

In Re: P.H. Mcadam

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Court : Kolkata

Decided On : Nov-26-1895

Reported in : (1896)ILR23Cal187

Judge : Ameer Ali, J.

Appellant : In Re: P.H. Mcadam

Judgement :

Ameer Ali, J.

1. This is an application for letters of administration by-Mr. G. Ward, manager of the Calcutta Branch of the Delhi and London Bank. A question has arisen whether the power-of-attorney sent out from England in favour of Mr. Ward is sufficient, inasmuch as it does not bear the stamp necessary under the English law. The document complies with the Stamp law of this country, and so far as it is intended to have any operation, its operation is confined to British India. It seems to me, looking to the Stamp law of this country, that the power-of-attorney is valid and in form according to the requirements of the Indian Statute. It is not necessary for this Court to see whether a power-of-attorney, which has operation in this country, complies with the fiscal requirements of another country. No doubt there is an old case Clegg v. Levy 3 Camp. 166 in which Lord Ellenborough seems to have expressed an opinion adverse to the opinion of this Court, but there are other cases of a more recent date-Bristow v. Sequeville 5 Ex. 275, James v.

Catherwood 3 D. & R. 190, Megji Hansraj v. Ramji Joita 8 Bom. H.C. 169 -in which the opinion of Lord Ellenborough does not seem to have been followed. I may go further, although it is not necessary for the decision in the present matter, and say that, even if a power-of-attorney had been intended to operate partly in British India and partly in England, the fact of its not being stamped in accordance with the English law would not have rendered it invalid, in so far as it was intended to operate in British India, if the requirements of the Indian law had been complied with; but it is not necessary to decide this latter point. The point I decide is that the present power-of-attorney complies with the requirements of the Indian Stamp Act and is valid for the purposes it is intended to meet. Letters of administration will, therefore, be granted in this case and in the two other similar cases in which the same point has been raised.

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