
(2006) 10 AHC CK 0065
In the Allahabad High Court

Ramesh Chandra Srivastava

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-10-2006

Acts Referred:

Stamp Act, 1899 — Section 17, 18, 2, 20, 27
Transfer of Property Act, 1882 — Section 54

Citation : AIR 2007 All 39 : (2007) 1 AWC 629 : (2007) 1 AWC 329 : (2007) 4 CivCC 402 : (2007) 2 JCR 340 : (2007) 4 RCR(Civil) 69 : (2006) 2 RD 806 : (2006) 3 UPLBEC 2696

Hon'ble Judges : Saroj Bala, J;Prakash Krishna, J;A.K. Yog, J

Bench : Full Bench

Judgement

Prakash Krishna , J.—Bungalow known as "White House" being House No. 15/71, Civil Lines Kanpur standing on plot Nos. 104, 104-A 104-B, total area of about 14972 sq. yards was sought to be purchased by the present applicant, namely, Sri Ramesh Chandra Srivastava (now dead) and represented by his heirs and legal representatives from its owner namely Lucknow Diocesan Trust Association (L.D.T.A.), duly incorporated under the Companies Act, for a sum of Rs. 1,50,000/-. On 5th May, 1960 the applicant and LDTA entered into registered agreement to purchase the aforesaid premises by means of a registered agreement to purchase. Applicant paid Rs. 5000/- as earnest money for the aforesaid bungalow standing on lease hold property and there was a condition in the lease deed prohibiting alienation except with the sanction of the District Magistrate, and, therefore, an application for permission to sell the lease hold rights in favour of the applicant was moved. Requisite permission was granted by the District Magistrate on 27th August 1970. The owner of the aforesaid property for one reason or the other failed to execute the sale deed in pursuance of the aforesaid agreement, which led to the filing of Suit No. 207 of 1982 in the Court of 1st Addl. Civil Judge, Kanpur, for specific performance of the aforesaid sale agreement. The suit was decreed on 14th May, 1984 directing the vendors to transfer the said property as agreed upon by the sale agreement, within three

months, failing which the Court will execute the sale deed. The Court as a matter of fact on the failure of the vendor (owner), executed sale deed on 3rd January, 1985. The said sale deed/sale certificate under signature of Civil Judge 1st Kanpur was sent for its registration to the Sub-Registrar Kanpur, who in turn in exercise of power conferred on its u/s 47-A(1) of the Indian Stamp Act, 1899 (hereinafter referred to as the Act), referred it to the District Stamp Officer for determination of proper stamp duty on the aforesaid sale deed. It was registered as Stamp Case No. 87 of 1986.

2. In response to the show cause notice issued by the District. Stamp Officer, the applicant took a stand that legally leviable stamp duty has been paid and affixed on the document, in as much as the sale deed in question was executed in pursuance of agreement to sell, dated 5th May, 1960, although sale deed was executed by the Court on 3rd January, 1985, but for the purpose of stamp duty, the sale consideration mentioned in the said sale agreement should be taken into account, market value of the premises in question prevailing on the date of execution of agreement to set-alone is relevant, and the present market value of the property in question in the year 1985 is irrelevant.

3. The Assistant Commissioner Stamps, Kanpur, who received the file on transfer, vide order dated 18th March, 1991 rejected above contention of the applicant and found that the market value of the property in question should be determined with reference to the date of execution of the deed, i.e. on the basis of the prevailing circle rate (as fixed by the District Magistrate) applicable on the date of execution of the deed in question i.e. 3-1-1985. On that criterion, he calculated market value of the property at Rs. 48,91,040/- which required stamp duty of Rs. 5,13,607-50; after adjusting stamp duty already paid he detected deficiency in stamp duty to the tune of Rs. 4,97,857-50 and also imposed penalty of Rs. 2.20.142-50. Thus, by the order dated 18th March, 1991. the liability of Rs. seven lac was created towards payment of deficit stamp duty and penalty.

4. The aforesaid order was challenged by way of Revision, u/s 56(1) of the Act, before the Chief Controlling Revenue Authority i.e. Board of Revenue, Allahabad who in turn referred the matter after framing the following two questions of law u/s 57(1) of the Act for determination to this Court. The question referred to this Court are as follows:

Q. No. 1. Whether the stamp duty is chargeable according to the amount mentioned in the civil Court decree or on the basis of market valuation of property conveyed by this instrument of conveyance.

