as follows:--

'19. Conveyance as defined by Section 2(d) not being a Transfer charged or exempted under No. 51:--

(An ad valorem table of rates is, set out in the rest of the Article.)

(16) Article 51 of the Schedule relates to transfer of certain categories of properties like debentures, interest secured by a bond, mortgage-deed, policy of

insurance and trust properties and it not relevant for the present purpose.

(17) The term 'Conveyance' is defined by Section 2(1)(d) of the Act as follows:--

'Conveyance' includes a conveyance on sale and every instrument by which property, whether moveable or immoveable is transferred inter vivos and which is not otherwise specifically provided for by the Schedule.'

(18) The term 'Release' is not defined in the body of the Act, but Article 44 of the Schedule to the Act states as follows:--

'Release' that is to say, any instrument (not being such a release as is provided for by Section 24), whereby a person renounces a claim upon another person or against any specified property.

(The rest of the Article sets out the amounts of duty payable where the value of the claim does not exceed Rs. 1000 and where it exceeds that sum).

(19) Section 24 of the Act relates to certain instrument connected with mortgages of marketable securities and has no bearing on the present question.

(20) The use of any particular words like release relinquish assign or transfer in an instrument does not conclusively determine the nature of the instrument. The substance of the transaction has to be looked into In Nanjunda Setty's case. 1963(2) Mys LJ 75(AIR 1964 Mys 124)(FB) two sons of who were members of a Hindu undivided family with their father, executed two separate deeds each releasing all his rights and interests in the joint family property on receipt of a cash consideration paid out of the joint family property. Though these two deed were styled as 'Release Deed' the Full Bench of this Court held that these two intended to be achieved by those deeds was to divide the joint family property.

(20A) Section 46 of the Indian Partnership Act provides that on the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the firm, and to have the surplus distributed among the partners or their representatives according to their rights. Thus, on the dissolution

of a firm the erstwhile partners will be co-owners of the properties of the firm. Until such property is distributed among the partners according to their rights, each of the partners will have an undivided share or interest in such property.

(21) In the present case also after the dissolution of the firm by the retirement of the first party, both parties were co-owners having an equal share in the properties, assets and liabilities of the dissolved firm.

(22) While in one part of the deed it is stated that the first party releases all his share and interest in the assets of the erstwhile firm, in another part of the deed it is stated that the right of the party to get refund. If any, of Income-tax and Sales Tax to the extend of a half share is not renounced by the first party but retained by him.

(23) Mr. Somasekhara Rao contended that in order to constitute a release it is not necessary that the releasor should renounce all his claims upon another person or against all the properties in which the releasor and the releasee may have common rights or interests. He added that though the instrument in question does not bring about a renunciation of the right of the first party in the land which belonged to the partnership and though the rights and liabilities of the first party in relation to income-tax and sales tax payable in respect of the partnership business prior to the date of the dissolution, were excluded from other assets and liabilities renounced by the first party in favour of the second party, there is still a valid release in respect of the properties, rights and interests renounced by the first party in favour of the second party under the instrument. In support of this contention Mr. Somasekhara Rao relied on the following observations of the Supreme Court in Chinnathavi v. K. Pandiva Naicker : [1952]1SCR241 :

'..... The recitals in the release deed therefore have to be read in the light of the terms and conditions of the deed of compromise and the proper inference from these is that Sundara pandiva relinquished his rights to succeed to the zamindari immediately as the seniormost member of the family but that he did not renounce his contingent right of succeeding to it by survivorship if and when the occasion arose. It is well settled that general words of a release do not mean release of rights other than those then put up and have to be limited to the

circumstances which were in the contemplation of the parties when it was executed: Vide *L and S.W Ry. Co. v. Richard Dodridge Black more* (1870) 4 HL 610. In that case it was said general words in a release are limited to those things which were specially in the contemplation of the parties when the release was executed. This rule is good law in India as in England.....'

