

(1940) 04 BOM CK 0001
In the Bombay High Court
Case No : Civil Reference No. 1 of 1940

Baburao Keshavrao Malkapure

APPELLANT

Vs

Kalavatibai Amrutrao Khase

RESPONDENT

Date of Decision : 19-04-1940

Acts Referred:

Stamp Act, 1899 — Article 57

Citation : AIR 1940 Bom 275 : (1940) 42 BOMLR 668

Hon'ble Judges : Macklin, J;John Beaumont, J;Divatia, J

Bench : Full Bench

Judgement

John Beaumont, Kt., C.J.—This is a reference made by the District Judge of Thana under the Indian Stamp Act. The question relates to the proper stamp on a bond given by the applicant as guardian of the estate of a minor in accordance with the orders of the Court. The bond was for Rs. 15,000, and the learned District Judge of Satara, where the applicant resided, was of opinion that the case fell under Article 6 of the second schedule to the Court-fees Act, and that the proper stamp would be one rupee. When the bond was submitted to the learned District Judge of Thana, he took the view that the case fell under Article 57 of the schedule to the Stamp Act and that the correct stamp was Rs. 10.

2. In our opinion, the view of the learned District Judge of Thana is right. Article 6 of the second schedule to the Court-fees Act only refers to the bail bonds or other instruments of obligation given in pursuance of an order made by a Court or Magistrate under any Section of the Code of Criminal Procedure or the Code of Civil Procedure. In our opinion, the bond was not given under either of those Codes; it was given under the Guardians and Wards Act. The case is covered by Article 57 of the schedule to the Stamp Act. We answer the reference accordingly.