Permanand Vs. Sat Pershad

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SooperKanoon Citation : sooperkanoon.com/457276

Court : Allahabad

Decided On : Feb-21-1911

Reported in : 9Ind.Cas.617

Judge : Richards, ;Griffin and ;Tudball, JJ.

Appellant : Permanand

Respondent : Sat Pershad

Judgement :
ORDER

1. This is a reference under Section 60 of the Stamp Act of 1899. A document was produced in the Court of the District Judge of Cawnpore. It was assumed by the Court below that this was a document, which authorized the holder, who is nominated therein, to appear and do all acts necessary for the execution of a certain decree which had been transferred from the Punjab to Cawnpore for execution. We are dealing with the case on the assumption that the document, if duly stamped, was sufficient for the purpose. The document bears an eight-anna Court-fee label and no other stamp. The donee of the power is not a certificated Mukhtar or Pleader and the question is whether, under these circumstances, the document is duly stamped. Section 2 Clause (21) of the Stamp Act defines the expression 'power-of-attorney includes any instrument (not chargeable with a fee under the law for the time being in force) empowering a specified person to act for and in the name of the person executing it.' The present document, as we shall

presently show, clearly falls within this definition. Article 48 of Schedule I of the Stamp.. Act provides for the stamp on a power-of-attorney falling within the definition which we have quoted above. Clause (c) provides that when the document authorizes one person or more to act in a single transaction other than the case mentioned in Clause (a) the proper stamp shall be Rupee one. Clause (g) is a general provision for all such powers-of-attorney not provided for by other Clauses.

2. Article 10, Schedule II of the Court Fees Act provides for the stamping of Mukhtarnamas and Vakalatnamahs. Clause (a) refers to a Mukktarnama or Vakalatnamah presented to any Civil or Criminal Court other than a High Court or to a Revenue Court or to any Collector or Magistrate or other Executive Officer except such as are mentioned in Clauses (6) and (c). Clause (6) provides for the same class of documents when presented to a Commissioner of Revenue Circuit or Customs or to any Officer charged with the Executive Administration of a Division not being the Chief Revenue or Executive Authority. Clause (c) provides for the same class of documents when presented to a High Court, Chief Commissioner, Board of Revenue or other Chief Controlling Revenue or Executive Authority. It appears to us that all these documents are documents which it was intended to exclude from the definition of the expression power-of-attorney in Section 2, Clause 21 of the Stamp Act. It, therefore, seems to us that it is clear that the documents referred to in Article 10, Schedule II of the Court Fees Act are restricted to documents given to and presented by duly certificated Mukhtars and Pleaders under the Legal Practitioners Act. We may point out that we are not deciding that the document in the present case, If it was duly stamped, was sufficient to entitle the donee to execute or take steps to execute the decree in Cawnpore. Our decision relates only to the question whether or not the document was duly stamped. Assuming, merely for the purpose of deciding the question before us, that the document was sufficient if duly stamped we hold that the document was not duly stamped and that it ought to have been stamped with the stamp provided for by Article 48, Schedule I of the Stamp Act.

3. We make no order as to costs.