

(1933) 05 CAL CK 0020
In the Calcutta High Court
In Re: Nalinikanta Pal

Date of Decision : 18-05-1933

Acts Referred:

Bengal Court Fees (Amendment) Act, 1922 — Section 8

Citation : AIR 1934 Cal 38 : 147 Ind. Cas. 1016

Judgement

1. The Munsif, first Court, Bajit-pur, has referred to this Court for a construction of Article 12, Schedule 1, Court-fees Act 7 of 1870, as amended by Section 8, Bengal Court-fees Amendment Act of 1922. The article is as follows:

12, Certificate under When the amount of Two per centum on the Succession any debt specified such amount and Certificate Act 1889, in the certificate three per centum on (now replaced by u/s 8 of the amount of any Succession Act 39 the Act exceeds one debt to which the of 1925). thousand rupees, on certificate is such amount up to extended Under ten thousand rupees. Section 10 of the Act.

2. As the article originally stood, 2 per cent was payable on the amount of certificates for less than Rs. 1,000 and the intention of the legislature was evidently to exempt small inheritances from stamp duty. However as the article is now worded, where the original application is in respect of an amount less than Rupees 1,000 no duty is payable in respect of the certificate, even though it is extended subsequently to any extent, nor is any duty payable on the extended amounts. It is clear that this was never contemplated by the legislature and that where the certificate is extended beyond Rs. 1,000, duty should become payable. In the particular case, with which the Court had to deal, the first application was in respect of debts amounting to Rs. 853-9-6; subsequently there was a further application in respect of debts amounting to Rs. 146 5-0. Up to this point the total being under Rs. 1,000 no duty was payable. Subsequently however an extended certificate in respect of debts amounting to Rs. 300 was applied for. The total amount now exceeds Rs. 1,000 and therefore duty becomes payable on the total at the rate of 2 per cent on the original certificate and 3 per cent in respect of the extensions. Court-fees should be charged accordingly.