(24) In the above case the Supreme Court was considering how the general words of a release should be construed. Their Lordships laid down that the general words of a release should be understood as referring to a state of things which were in the contemplation of the parties at the time of the deed and not to a state of things brought about by subsequent events and not in the contemplation of the parties at the time of the deed. I do not see how these observations support the contention of Mr. Somasekhara Rao that a partial release of the rights and interest of the release can be treated as a release.

(25) However, I think it is not necessary to express a final opinion on testator question whether the instrument in question is a release if the instrument can be construed as a conveyance.

(26) Section 6 of the Act reads as follows:--

6. Instruments coming within several descriptions in schedule.--Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the schedule shall, where the duties chargeable thereunder are different are chargeable only with the highest of such duties.

Provided that nothing contained in this Act shall render chargeable with duty exceeding three rupees a counter part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

(27) Assuming that the instrument in question can be construed as a release, if it can also be construed as a conveyance it will be chargeable under the category attracting a higher duty.

(28) On the basis of the value if the claim of the first party to the property released in favour of the second party, the stamp duty payable under Art 44 of the Schedule

is only Rs.15 while the stamp duty payable as a conveyance under Art. 19 is Rs. 915. hence, under S. 6 of the Act, the document is chargeable with duty as a conveyance under Art. 19 of the Schedule to the Act.

(29) A similar view was taken by s Special Bench of the Madras High Court in Board of Revenue, Madras v. Alagappa, AIR 1937 Mad 308 Varadhachariar, J. who spoke for the Bench observed as follows:

'He (counsel for the party) contended that there being a special article, namely, Art. 46, providing for an instrument of dissolution of partnership there is no reason why the document in the present case should be held to fall by a strained construction under the definition of an instrument of partition. This argument ignores the provision in S. 6 Stamp Act, which enacts that wherever an instrument is so framed as to come within two or more of the descriptions in Schedule 1 and the duties chargeable thereunder are different, that document will be chargeable only with the higher of such duties. It is therefore no argument to say that the instrument in question is one relating to the dissolution of partnership if according to its terms it also fails under the definition of an instrument of partition.

(30) I shall now examine whether the instrument can be construed as a sale and hence as a conveyance.

(31) 'Sale', according to Earl Jowitt's Dictionary of English Law is a transfer of property or of a right from one man to another, in consideration of a sum of money, as opposed to barter, exchanges and gifts.

(32) If the result intended to be achieved by the execution of the instrument in question is extinguishment of the rights and interest of the first party in certain specified properties of the dissolved firm and corresponding augmentation of the rights and interests of the second party, in consideration of a certain sum of money paid to the first party, there is no reason why the transaction should not be regarded as a sale of the undivided interest of the first party to the second party In this transaction there is a transfer of a property, namely the first party's undivided where to the second party for a consideration of a sum of money. All the requirements of a sale are satisfied.

(33) When a co-owner sells his undivided interest in a common property to another co-owner, there is necessarily a release of the interest of the transferor co-owner. But this only means that every transaction of sale between two co-owners, is a transaction of release also just as every transaction of partition between two co-owners is, as explained in Nanjunda Setty's case 1963(2) Mys LJ 75: (AIR 1964 Mys 124 (FB), also a transaction of mutual release.

(34) Every sale may not involve a release. A sale between two persons who had no prior common interest in a property sold, will not involve a release, a generally speaking, a release like a partition, pre-supposes the existence of common interest of the parties to the transaction (Vide Nanjunda Setty's case, 1963(2) Mys LJ 75: (AIR 1964 Mys 124)(FB). But if, the seller and the purchaser have a prior common interest in the property, there is necessarily a release by the seller of his interest in the property.

(35) Similarly every release may not result in a conveyance or sale. A release may relate to a settlement of a doubtful claim. A release may be of a right which is not capable of being transferred in law, like the right to maintenance, or the mere right to sue. A release may be of a debt by the creditor, in which case the debt is not transferred from the creditor to the debtor. A doubt or multiple release accompanied by the acquisition of the full right by such co-owner in the portion of the property allotted to him, may amount to a partition between the co-owner. But where release is by a co-owner of his share in the common property which is legally capable of being transferred, in favour of another co-owner, for a consideration of a sum of money coming outside the common property the transaction amounts to a sale of the undivided share.

