In Re: Stamp Reference by the Board of Revenue

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Court : Allahabad

Decided On : Aug-06-1917

Reported in : (1918)ILR40All128

Judge : George Knox, Acting C.J., ;Muhammad Rafiq and ;Piggott, JJ.

Appellant : In Re: Stamp Reference by the Board of Revenue

Judgement :

Knox, A.C.J.

1. This is a reference made to this Court by the Chief Controlling Revenue Authority. It is said to be made under the provisions of Section 57, Sub-section (1) of the Indian Stamp Act, 1889. It is not a case that was referred to the Chief Controlling Revenue Authority under Section 56, Sub-section (2). Therefore if it falls at all under Section 57, Sub-section (1), it must be deemed to be a case otherwise coming to the notice of the Chief Controlling Revenue Authority, In its order of reference the Chief Controlling Revenue Authority states it as a case coming to the notice of the Board while scrutinizing the monthly statement of cases of the infringement of the Stamp Law of Agra submitted by the Collector under Rule 204 of the Stamp Manual.

2. The point arises whether the record before us is the record of a case within the meaning of Section 57, Sub-section (1). The questions involved, so far as stamp duty is concerned, have been before the Collector of Agra under Section 38(2) of

the Stamp Act, The Collector has held that the sale-deed in question was not sufficiently stamped, that the deficit stamp duty payable amounted to Rs. 4. This deficit duty he had levied, together with a penalty of Rs. 5, under Section 40, Sub-section (1), Clause (b), of the Act. We understand that the deficit duty and the penalty have both been paid. This is in accordance with the statement made by the Chief Controlling Revenue Authority. Presumably, therefore, the Collector has certified by endorsement upon the deed that it is now duly stamped. Under Section 40, Sub-section (2), this certificate is for the purposes of the Indian Stamp Act conclusive evidence of the matter stated therein. The case before the Collector has been fully decided and there appears to be no room for any further disposal in accordance with Section 59, Sub-section (2) of the Indian Stamp Act. The very same point that is before us came before the Madras High Court. (See Reference under Stamp Act Section 67, reported in I. L. R., 25 Mad., 752). The learned Judges before whom the reference came were divided in their opinion. Two of the learned Judges arrived at the opinion that Section 57 of the Indian Stamp Act did not give the High Court jurisdiction, as there was nothing regarding which the High Court could be asked to pronounce judgement. The learned Chief Justice took a contrary view, After the hearing of arguments addressed both by the learned vakil for Khub Chand and the Government Advocate, I am of opinion that the view taken by the Madras High Court was the correct view and that this is not a case within the meaning of Section 57. No definition of the word 'case' has been cited in the argument, on either side and I know of no definition by the Indian Courts upon the meaning of this word. I find on referring to Wharton's Law Lexicon, 11th Edition, page 147, that the word 'case' is defined as (1) a trial, (2) a trial involving some point, of law so important as to be published in the Law Reports as a precedent.

3. This confirms me in the view I have taken and I would return this reference to the Chief Controlling Revenue Authority with the opinion that the matters referred are, under the circumstances, not within the jurisdiction of this High Court.

Rafiq, J.

4. I agree.

Piggott, J.

5. I agree.