Q. No. 2. If stamp duty is to be charged on the basis of market value of the property what should be the date with reference to which the market value of the property forming the subject matter of the instrument is to be determined ? What should be the date with reference to which the market value of the property forming the subject-matter of this sale deed is to be determined ? In

this matter prima facie three dates appear, first is 23-5-1960 when the earnest money was accepted in part performance of the agreement by the vendor, the second date is 14-5-1984 when the vendees case of specific performance was decreed by the Court of Civil Judge first Kanpur and third Is 3-1-1985 when the Court executed the sale deed in question on behalf of the vendors.

5. Sri Sharad Malaviya, learned Counsel for the applicant submitted that stamp duty is payable on sale consideration as mentioned in the document in question, the market value in the present case of the property in question should be market value for the purpose of payment of stamp duty as it was on the date of agreement. Elaborating the argument he submitted that the applicant should not suffer for the delay in execution of sale deed. The agreement in question was executed in the year 1960, on the basis of the then prevailing market value of the property in question and sale deed was executed by the Court in pursuance of decree passed in Suit No. 270 of 1982 in the year 1985. He submitted that the valuation of the property in question which was agreed in the agreement and said agreement since being specifically in force, the valuation as mentioned in the agreement is to be adhered to and the same cannot be different for the purpose of payment of stamp duty under the provisions of the Act, He has placed reliance on the definition of Section 2(6) which defines "chargeable" Section 2(10) which defines "conveyance" Section 2(12) which defines "executed and execution" and Section 17 of the Act. Heavy reliance is placed by him on a judgment of Madras High Court in the case of S.P. Padmavathi Vs. State of Tamil Nadu and Others, Further reference was made by him to the following decisions:

(1) 1999 ACJ 1211 Smt. Har Pyari v. District Registrar.

(2) 191998 ACJ 9 Girish Kumar Srivastava v. State of U.P.

(3) Kaka Singh Vs. The Additional Collector and District Magistrate (Finance and Revenue), Bulandshahr and Another,

6. In contra, Sri SMA Kazmi, learned Advocate General assisted by Sri R. V. Singh, learned Standing Counsel submitted that the Stamp Act is a fiscal statute and it should be construed on its plain language. Nothing can neither be added or ignored in the statute. The only relevant date for the purpose of determination of stamp duty on deed of conveyance is the date of its execution. The fact that the deed is executed in pursuance to a "Decree" passed by the Court is wholly immaterial. The sale consideration, as mentioned in the agreement to sell, is not a guiding factor for the purpose of determination of stamp duty payable on a sale deed executed in pursuance of said agreement to sell. To put it differently, he submitted that the "relevant fact" for the purposes to determine the stamp duty, with respect to deed of conveyance, is the date on which said deed is executed. The charging provision is Section 3 of the Act. Elaborating the argument, it was submitted that a document has to be considered as chargeable to stamp duty when it is executed. Reference is made to the definition clauses of the words "instrument," "conveyance," "chargeable", duly stamped, as defined under the

Act. Reliance is placed on single Judge judgment of this Court in the case of Govind Ram Mishra v. CCRA, 2000 Revenue Decision 394 : 2000 All LJ 2550. In In Re: Sri Kirti Ram Advocate, and a Division Bench decision of this Court in the case of Har Pyari v. District Registrar (supra).

7. We have given our careful consideration to the respective submissions of the learned Counsel for the parties and propose to answer the questions referred to us in seriatim.

Question No. 1.

8. Suit for specific performance of contract to sell is required to be valued under the provisions of Suits Valuation Act. On the relief of specific performance to sell Court-fee is to be valued in accordance with the provisions of Court-fees Act. Stamp duty, on an instrument, is liable to be paid in accordance with the provisions of the Indian Stamp Act. All the three statutes referred to above have been enacted with distinct and separate "aims and objects" contained in these Acts and operate in different fields. In U.P. the Court-fees in a suit for specific performance of contract is payable on the sale consideration of the property in question as disclosed in the agreement deed executed by the parties. An owner is free to sell his property at any price provided there is a willing purchaser to pay it. An owner may be willing for various good reasons in good faith to alienate his property below prevailing market rate, unless there is some restriction or prohibition under law. There may be circumstances, in which an owner may be impelled to sell property below prevailing reasonable market value. For the purposes of Court-fees, and Suits Valuation Act, the sale consideration as mentioned in the agreement deed alone is relevant, notwithstanding that market value prevailing at the time of execution of Agreement to sell or the institution of suit for specific performance is higher. It may be noted that in a suit for specific performance of contract under the Specific Relief Act inadequacy of consideration is not a valid defence; as per Explanation 1 to Section 20 that mere inadequacy of consideration shall not be good ground to refuse the passing of decree by a Court, in its exercise of its discretionary jurisdiction. The question of market value of the property covered under the agreement to sell is, therefore, generally irrelevant and foreign to such suit and consequently a Civil Court is hardly called upon in the suit for specific performance to sell to adjudicate upon the question of market value of property in question.