(36) I shall now examine a few decisions bearing on the question before us in a reference under the Mysore Stamp Regulation 1900, before a Full Bench of the former Mysore Chief Court, reported in (1908) 8 Mys CCR 294(FB), a question very similar to the one before us came up for consideration. In that case, the joint family consisted of four brothers. One of them relinquished his interests in the undivided family property in favour of two brothers in consideration of a sum of Rs. 4000 paid to him. The question was whether the document should be treated as a

release or as a conveyance. Their Lordships observed as follows:

'..... The document may be regarded as a conveyance of his undivided share, using the word conveyance in its general sense. It may also be regarded as a release, since one brother has renounced all claim against the family property. The Stamp Regulation defines a conveyance as including 'every instrument by which property, whether moveable or immoveable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule 1. Schedule 1 specifically provides for releases; and consequently the document ought not to be required to be stamped as a conveyance.'

(37) With all respect to their Lordships it appears to me that their Lordships have not set out correctly the definition of the term 'conveyance' in the Mysore Stamp Regulation, 1900. Section 2(9) of the Mysore Stamp Regulation, 1900, as it stood at the time this decision was rendered reads as follows:

"Conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable is transferred inter vivos and which is not otherwise specifically provided for by Schedule I.'

(38) The definition of the term 'conveyance' in S. 2(1)(d) of the Mysore Stamp Act, 1957, is exactly the same as that in S. 2(9) of the Mysore Stamp Regulation 1900, except for the absence of the figure I after the word 'Schedule'

(39) The term 'conveyance', as defined in the Mysore Stamp Regulation 1900, as well as in the Mysore Stamp Act 1957, consists of two parts namely:

(i) a conveyance on sale and;

(ii) every instrument of which property transferred inter vivos and which is not otherwise specifically provided for by the schedule;

(40) I think the adjectival clause, 'which is not otherwise specifically provided for by the Schedule' governs only the words 'every instrument by which property is transferred inter vivos' and not the words, 'a conveyance on sale'. An instrument of sale invariably comes within the above definition of 'conveyance'. It is only when

an instrument effects a transfer other than a sale, if requires further examination whether such an instrument is not otherwise specifically provided for, by the Schedule, before that instrument can be regarded as coming within the definition of the term, 'conveyance'.

(41) Their Lordships seem to have overlooked that the adjectival clause, 'which is not otherwise specifically provided for by Sch. I' does not govern the words, 'conveyance on sale'. The conclusion of their Lordships that even though the transaction amounted to conveyance the document ought not to be required to be stamped as a conveyance, seems to proceed from the above erroneous construction of the definition of the term 'conveyance' if I may say so with respect.

(42) I shall now refer to two English decisions bearing on the point.

(43) In *Christie v. Commissioner of Inland Revenue* (1866) 2 Ex. 46, there was an agreement for dissolution of partnership between two persons. By a subsequent deed, the retiring partner conveyed to the remaining partner all his estate and interest in the partnership property and assets. The question arose whether the transaction was not a conveyance on the sale of the property Kelly, C.B., observed as follows:

'..... the substance of this transaction collected from the deed certainly seems to me to be a sale by Mr. Back to Mr. Christie of Mr. Back's interest in the partnership property for the sum of 1,10,000 pounds. I can see no distinction with respect to liability to stamp duty between a sale on the part of Mr. Back to Mr. Christie, who happened to be the continuing partner and a sale by Mr. Back to any other person with whom Mr. Christie might have been disposed to enter into partnership and to whom Mr. Back might have been willing for a certain consideration to assign and convey the whole of his interest in the partnership property.

Under these circumstances it appears to me looking at this conveyance on sale of a valuable interest in the property which constituted before the conveyance, the partnership property. The conveyance is made to the continuing partner but, whether made to him or to any other person, 'it is for all purposes a sale of the property in question in consideration of the price or purchase money of 1,10,000

pounds.'

