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Court : Allahabad

Decided On : Mar-31-1927

Reported in : AIR1927All287

Appellant : Bansi Dhar and ors.

Respondent : Sampat Kumar Singh and ors.

Judgement :

Lindsay, J.

1. The question to be decided by this Full Bench is set out in the referring order of the 2nd December 1926 in the following terms:

Whether the contract for sale, as embodied in the document No. 387 dated the 1st of September 1918, printed at page 155 of the paper book, required to be registered.

2. The paper book mentioned is the printed record of First Appeal No. 445 of 1923, and the document at page 155 purports to be a contract for the sale of immovable property consisting of a 14 anna share in Mahal No. 1 of Mauza Dudhai for a sum of Rs. 86,000. In the body of the deed it is recited that the executants (the proposed vendors) being in need of Rs. 500 for the purpose of the stamp for the sale deed and for other necessary expenses have taken this sum from the proposed purchasers, credit for which is to be allowed to the purchasers against

the settled price of Rs. 36,000. In the concluding portion of the deed this sum of Rs. 500 is spoken of as being earnest money but the payment was clearly a payment of a portion of the purchase money.

3. The reference of the question mentioned above for the decision of this Bench was rendered necessary by the judgment of their Lordships of the Privy Council reported as Dayal Singh v. Indar Singh A.I.R. 1926 P.C. 94.

4. On the 13th December 1926, when the case first came up before the present Bench, the hearing was adjourned in view of impending legislation and since then there has been passed the Indian Registration (Amendment) Act, 1927 (Act 2 of 1927) which has come into force from the 18th February 1927, By this Act there has been added to Section 17, Sub-section (2) of the Indian Registration Act, 1908, the following explanation:

Explanation-A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.

5. The document of the 1st September 1918 with which we are now concerned is a document of the description given in the above explanation, and it follows, therefore, that in virtue of this new enactment it did not require to be registered.

6. With this answer to the question submitted for decision the record is returned to the Bench concerned.

Walsh, Sulaiman, Mukerji, Banerji, Ashworth and Iqbal Ahmad JJ:

7. We agree.