9. This Court in the case of Smt. Har Pyari v. District Registrar 1999 ACJ 1211 has considered the nature of sale deed executed by Civil Court in pursuance of a decree of specific performance, passed in a suit and has come to the conclusion that in view of Order 21, Rule 34, C.P.C. the legal position is that the Court executes the decree on behalf of the vendor and whatever stamp duty is to be paid is paid by the purchaser decree holder when the Court executes the sale deed. There is no difference in between the sale deed executed by a vendor or through Court in pursuance of decree for specific performance of contract. Sale deed executed by Court is as good as the one executed by the Vendor/judgment

debtor A sale deed executed by a Court, makes no difference.

10. Section 47-A as amended in State of U. P. as it then existed provides an instrument of conveyance is undervalued to deal with such instrument of conveyance and reads:

47-A. Instrument of Conveyance etc. (As was existed prior to 1991 Amendment)
- If undervalued, how to be dealt with (1) If the market value of any property which is the subject of any instrument of conveyance, exchange, gift, settlement, award or trust, as set forth in such instrument is less than even the minimum value determined in accordance with any rule made under this Act, the registering officer appointed under the Indian Registration Act, 1908, shall refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon".

(2) Without prejudice to the provisions of Sub-section (1), if such registering officer, while registering any instrument on which duty is chargeable on the market value of the property, has reason to believe that the market value of the property which is the subject of such instrument, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(3) On receipt of a reference under subsection (1) or Sub-section (2) the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an inquiry in such manner as may be prescribed by rules made under this Act, determine market value of the property which is the subject of the instrument and the duty as aforesaid. The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(4) The Collector may, suo motu or on a reference from any Court or from the Commissioner of Stamps or an Additional Commissioner of Stamps or a Deputy Commissioner of Stamps or an Assistant Commissioner of Stamps or any officer authorized by the Board of Revenue in that behalf, within four years from the date of registration of any instrument on which duty is chargeable on the market value of the property, not already referred to him under subsection (1) or Sub-section (2), call for and examine the instrument for the purposes of satisfying himself as to the correctness of the market value of the property which is the subject of such instrument and duty payable thereon, and if after such examination he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty payable thereon in accordance with the procedure provided for in Sub-section (3). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

11. Section 47-A of the Act contemplates two situations to deal with, when the instrument of conveyance etc. is undervalued, (i) before registration of instrument (ii) after registration of instrument.

12. Section 47-A(1) contemplates a situation, when an instrument of conveyance, (like exchange, gift, settlement, award or trust) shall be referred by Registering Officer (appointed under the Indian Registration Act) to the Collector for determination of market value of such property if market value of property, as set forth in instrument in question is less than even the minimum value determined in accordance with rules made under the Act.

13. In the case in hand, the Registering Officer invoked its power under Sub-section (1) of Section 47-A and referred the instrument to the Collector (District Stamp Officer) for determination of the market value of the property in question.

14. Reverting back to the facts of the case, Rs. 1,50,000/- was set forth as sale consideration in the instrument as agreed upon in the year 1960. The Registering Officer was of the opinion that stamp duty was chargeable on Market Value of the property on the date of registration of the instrument which was not correctly set forth" in the instrument in question as it was less than the minimum market value determined in accordance with Rule 341 and the sale consideration (Rs. 1,50,000/-) as set forth in the agreement to sell or the decree of Civil Court was not relevant.

15. The Assistant Commissioner (Stamps), to whom the matter was ultimately referred, was of the view that the instrument was under valued inasmuch the valuation of the property as prescribed under Rule 341 of the Stamp Rules 1942 (as enacted in the State of U.P.), is much more. Section 47-A(1) confers power on a Registering Officer to look into the document and if it is found that the market value of any property has not been correctly set forth in the instrument mentioned in this Section, he may refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. The Stamp Act does not provide for a separate treatment when an instrument is executed by a Court.

