

Sitaram Vs. Mathuralal

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Court : Madhya Pradesh

Decided On : Sep-09-1983

Reported in : AIR1984MP58; 1985MPLJ329

Judge : P.D. Mulye, J.

Acts : [Evidence Act, 1872](#) - Sections 3; Madhya Pradesh Stamp Act - Sections 3A - Schedule - Article 49; Central Provinces and Berar Indian Stamp (Amendment) Act, 1939

Appeal No. : Civil Misc. No. 281 of 1983

Appellant : Sitaram

Respondent : Mathuralal

Advocate for Def. : M.L. Agrawal, Adv.

Advocate for Pet/Ap. : P.K. Saxena, Adv.

Disposition : Petition allowed

Judgement :

P.D. Mulye, J.

1. This revision filed by the plaintiff-applicant is directed against an order dated 2-3-83 passed by the Civil Judge, Class II, Bhikangaon, in a suit based on a

promissory note, whereby he has held that the promissory note on which the suit is based is inadmissible into evidence as the promissory note does not bear the refugee relief stamp of 10 p. which was levied according to Section 3A of the Stamp Act.

2. Section 3-A of the Stamp Act, which is reproduced below, was introduced by the Stamp and Excise Duty (Amendment) Act, 1971 (44 of 71):

'3-A. (1) Every instrument chargeable with duty under Order 3 read with Articles 13, 14, 27, 37, 47, 49, 52, 53 or 62 (a) of Schedule 1 shall in addition to such duty, be chargeable with a duty of ten paise.

(2) The additional duty with which any instrument is chargeable under Sub-section (1) shall be paid and such payment shall be indicated on such instrument by means of adhesive stamps bearing the inscription 'refugee relief whether with or without any other design, picture or inscription.

(3) Except as otherwise provided in Sub-section (2) the provisions of this Act shall, so far as may be, apply in relation to the additional duties chargeable under Sub-section (1) in respect of the instruments referred to therein as they apply in relation to the duties chargeable under Section 3 in respect of those instruments.'

This Section 3-A was omitted by the Refugee Relief Taxes (Abolition) Act, 1973 (No. 13 of 1973) which was brought into force on 1st April, 1973, the effect of which was that no additional stamp duty under Section 3-A was leviable thereafter on the instruments mentioned in that section.

3. The promissory note in question in the present suit was admittedly executed much later after the said Refugee Relief Taxes (Abolition) Act, 1973 came into force.

4. According to Seventh Schedule of the Constitution of India, under Article 246, in List 1 -- Union List, bills of exchange, cheques, promissory notes and other like instruments are included therein at Serial No. 46 according to which the power to levy the stamp duty in respect of promissory notes lies with the Central Government.

5. The M.P. Karadhan Vidhi (Sanshodhan) Adhiniyam, 1972 (M.P. Act No. 9 of 1972) has introduced Section 3-A as under:

'3-A. Instruments chargeable with additional duty-- (1) Every instrument chargeable with duty under Section 3, read with Schedule I-A shall in addition to such duty, be chargeable with a duty of ten paise,

(2) The additional duty with which any instrument is chargeable under Sub-section (1) shall be paid and such payment shall be indicated on such instrument by means of adhesive stamps bearing the words 'refugee relief whether with or without any other design, picture or inscription.

(3) Except as otherwise provided in Sub-section (2), the provisions of this Act shall, so far as may be, apply in relation to the additional duties chargeable under Sub-section (1) in respect of the instruments referred to therein as they apply in relation to the duty chargeable under Section 3 in respect of those instruments.'

This section deals with instruments chargeable with additional duty as referred to in Schedule I-A of the Stamp Act which does not include Article 49 of the Stamp Act dealing with promissory note as included in Schedule 1 of the Stamp Act. Schedule 1-A finds place in the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939 which is applicable to the State of M. P. As stated earlier Schedule 1-A of the said Act nowhere mentions promissory note, on which any additional stamp duty of 10 p. is leviable as per Section 3-A of the said M.P. Karadhan Vidhi (Sanshodhan) Adhiniyam, 1972,

6. In view of this legal position the learned counsel for the non-applicant in fairness submitted that he is not in a position to support the impugned order by which the learned lower. Court has held that the promissory note in question is inadmissible into evidence for want of payment of additional stamp duty of 10 p.

7. In the result this revision petition succeeds and is allowed. The impugned order is set aside and it is held that as no additional stamp duty of 10 p. is required on the suit promissory note, it is admissible into evidence as it bears proper and requisite stamp duty required for a promissory note. Costs as incurred.

