In Re: Khub Chand and ors.

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Court : Allahabad

Decided On : Aug-06-1917

Reported in : AIR1918All181(2); 47Ind.Cas.299

Judge : George Knox, Ag. C.J., ;Rafique and ;Piggott, JJ.

Appellant : In Re: Khub Chand and ors.

Judgement :

George Knox, Ag. 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, 1869. 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 ease 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 scrutinising the monthly statement of oases of the infringement of the Stamp Law of Agra submitted by the Controller under Rule 204 of the Stamp Manual.

2. The point arises whether the record before us is the record of a ease 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 ma le 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 49, Sub-section (2), this certificate in for that purposes of the Indian Stamp Act conclusive case 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 India Stamp Act. The very same point that is before us came before the Madras High Court. See Reference under Stamp Act, Section 57(2). The learned Judge 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 judgment. 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 for 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 she Chief Controlling Revenue Authority with the opinion that the matters referred are, under the circumstances, not sviinin the jurisdiction of this High Court.

Rafique, J.

4. I agree.

Piggott, J.

5. I agree.