16. A Division Bench of this Court in the case of Kaka Singh Vs. The Additional Collector and District Magistrate (Finance and Revenue), Bulandshahr and Another, has held that Section 47-A empowers the Collector to deal with those cases where the parties by arrangement deliberately under valued the property by setting forth the market value less than the minimum determined under Rule 341 with a view to defraud the Government of the legitimate revenue by way of stamp duty. It repelled the argument contrary to above.

17. Apex Court in the case of Trideshwar Dayal and Another Vs. Maheshwar Dayal and Others, , rejected the contention that Collector has no power to enquire into the correct valuation of the property which was subject-matter of the instrument (in that case an award) on the basis of Section 47-A as inserted in U.P. authorizing the Collector to examine correctness of the valuation.

18. In Ramesh Chand Bansal and Others Vs. District Magistrate/Collector Ghaziabad and Others, the Apex Court had occasion to interpret Section 47-A of the Act and it noticed that Section 47-A, as introduced by U.P. Act No. XI of

1969, confers power upon a registering authority to deal with case of under valuation.; After reproducing Section 47-A, it has observed as follows:

Sub-section (1) provides, in case valuation described in an instrument is less than the minimum value determined in accordance with the said Rule then such officer shall refer it to the Collector for ascertainment of the market value of such property, for levying proper duty on such instrument. Sub-section (2) is without prejudice to subsection (1), Similarly, under it if the Registering Officer believes that the market value of the property described in an instrument has not been truly set forth, he may, after registering such instrument refer the same to the Collector for determination of true market value of such property. So. we find both under Sub-section (1) or (2) where the value described in such instrument is less than the minimum value fixed under the Rules or even otherwise if such Registering Officer under Sub-section (2) has reason to believe that the market value of the property has not been truly set forth he may refer the matter to the Collector for true ascertainment of its market value. On receipt of such reference by the Collector under Sub-section (3) he issues notice to the concerned party and after giving such party reasonable opportunity of being heard, may be after holding an enquiry determine the market value of such property. Reading Section 47-A with the aforesaid Rule 340-A it is clear that the circle rate fixed by the collector is not final but is only a prima facie determination of rate of an area concerned only to give guidance to the Registering Authority to test prima facie whether the instrument has properly described the value of the property. The circle rate under this Rule is neither final for the authority nor to one subjected to pay the stamp duty. So far subsections (1) and (2) it is very limited in its application as it only directs the Registering Authority to refer to the Collector for determination in case property is under valued in such instrument. The circle rate does not take away the right of such person to show that the property in question is correctly valued as he gets an opportunity in case of under valuation to prove it before the Collector after reference is made. This also marks the dividing line for the exercise of power between the Registering Authority and the Collector. In case the valuation in the instrument is same as recorded in the circle rate or is truly described it could be registered by Registering Authority but in case it is under valued in terms of Sub-section (1) or Sub-section (2), it has to be referred and decided by the Collector. Thus, the circle rate, as aforesaid, is merely a guideline and is also indicative of division of exercise of power between the Registering Authority and the Collector.

19. Section 47-A refers to the minimum value determined in accordance with any rules made under this Act. The State of U.P. in exercise of rule making power u/s 75, has inserted Section 47-A with a view to avoid evasion of Stamp Duty.

20. Section 47-A uses the words - "minimum value determined in accordance with any rules made under the Act." Rule 341? for the purpose of payment of stamp duty prescribes the mode to determine the minimum market value of immovable property forming subject of instrument of conveyance, exchange, gift

etc. The emphasis in the case of deed of conveyance is on the market value of any property covered under the instrument of conveyance etc.

21. On plain reading of Section 47-A, we are of the opinion that this Section confers ample power on registering authority to refer the instrument to the Collector for determination of market value of the property covered by the deed of conveyance, if market value has not been correctly disclosed and is less than even the minimum value determined in accordance with Act. The Stamp Act thus operates in exclusion of the area, not occupied by the Court-fees Act or Suits Valuation Act.

22. We, therefore, hold that the stamp duty is chargeable on the basis of market value of the property conveyed by the instrument of conveyance and the fact that in the instrument executed by Civil Court is of no relevance for the purposes of invoking power u/s 47-A of the Act. The question No. 1 is answered accordingly.

