

(1949) 04 AHC CK 0012
In the Allahabad High Court
Case No : Civil Miscellaneous No. 255 of 1946
In Re: Court-fee reference

Date of Decision : 12-04-1949

Acts Referred:

Citation : AIR 1952 All 639

Hon'ble Judges : Wanchoo, J; Agarwala, J

Bench : Division Bench

Advocate : G. Mehrotra, for the Appellant; E.V. David, for the Respondent

Judgement

Wanchoo, J.—This is a reference by the Collector of Allahabad u/s 19H(4) Court-fees Act with respect to the estate of the late Mr. J. M. David of Allahabad. The question that has to be decided is whether the valuation arrived at by the Collector, of the properties left by the late Mr. J. M. David is correct or not. According to the petitioner's valuation, the court-fee payable on the application for probate in this Court is Rs. 7,674-4-0. But according to the valuation of the Collector, the amount of court-fee required is Rs. 8,846-7-0 only. The Collector's valuation was not accepted by the petitioner. Her objection was that the properties should be valued on the date on which the late Mr. J. M. David died & not on the date of the application. Section 19-I is as follows :

"No order entitling the petitioner to the grant of Probate or Letters of Administration shall be made until the petnr. has filed in the Court.....a valuation according to the market rates current on the date of the application of all the assets & liabilities of the deceased in British India" at the time of the latter's death....."

It has been urged, on behalf of the petitioner, that the words "at the time of the latter's death" govern the word "valuation." We are of opinion that this is not so. The valuation has to be according to the market rates prevalent on the date of the appln. The words "at the time of the latter's death" refer to the assets & liabilities of the deceased in British India. It is only those assets & liabilities which exist at the time of the death which have to be valued, but the valuation has to

be on the market rates current on the date of the appln., namely, the petn. for probate. Under these circumstances, the Collector was right in valuing the assets & liabilities left by the deceased at the time of his death according to the market rates current on the date of the petition. Mr. David took time to verify the market rates on which the Collector had calculated the valuation. He has not challenged it before us. Under these circumstances, the deficiency of Rs. 1,171-12-7 pointed out by the Collector will be made good within two months.