(1915) 02 AHC CK 0035

In the Allahabad High Court

In Re: Stamp Reference by the Board of Revenue

Date of Decision : 09-02-1915

Acts Referred:

Citation : (1915) ILR (All) 264

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

Bench : Full Bench

Final Decision : Disposed Of

Judgement

George Knox, Rafiq and Piggott, JJ.—On the 15th of May, 1914, two brothers, Tribhuwan Dat Sukul and Maharaj Sumeshwar Dat Sukul, executed each of them a document. The deed of gift executed by Tribhuwan Dat Sukul has been endorsed by us as exhibit A, and the "deed executed by Maharaj Sumeshwar Dat Sukul has been marked as exhibit B, and they will be alluded to in the course of this Judgment in these terms.

2. Deed A is said to bear a stamp of Rs. 1,125. Deed B bears a stamp of Rs. 10. When the two documents were 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. 360. He also considered that penalty of Rs. 700 should be paid by Maharaj Sumeshwar Dat. Sumeshwar Dat 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 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 it is expressed is of such a dubious kind that it has not been easy to come to a decision on the question referred.

5. Briefly stated the case is as follows : Tribhuwan Dat Sukul in consideration of

love and affection and the promise to be maintained by his brother, executed a deed of gift of his immovable and movable property. It is this deed which has been stamped with a stamp of Rs. 1,125. Maharaj Sumeshwar Dat Sukul, as said above, on the same date executed deed B. In that deed he promises that during the life-time of Pandit Tribhuwan Dat he will pay whatever expenses may be required on account of food, conveyance, travelling for pilgrimage, charity, clothing &c., provided that Tribhuwan Dat live permanently in the ancestral house or in the house in which he may with his consent put him up and have no concern with the quarrelsome persons who created disunion between Pandit Tribhuwan Dat and himself.

6. There is a further clause which lays down the maximum amount per mensem which Tribhuwan Dat may expend for charity and railway journeys, &c. Up to this maximum Maharaj Sumeshwar Dat 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 which is detailed in the deed is hypothecated and the deed says that that property "will be responsible for the expenses of Pandit Tribhuwan Dat where-ever 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 I 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 4 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.