Question No. 2.

23. For proper appreciation of the controversy involved in the present case it is necessary to have a look to the relevant terms as defined under the Act.

Section 2(6) "Chargeable" Chargeable means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument, chargeable under the law in force in India when such instrument was executed or, where several persons executed the instrument at different times, first executed.

Section 2(10) "Conveyance" "Conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically, provided for by Schedule I, Schedule I-A or Schedule I-B as the case may be:

Section 2(11) - "Duly Stamped" "Duly Stamped" as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in India:

Section 2(12) - "Executed" and "Execution" "Executed" and Execution, used with reference to instrument, means "signed" and "signature":

Section 2(14) - "Instrument" Instrument includes every document by which any right. or liability, is or purports to be created transferred, limited, extended, extinguished or re-corded.

24. It is not in dispute that the Act is a Taxing Statute. The Apex Court in the case of Distt. Registrar and Collector, Hyderabad and Another Vs. Canara Bank Etc., has observed as follows:

Stamp Act is a piece of fiscal legislation, Remedial statutes which have come to

be enacted on demand of the permanent public policy generally receive a liberal interpretation. However, fiscal statutes cannot be classed as such, operating as they do to impose burdens upon the public and are, therefore, construed strictly. A few principles are well settled while interpreting a fiscal law. There is no scope for equity or judiciousness if the letter of law is clear and unambiguous. The benefit of any ambiguity or conflict in different provisions of statute shall go for the subject. In *Dowlattram Harji v. Vitho Radhoti* ILR (1881) 5 (Bom) 188 the full bench indicated the need for balancing the harshness which would be inflicted on the subjects by implementation of the Stamp Law as against the advantage which would result in the form of revenue to the State, the latter may not be able to compensate the discontent which would be occasioned amongst the subject.

25. Chapter II of the Act deals with the liability of instrument to duty and it has been divided in different sub heads as ABCD and E. Sub Division A of Chapter 2 deals with the liability of instrument to duty. Section 3 is the charging Section which envisages the instrument mentioned therein shall be chargeable with duty of the amount indicated in schedule I as proper duty there for. Deed of conveyance finds mention in Schedule 1-B of the Act at entry No. 23.

26. The relevant portion of Section 3 of the Act is reproduced below:

Section 3.- Instrument chargeable with duty:- Subject to the provisions of this Act and the exemption contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty, therefore, respectively, that is to say-

(a)...

(b)...

(c)...

(aa) every instrument mentioned in Schedule 1 -A or 1 -B, which not having been previously executed by any person was executed in Uttar Pradesh:

(i)...

(ii)...

(bb)...

(bb)...

(i)...

(ii)...

(i)...

(ii) any Instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, or any ship or vessel, or any part, interest, share or property of or in any ship or vessel, registered under the Merchant

Shipping Act, 1894, or under Act XIX of 1838, or the Indian Registration of Ships Act, 1841 (X of 1841), as amended by subsequent Act.

27. Article 23 of Schedule 1-B reads as follows:

----- Description of instru- Sixty
rupees ment ----- Article 23 -
Convey- ance [as defined by Section 2(10) not being a transfer charged or
exempted under No. 62 (a) if relating to immov- able property where the
amount or value of the consideration of such conveyance as set forth therein or
the market value of the immovable property which is the subject of such
convey- ance, whichever is greater does not exceed Rs. 500/- Where it
exceeds Rs. One hundred and 500/- but does not ex- twenty five rupees. ceed
Rs. 1000/- and for every Rs. 1000/ One hundred that - or part thereof in ex- the
duty payable cess of Rs. 1000/- shall be rounded off to the next mul- tiple of
ten rupees. (b) if relating to mov- Twenty rupees. able property where the
amount or value of the consideration of such conveyance as set forth therein
does not exceed Rs. 1000/ and for every Rs. 1000/- or part thereof in excess
of Rs 1000/- -----

27A. A close reading of aforesaid Section 3 would clearly show that en every instrument mentioned in Schedule 1--A or 1-B executed by any person in U.P. liability to pay duty is there as soon as it is executed, The contention of the applicant is that word "executed" with reference to a date of conveyance which has been followed in pursuance of the agreement of sale, refers execution of date of execution of the sale agreement, requires examination in the light of the definition of the word "executed" as defined under the Act. The definition of word "execution" as per Section 2(12) of the Act means "signed" and "signature". The "instrument" includes u/s 2(14) every document by which any right or liability is, or purported to be created, transferred, limited, extended, extinguished or recorded.

