

In Re: Reference Under Section 57 of Act No. li of 1899

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Court : Allahabad

Decided On : Mar-14-1902

Reported in : (1902)ILR24All372

Judge : Knox, ;Blair and ;Banerji, JJ.

Appellant : In Re: Reference Under Section 57 of Act No. li of 1899

Judgement :

Knox, Blair and Banerji, JJ.

1. The question referred to us is whether a certain document which is upon the record is a release or a conveyance, or whether it is any other kind of document liable to stamp duty, such as a transfer under Schedule i, Article 62, Clause (e) of the Act.

2. The document is one in which, one Babu Reoti Saran, a certified purchaser of property sold in execution of a decree, recites that the real owner of the decree, and the real purchaser of the property from first to last and throughout, has been his brother, Babu Rnghubir Saran. The executant adds that the document, which he calls an agreement, is given by way of release that it may be of use.

3. The term 'conveyance' has been defined in Act No. II of 1899. Looking to the document as it stands, it cannot be said that it is an instrument by which property is transferred inter vivos. The writer says that he has nothing to transfer, and he does not pretend to transfer anything. On the other hand, we find upon turning to

Schedule i, Clause 55, that a release which is liable to stamp duty is set out as being an instrument whereby a person renounces a claim upon another person or against any specified property. If this document is to be of use in any way, it may be said it is a document whereby Babu Reoti Saran renounces all claims he may have, or be supposed to have, against the property of which he is recorded as certified purchaser.

4. The question is not free from difficulty, as the Board of Revenue point out. Looking to the curious way in which both the term 'instrument' and the word 'release' are defined and explained in the Act, we hold that the document is a release on which stamp duty should be paid.

5. This is our answer to the reference.

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