

In Re: A.M. Beechey

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Court : Allahabad

Decided On : Feb-11-1944

Reported in : AIR1944All119

Appellant : In Re: A.M. Beechey

Judgement :

Allsop, J.

1. An application was made for the issue of letters of administration on 27th July 1943. The Court-fees Act was amended as from 1st August 1948 and the amount due as fees was consequently increased. The question before us is whether court-fees on the letters of administration should be paid in accordance with the Act as it was before 1st August 1943 or as it was after 1st August 1943. Our attention has been drawn to the case in Thaddens S. Nahapiet v. Secretary of State : AIR1924 Cal987 and also the case in Gangaram Tillockchand v. Chief Controlling Revenue Authority ('27) 14 A.I.R. 1927 Bom. 643. The Calcutta and Bombay High Courts have differed on this point. We think that the decision of the Bombay High Court is correct. If we were to consider only the provisions of Section 19-1, Court-fees Act, we might perhaps hold that it is open to the Court to make an order that letters of administration should issue on the fees required by the original Act, but we have also to consider the provisions of Section 4, Court-fees Act, that no document of any of the kinds specified in Schedule 1 shall be furnished by any of the High Courts unless in respect of such document there be paid a fee of an amount not

less than that indicated by the said schedule as the proper fee for such document. We could not furnish the applicant with letters of administration unless he had paid the fees which were due in accordance with the Act which was in force when the document was drawn up or was to be furnished to him. We therefore hold that the fees must be paid in accordance with the amended Act. The letters of administration shall not therefore be furnished to the applicant unless she has paid the additional necessary fees.

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