28. Section 17 of the Act reads as follows:

17. Instruments executed in India. All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution.

28A. From a conjoint reading of words "instrument", "executed" as defined u/s 2(14) and 2(12) with Section 17, it is clear that the stamp duty payable on instrument refers to, at the time of execution occurring in Section 17, leaves no room of doubt that the duty on the instrument is to be paid at the time of execution. It does not refer to any other thing which have preceded prior to the execution of the instrument. On plain reading of Section 17 with Charging Section 3 it is clear that relevant point for determining the stamp duty on instrument is the date of execution of the instrument i.e. not the date of registration as such.

29. The Apex Court in the case of Hindustan Lever and Another Vs. State of Maharashtra and Another, has held that "duty under the Stamp Act is charged on the instrument and it is on execution of the instrument. The measure of charging stamp duty may be fixed or ad valorem it is to be determined by the Legislature."

30. Stamp duty is levied on the instrument as soon as it comes into existence by way of execution and the measure is the valuation of the property transferred. In that case a dispute arose as to whether the stamp duty is payable on the order passed by the High Court granting amalgamation of companies. In that connection the Apex Court observed that the judgment, order and award of the Court and of Tribunal are instrument and liable to stamp duty if they create or transfer any right, title or interest in the property, On the same analogy, the deed of conveyance, transfers of ownership right is liable to be stamped by way of payment of duty and the instrument is complete, moment it is signed and executed, the prevailing market value on the date of execution of deed of conveyance is chargeable under the Stamp Act.

31. This view is further fortified by Rules framed in exercise of power u/s 76 of the Act. The learned Advocate General has rightly placed reliance upon the then Rules 340 & 341 of the Stamp Rules framed by the State Government.

32. The relevant portion of the said Rules is reproduced below:

340. In the case of an instrument of conveyance, exchange, gift, settlement, award or trust relating to immovable property chargeable with an ad valorem duty on the market value of the property, the following particulars shall also be fully and truly given in the instrument in addition to the market value of the property in compliance with subsection (2) of Section 27 of the Indian Stamp Act as amended in its application to Uttar Pradesh:

(1) In case of land:

(a) ...

(b) ...

(c) being non-agricultural land situate within the limits of any local body constituted under the U.P. Nagar Mahapalika Adhiniyam, 1939, U.P. Municipalities Act, 1916, or U.P. Town Areas Act, 1914, as the case may be, the area of the land in square meters with the average price per square metre prevailing in the locality in which the land is situate on the date of the instrument.

(2) ...

(3) ...

341. For the purpose of payment of stamp duty, the minimum market value of immovable property forming the subject of an instrument of conveyance, exchange, gift, settlement, than that as aggrieved on the basis of the multiple given below

(i) Where the subject is land:

(a) in case of Bhumidhari- 800 times the land revenue;

(b) on case of Sirdari land 400 times the land revenue;

(c)...

(d)...

(d) where the land is non-agricultural and is situate within the limits of any local body referred to in Clause (e) of Sub-rule (i) of Rule 340 - equal to the value worked out on the basis of the average price per square metre, prevailing in the locality on the date of the instrument.

(Emphasis supplied)

(ii) where the subject is grove or garden:

(a)...

(b)...

(iii) Where the subject is building:

(a) where the building is assessed to house tax and is occupied by the owner or is wholly or partly let out to tenants 25 times the actual or assessed annual rental value, whichever is higher as the case may be;

(b) where the building is not assessed to house tax and is occupied by the owner or is wholly or partly let out to tenants- 25 times the actual or assumed annual rental value, whichever is higher as the case may be.

