(1950) 04 MAD CK 0014

In the Madras High Court

Case No : Civil Miscellaneous Petition No. 3877 of 1950

In Re: V.S. Shanmuga Mudaliar

Date of Decision : 19-04-1950

Acts Referred:
Constitution of India, 1950 — Article 226
Stamp Act, 1899 — Section 57

Citation : AIR 1951 Mad 276 : (1950) 63 LW 829 : (1942) 55 LW 829 : (1950) 2 MLJ 399

Hon'ble Judges : Rajamannar, C.J;Balakrishna Ayyar, J

Bench : Division Bench

Advocate : N.R. Raghavachariar, for the Appellant;

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—In this application the petitioner seeks both for a writ of certiorari and for a writ of mandamus. The certiorari is sought to

quash the order of the Board of Revenue refusing to interfere on behalf of the petitioner with the order of the Revenue Divisional Officer, Cheyyar

levying stamp duty and penalty on a document which the officer held to be a partition deed. The only ground on which this writ is sought is that the

Board did not give an opportunity to the petitioner to be orally heard. There is nothing in the Act or in the Rules framed thereunder which enjoins

on the Board the duty to give an oral hearing to a person who invokes their revisional jurisdiction. All that quasi judicial Tribunals like the Board of

Revenue have to do is to give sufficient opportunity to the persons who approach them for the exercise of their jurisdiction to state their case.

Local Government Board v. Alridge, (1915) A. C. 120 : 84 L. J. K. B. 72. This opportunity has been given to the petitioner, because presumably

he has stated all his grounds of objection to the order of the Revenue Divisional

Officer in his revision petition. He is not entitled as of right to be

heard and it cannot be said that the order of the Board passed without hearing him is contrary to principles of natural justice. We must, therefore,

refuse to issue a writ of certiorari to quash the order.

2. There is also a prayer for the issue of a writ of mandamus to refer the question of the liability of the document to stamp duty to this Court u/s 57,

Stamp Act. Before such a writ can issue, it must be established that the Board of Revenue has failed to perform a duty which was incumbent on it

under the statute. u/s 57 it is left to the discretion of the Board to refer or not to refer any question as to the stamp duty payable on a document. It

cannot, therefore, be said that the Board has failed to exercise any statutory duty. A writ of mandamus cannot, therefore, issue from this Court.

3. The application is, therefore, dismissed.