(44) Piott B who agreed with Kelly C.B. observed as follows:

'This appears to me to be substantially a conveyance of property 'upon a sale' If this transaction had taken place between a third person not a member of the firm and Mr. Back there would not have been a doubt about the stamp duty being payable and in my judgment the fact of its taking place between Mr. Back and an old member of the firm makes no difference.'

(45) In Phillips v. Commissioners of Inland Revenue, (1867) 2 Ex. 399 on dissolution of a partnership a deed was executed, by which, after reciting that it had been agreed that the share of the retiring partner in the real assets of the firm should be taken by the continuing partners and that he should be allowed in account a sum of 17,313 pounds as an equivalent for the value of his share, the retiring partner in consideration of the sum of 17,313 pounds conveyed his share of the real assets to the continuing partners.

(46) The Court of Exchequer held that the case was not distinguishable from that of (1866) 2 Ex. 46 and that the instrument was liable to ad valorem stamp duty as a conveyance upon a sale.

(47) Referring to the aforesaid two English decisions Varadachariar J., who delivered the opinion of the Full Bench in AIR 1937 Mad 308 observed as follows:

'..... The decisions in (1866) 2 Ex. 46 and (1867) 2 Ex. 399 indicate that even according to the English practice where a dissolution of partnership is carried out by a document which in form effects an assignment of a partner's share to another partner, the document, is charged to stamp duty as a 'conveyance'. This shows that the fact of its being part of a scheme for the dissolution of a partnership does not prevent its being chargeable to stamp duty under other heads as well, if the terms of the document fall under some other head'

(48) In the case reported in. In the matter of Hiralal Navalram (1908) ILR 32 Bom 505(FB) there was a factory belonging to the partnership consisting of Hiralal Navalram Nandaram Omkar and Ramchandra Shivanaravan Hiralal Navalram had

a twelve annas share in the partnership and others had together a four annas' share in it. The heirs of the owners of the four annas' share sold it to one Ramchand Hukmichand after whose death his adopted son relinquished all his claims over the four annas' share sold it to one Ramchand Hukmichand, after whose death his adopted son relinquished all his claims over the four annas' share in the partnership under a deed styled as release. The material portion of the deed was as follows:

In consideration of all the rights which I have acquired (namely) in the profits in respect of the press described above and the press machines and other machinery and the things and dividend etc. I have this day received from you Rs. 17,841 in the lump Now nothing remains due to me by you in respect of any of the aforesaid things.

By this writing, I have relinquished all my right, title and claim to my share.

Now I have no manner of right, title or interest left in me as regards the ownership of the press or in connection with its liability and outstandings.

I am not liable for any responsibilities that may have arisen in connection with the said press.....

For the said responsibilities you are liable I have duly given this release (in writing) of my free will and pleasure.

(49) The question that was referred to the Full Bench of the Bombay High Court, was whether the deed should be stamped as a deed of release or as a conveyance In a very brief judgment Scott C.J., who spoke for the Full Bench held that the document was a conveyance sale of the property namely, the four annas share in the pressing factory.

(50) In Board of Revenue v. Murugesu Mudaliar, : AIR1955 Mad641 , three out of five partners of a firm retired from business and executed a deed in favour of the two remaining partners releasing their interest in an immovable property receiving the proportionate value of their shares in cash. The question arose whether the instrument was chargeable to stamp duty as a conveyance under Art. 19 of

Schedule 1A of the Indian Stamp Act or under Art. 44 of that Schedule
Rajamannar C.J., who delivered the opinion of the Full Bench observed as follows:

'It is not the case of anyone that there was a decision of the property be metes and bounds and in accordance with the said shares. In such circumstances, the document in and by which the co-owner purports to abandon or relinquish his claim to the share in which he could be entitled would be in the nature of a release within Art. 44.

In such a case there need be no conveyance as such by one of the co-owners in favour of the other co-owners. Each co-owner in theory is entitled to enjoy the entire property in part and in whole. It is not therefore necessary for one of the co-owners to convey his interest to the other co-owner. It is sufficient if he releases his interest. The result of such release would be the enlargement of the share on the other co-owner. There can be no release by one person in favour of another who is not already entitled to the property as a co-owner.'

