

In Re: Sonbarsa Kuer

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SooperKanoon Citation : sooperkanoon.com/459473

Court : Allahabad

Decided On : Nov-18-1949

Reported in : AIR1950All319

Judge : Harish Chandra, ; Sapru and ; Seth JJ.

Acts : [Stamp Act, 1899](#) - Sections 57

Appeal No. : Civil Misc. Case No. 335 of 1946

Appellant : In Re: Sonbarsa Kuer

Advocate for Pet/Ap. : Gopalji Mehrotra, Adv.

Judgement :

Harish Chandra, J.

1. This case purports to be a reference Under Section 57, [Stamp Act, 1899](#) (II [2] of 1899) according to which the Chief Controlling Revenue Authority may, in certain circumstances, state a case and refer it to the High Court with its own opinion thereon. The Chief Controlling Revenue Authority in this Province is the Board of Revenue.

2. The papers submitted to this Court, however, do not contain any order of reference by the Board or any opinion expressed by it on the case which has been referred to this Court. The reference is contained in a letter from the Personal

Assistant to the Junior Secretary to the Board of Revenue, United Provinces, to the Registrar of this Court. This letter states that the writer has been directed to make a reference Under Section 57, Stamp Act for the orders of this Court. At one place it mentions that the Board of Revenue is inclined to hold the view that the case falls under Article 7, Stamp Act. But the actual statement of the case by the Board or any opinion expressed by it thereon has not been forwarded to this Court.

3. The power to make a reference Under Section 57 has been conferred upon the Chief Controlling Revenue Authority and not upon any ministerial officer subordinate to it. Such references are not of an administrative character but are judicial in nature and it is only when the Chief Controlling Revenue Authority after applying a judicial mind to the consideration of the questions before it requires the opinion of this Court, that it may make a reference under that section. In that case it is required to submit to this Court its own opinion along with a statement of the case and to state the questions which this Court is required to answer. There is, however, nothing to indicate that the questions which we are required to answer were ever judicially considered by the Board as indicated above.

4. References to this Court are made under different provisions of law, one of such provisions being Section 66, Income-tax Act, 1922 (XI [11] of 1922). A reference under the Income-tax Act is not made by a ministerial officer of the tribunal itself which states the case under its own signatures for the opinion of this Court. In our opinion, a reference Under Section 57, Stamp Act should be made much in the same way. These references are governed by statute and the jurisdiction of the Court in that behalf may be invoked only in the manner provided by statute and not otherwise. A reference by a ministerial officer is improper.

5. We accordingly decline to entertain the reference which in our opinion has not been made by the Chief Controlling Revenue Authority itself in the manner provided by law. Let the papers be returned.