(1915) 02 AHC CK 0038

In the Allahabad High Court

In Re: Mahraj Someshar Dut

Date of Decision : 09-02-1915

Acts Referred:
Stamp Act, 1899 — Section 4

Citation : AIR 1915 All 198 : 28 Ind. Cas. 348

Hon'ble Judges : Rafique, J;Piggott, J;George Knox, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. On the 15th of May 1914 two brothers, Tirbhuwan Dut Snkul and Maharaj Someshar Dut Sukul, executed each of them a document. The dead of gifn executed by Tirbhuwan Dut Sukul has been endorsed by us as Exhibit A find the deed executed by Maharaj Someshar Dut Sukul has been marked as Exibit B and will be alluded to in the course of tins judgment in those terms.

2. Deed A is said to bear a stump of Rs. 1,125. Deed B bears a stamp of Rs. 10. When the two documents wore taken to the Registration Office, deed B was impounded and on its coming before the Deputy Commissioner, Sitapur, that officer came to the conclusion that the stamp required was a stamp of Rs. 700. He also considered that a penalty of Rs. 700 should be paid by Maharaj Someshar Dut. Someshar Dut appealed from the decision of the Deputy Commissioner to the Board of Revenue.

3. The Board of Revenue, were unable to come to any conclusion as to what was the right and proper stamp to impose and have referred the matter to this Court u/s 57 of the Indian Stamp Act.

4. We have had both deeds read to us and we have had the. assistance of the learned Government Advocate in considering the matter. Deed B is very inartistically drawn up, the language in which if is expressed of such a dubious kind that ii has not been easy to come to a decision on the question referred.

5. Briefly stated the case is as follows: Tirbhuwan Dut Sukul in consideration of love and affection and the promise to be maintained by his broth or executed a

deed of gift over his Immovable and moveable property. It is this deed which has been stamped with a stamp of rupees 1,12-5. Maharaj Someshar Dut Sukul, as said above on tins same date, executed deed B. In that deed he promises that during the life-time of Pundit Tirbhuwan Dut he will pay whatever expenses may be required on account of food, conveyance, travelling for pilgrimage, charity, clothing, etc., provided that Tirbhuwan Dut lives permanently in the ancestral house or in the house in which he may with his consent put him up and that have no concern with the quarrelsome persons who created disunion between Pundit Tirbhuwan Dut and himself.

6. There is a further clause which lays down the maximum amount per mensem which Tirbhuwan Dut may expend for charity and railway journey, etc. Up to this maximum Maharaj Someshar Dut Sukul agrees to pay. There is also a clause regarding money required for expenses" and how that is to be assessed, no definite sum is given. Certain property winch is detailed in the deed is hypothecated and the deed says that that property will be responsible for the expenses of Pundit Tirbhuwan Dut wherever and to whomsoever it is transferred. The property scheduled differs, save and except one house from the property scheduled in deed A.

7. We have tried to see whether deed B can come within any of the deeds set out in Schedule 1 of the Indian Stamp Act, but we cannot find any Article which exactly covers the deed.

8. Looking broadly to the two documents we are satisfied that the deed B is one which comes within Section 1 of the Indian Stamp Act. The transaction before the parties may fairly be said to come within the word "settlement." The two instruments were intended by the parties to be employed in completing this one transaction and the principal instrument as determined by the parties has been stamped and more than sufficiently stamped.

9. Deed B has in our opinion been properly stamped and more than sufficiently stamped in accordance with the provisions of Section 4 of the Act.

10. We have not overlooked the fact that in dealing with an Act of this kind we have to construe the Act in favour of the subject.

11. Let a copy of this our judgment be sent to the Chief Controlling Revenue Authority i.e., to the Board of Revenue, as our opinion on the matter referred to us.