(51) The ruling of the Full Bench of the Bombay High Court in Hiralal Nawalram's case ILR 32 Bom 505(FB) was brought to the notice of their Lordships, who did not dissent from it but sought to distinguish it by stating as follows:

'Now, it must be noticed at the outset that the document relating to a particular immovable property, it was understood as a document relating to rights and interests respecting a four annas share in a partnership business

(52) After extracting the material portion of the deed in the Bombay case, their Lordships of the Madras High Court observed as follows:

'The document was not, therefore, a release simpliciter by one co-owner in favour of another of his interest in particular immovable property. It was on the other hand a conveyance by the purchaser from the representatives of a deceased partner of their rights to make the assets of the partnership in favour of the other partners. The decision, therefore has no application to the present case.'

(53) With all respect to their Lordships of the Madras High Court, I am unable to see any material distinction between the share of a co-owner in a particular

immovable property and a co-owner's rights and interests in the assets of the partnership for the purpose of determining whether the instrument is a conveyance or a release. Nor have their Lordships stated why the extinguishment of the interest of the releasing co-owner and the enlargement of the interest of the release co-owner cannot amount to a conveyance of the undivided interest of the former to the latter.

(54) It is seen from the report of this case, : AIR1955 Mad641 , that the learned Government Pleader who appeared for the Revenue, was prepared to concede that a document under which one Hindu Co parcener purported to give up his right in the family property in favour of the remaining Co parcnere, would not be a deed of conveyance but a deed of release. Their Lordships of the Madras High Court considered this concession as based on an earlier decision of a Full Bench of that Court in (1895) ILR 18 Mad 233. Their Lordships also stated that they followed the principle of the decision of the Full Bench in (1895) ILR 18 Mad 233.

(55) In that earlier case, a Hindu son executed on favour of his father, as representing the interest of other members of the family, an instrument by which the son relinquished his interest over the joint family property in consideration of certain lands being allotted to him for life and certain debts incurred by him to be paid. It was held that the instrument was a release and not an instrument of partition as it was a deed by which one co-owner renounced his claim for partition against the family property in consideration of a certain income to be enjoyed by him for his life out of certain lands over which he had no power of alienation.

(56) The correctness of the decision of the Full Bench of the Madras High Court in (1895) ILR 18 Mad 233 was doubted by this Court in Nanjunda Setty's case 1963(2) Mys LJ 75:(AIR 1964 Mys 124) (FB). This court was inclined to regard the transaction in (1895) ILR 18 Mad 233(FB) as a partition. Nittor Sreenivasa Rao, C.J. who delivered the opinion of the Full Bench of this Court observed that it was difficult to see why the conferment of the life interest itself could not be regarded as an allocation of property since such interest also was property and was carved out of the family property and the other members were deprived of it. His Lordship added

'the true principle is whether the transaction results in allotting exclusive shares from the common property and where the release results in the releasor getting exclusive right to a portion of the common property, what happens in reality is, a division of the common property.'

(57) With all respect to their Lordships of the Madras High Court I think the view taken by the Bombay High Court in Hiralal Nawalram's case ILR 32 Bom 505(FB) should be preferred to the view taken by the Full Bench of the Madras High Court in : AIR1955 Mad641 Moreover the facts of the present case are also more akin to the facts in Hiralal Nawalram's case ILR 32 Bom 505(FB) than to those in : AIR1955 Mad641 (FB).

(58)I think the answer in the question referred to us should be as follows:--

'The deed in question may be regarded as a conveyance under Article 19 of the Schedule to the Mysore Stamp Act 1957 hence it is unnecessary to consider whether the deed may also be regarded as a release under Article 44 of the said Schedule as under Section 6 of the Act the deed is chargeable to the higher Stamp duty as a conveyance under Article 19 of the said Schedule.

(59) The papers will now be returned for being placed before the Division Bench for disposal of the Writ Petition.

Hegde, J.

(60) 'I agree'

Tukol, J.

(61) I agree'

(62) Reference answered