

**Mevalya Vs. Chiman Lal**

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**Court :** Rajasthan

**Decided On :** Feb-11-1987

**Reported in :** 2(1989)WLN(Rev)420

**Judge :** J.S. Verma, C.J.

**Appeal No. :** S.B. Civil Revision Petition No. 505 of 1982

**Appellant :** Mevalya

**Respondent :** Chiman Lal

**Disposition :** Petition allowed

**Judgement :**

J.S. Verma, C.J.

1. This revision is directed against the the trial court's order dated 19th August, 1982 by which a document has been adjudicated to be a sale deed and thereafter ten times penalty which is maximum permissible in law, has been imposed in addition to recovering of deficit stamp duty by the court itself.

2. The only contention of learned Counsel for the petitioner is that in accordance with law the trial court have only impounded the document on finding that it was not duty stamped and thereafter it should have referred the matter in the Collector as required by the provisions of the Indian Stamp Act as amended in its

application to the State of Rajasthan. The argument is that the trial court could not itself have exercised this latter function entrusted to the Collector by the relevant provisions of law. Reference is made particularly to Sections 33 and 38 of the Stamp Act.

3. The contention of the learned Counsel for the petitioner has to be accepted. On reaching the conclusion that the instrument was sale-deed which was not duly stamped, the proper course to adopt is to first impound the document and refer the matter to the Collector as provided in the relevant provisions contained in the Stamp Act, instead of imposing a penalty itself as has been done by the trial court.

4. Consequently, this revision is allowed to the extent indicated above. The trial court shall now proceed to take further action in accordance with law on its conclusion that the instrument is a sale deed which is not duly stamped. No costs.

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