

Naresh Kumar Vs. Daya Nand

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Court : Delhi

Decided On : Mar-25-2010

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Stamp Act - Section 33

Appeal No. : CM(M) No. 60 of 2010

Appellant : Naresh Kumar

Respondent : Daya Nand

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Proxy Counsel for D.S. Dalal, Adv.

Disposition : Petition dismissed

Judgement :

Shiv Narayan Dhingra, J.

1. The applicant has approached this Court against an order whereby an application of the applicant made under Section 33 of Indian Stamp Act for impounding of a General Power of Attorney (GPA) was dismissed by the Trial Court.

2. The GPA placed on the record of the Trial Court by respondent is a registered GPA executed on Rs. 100/- stamp paper. The contention of the petitioner before the Trial Court was that since along with GPA, an Agreement to Sell, a Will and a Receipt were also executed, the GPA was for a consideration and therefore was liable to bear stamp duty @ 8% of consideration. Since it was executed only on Rs. 100/- stamp paper, it was liable to be impounded.

3. Under Section 33 of Indian Stamp Act, a document can be impounded by a Court if it does not bear the stamp duty which it legally should. In order to show what should be the value of stamp duty, the document is to be read in its entirety and if the GPA shows that it was executed for some consideration but does bear necessary stamp duty, the Court then would have power to impound it and send it to Collector of Stamps for evaluating the stamp duty to be affixed on GPA and for penalty to be imposed. It is not the case of the petitioner that the document in its text shows any consideration having been paid. The document gives power to manage the property including power to transfer the property to third party but it does not show that this Power of Attorney was executed for any consideration. The court cannot read the consideration mentioned in other documents to impound the GPA. If other documents executed between the parties are produced before the Court and Court considers them insufficiently stamped, the court can exercise its jurisdiction to impound them, but on the basis of other documents court cannot impound GPA.

4. I consider that the Trial Court rightly dismissed the application under Section 33 of Indian Stamp Act for impounding GPA. However, that would not stand in the way of Trial Court in impounding other documents if relied upon by the respondent if the same do not bear requisite stamp duty. This petition is dismissed.