**(1940) 05 AHC CK 0005**

**In the Allahabad High Court**

Kallu Singh APPELLANT

Vs

Mt. Mir Kunwar RESPONDENT

**Date of Decision :** 08-05-1940

**Acts Referred:**

**Citation :** AIR 1941 All 369 : (1941) 11 AWR 254

**Hon'ble Judges :** Iqbal Ahmad, J

**Bench :** Division Bench

# Judgement

Iqbal Ahmad, J.—This purports to be "reference" by the Chief Inspector of Stamps u/s 6B(1), Court-fees Act, 1870, as amended up to date in its application to the United Provinces by the United Provinces Court-fees (Amendment) Act, 1938. Mr. K.S. Verma, the Stamp Reporter of this Court, has submitted a report to the effect that the present proceedings "being in sub-stance and form a reference by the Chief Inspector of Stamps and not an application in revision is incompetent." We have perused the report of Mr. Verma and we are in entire agreement with that report. Indeed Mr. Verma has written an able and comprehensive report and every one of the points raised by him in his report is unanswerable and the junior standing counsel has not been able to meet it. The facts that led to the present "reference" are as follows : One Kallu Singh filed a suit (NO. 4 of 1939) in the Court of the Second Civil Judge of Meerut praying for the following reliefs:

(1) It may be declared that the gift deed dated 23rd March 1938, and registered on 6th April 1938, executed by defendants 1 and 2 in favour of defendant 3 is null and void and will be ineffectual after the death of defendant 1. (2) It may be declared that defendant 3 is the son of Surjan Singh through Mt. Nattho and not through Mt. Mir Kunwar, defendant 1.

2. The Inspector of Stamps in his inspection note dated 21st/22nd July 1939, remarked that in accordance with the provisions of the amended Court-fees Act, which was applicable to the suit, there was a deficiency of Rs. 132-8-0 in the court-fee payable on the plaint. This inspection note of the Inspector was

considered by the learned civil Judge who disagreed with the view of the Inspector and held that the plaint was sufficiently stamped and no additional court-fee was payable by the plaintiff. Thereafter the Chief Inspector of Stamps made the present "reference." It is headed as a "reference u/s 6B(1), Court-fees Act, as amended by Amendment Act of 1938." The alleged reference is in the form of a letter addressed by the Chief Inspector of Stamps to the Registrar of this Court. In the course of the letter the Chief Inspector has remarked that after a careful consideration of the nature of the suit he was unable to agree with the opinion of the civil Judge and that in his opinion the inspection note of the Inspector of Stamps was correct. The concluding paragraph of the letter is as follows:

I am therefore compelled to make this application under Sub-section (1) of Section 6B, Court-fees Act, as amended up to date and request that the Hon''ble Court be pleased to take into consideration the order passed by the Second Civil Judge, Meerut, and to record, in the terms of Sub-section (2) of the same section, a declaration and determine the amount of deficiency in court-fee.

3. Now in a matter like the present thee provision about reference to this Court is made by Section 60, Court-fees (Amended) Act, and in accordance with that sub-section it is only the chief controlling revenue authority that has been given the power to make a reference to this Court. The Chief Inspector of Stamps is not competent to make a reference in accordance with the provisions of Section 6C of the Act. Indeed, the Chief Inspector of Stamps himself purported to submit the proceedings to this Court u/s 6B of the Act and styled his letter as an "application" in the paragraph of the letter quoted above. In accordance with Section 6B the Chief Inspector of Stamps is entitled, within the prescribed period, to move the prescribed Court "by an application in writing" for revision. It is clear from this provision that the application u/s 6B is an application by way of revision as is also evident from the marginal note to that sub-section. The letter sent by the Chief Inspector to the Registrar cannot be treated as an application in revision for more reasons than one. Those reasons have been concisely formulated by our Stamp Reporter in his report and the validity of every one of those reasons is conceded by the learned junior standing counsel. Those reasons are as follows:

(1) It is not in the form of an application as provided by the High Court rules, Chap. 3. (2) It is not stamped with the proper court-fee under Schedule 2, Article 1(e). The Chief Inspector of Stamps is nowhere exempt from court-fee duty. (3) It contains a statement of the opinion of the Chief Inspector of Stamps which is not contemplated by Section 6B. A statement of the opinion of the Chief Controlling Revenue Authority only is permissible u/s 60, Court-fees Act.

4. The learned junior counsel concedes that the proceedings have not been submitted to this Court in the proper form and he prays for time to convert the letter of the Chief Inspector into a proper duly stamped application in revision in conformity with the provisions of chap. 3 of the rules of this Court. We accede to

 

this request of the learned junior counsel and give him time up to 31st July 1940, to take proper steps. It must however be made clear that this would be without prejudice to the right of Kallu Singh to raise such objections as may be available to him as regards the competency of the application in revision. Let this judgment be brought to the notice of the Registrar for a record of our appreciation of the Stamp Reporter''s work.

 