33. From conjoint reading of Section 3 which is charging Section, Article 23 of Schedule 1-B prescribing duty on deed of conveyance and Rules which specifies certain facts and particulars to be stated fully and truly in instrument for conveyance, exchange, gift, settlement, award or trust relating to immovable property and Rule 341 wherein made all determination of the minimum market value of immovable property forming the subject of instrument referred to above, clearly spells out the following:

(i) Deed of conveyance, exchange, gift, settlement, award or trust relating to immovable property is chargeable with ad valorem duty:

(ii) Taxable event for the purpose of payment of stamp duty on the aforesaid documents, is the execution of such document, vide Section 3 of the Act;

(iii) Duty on such instrument is payable "on market value of such property";

(iv) For the purpose of determination of duty under Article 23 of Schedule 1 -B of the Act, it is the value of consideration as set forth in the deed or the "market value" "whichever is greater";

(v) The minimum market value is to be ascertained as per Rule 341(i)(d), wherein it has been provided for as "on the date of the instrument.

34. The argument is that although under the Act it is provided that the stamp duty is payable on the market value of the subject matter of instrument of conveyance but the Act is silent and does not speak about the date in respect of which the market value of the subject matter of instrument of conveyance is to be looked into for the purpose of determination of the stamp duty. He submitted that in the present case the instrument of conveyance is chargeable to the market value of the subject matter of the instrument as it was on 5th May, 1960, viz. the date on which the agreement to sell was executed between the parties. It is difficult to accept the aforesaid submission. It may be that the Act does not specifically say so, about the date in respect of which the market value of the instrument is to be determined but it is also equally evident that on plain reading of the various sections of the Act and giving them harmonious construction, the market value of instrument of conveyance is referable to only one date i.e. the date of execution of the instrument. Article 23, Schedule 1-B prescribing the rate of duty on the instrument of conveyance has contemplated a situation where the sale consideration as set forth in the instrument of conveyance is lesser than the market value of the property sought to be conveyed by the deed of conveyance. It is provided that in such situation the duty would be payable on the amount which is greater in between the sale consideration set forth in the instrument or the market value of the property. Under Rule 340, reproduced above, it has been provided that the instrument of conveyance etc. in the case of non-agricultural land average price per sq. meter prevailing in the locality in which the amount is situate on the date of instrument has to be provided. This gives sufficient indication that the market value means the market value prevailing on the date of instrument. Rule 341 further strengthens the above view wherein in Clause (e) it has been provided that where the subject matter is non-agricultural land, the minimum market value of such immovable property would be as prevailing in the locality on the date of instrument. Obviously the word instrument refers to instrument of conveyance and duty of the instrument means the date on which the deed of conveyance came into existence. The deed of conveyance would come into existence as soon as it is executed as defined u/s 2(12) of the Act, and not hitherto,

35. On plain reading of Rules 340 and 341, reproduced above it is difficult to subscribe the view point of the applicant. There is no ambiguity in the aforesaid Rules. It is in no uncertain terms prescribes that with minimum market value for the purpose of payment of Stamp Duty is to be worked out, with respect to non-agricultural land situate within the limits of any local body on the basis of average price per sq. meter, prevailing in the locality on the date of instrument includes the minimum market value of land is to be determined at the circle rate (as determined by the Collector under Rule 340) on the date of instrument. The validity of said Rules is not the questioned either before the authorities below or before this Court. The aforesaid Rules have been framed in exercise of various

powers conferred on the State Government as mentioned in the notification itself which reads as follows:

In exercise of the powers conferred by the Indian Stamp Act, 1899 (II of 1899), and in pursuance of the powers conferred by the notification of the Government of India Finance Department (Central Revenues) No. 9/Stamps, dated November 13, 1937, and in supersession of all previous notifications of the Government of India and the Provincial Government on this behalf; and in exercise of the powers conferred by Section 21 of the United Provinces Court-fees (Amendment) Act, 1938 (XIX of 1938), and in pursuance of the power conferred by the notification of the Government of India Department No. 158/38, dated February 15, 1939, and in supersession of all previous notifications of the Government of India and that Provincial Government on this behalf, with the concurrence of the Hon"ble Chief Justice of the High Court of Judicature at Allahabad and the Hon"ble Chief Judge of the Chief Court of Oudh at Lucknow, where such concurrence is necessary, the Governor is pleased to make the following rules, namely :

36. At this juncture it is apt to note the observations of the Apex Court made in the case of New Central Jute Mills Co. Ltd. and Others Vs. The State of West Bengal and Others, The Supreme Court was examining the question of sufficiency of Stamp Duty with reference to U. P. Stamp Rules, 1942 wherein mortgage deed was executed in U.P. though it related to the property situated in West Bengal was received in that State for registration. It observed that

primarily the liability of instrument to stamp duty arise on execution. Execution in India itself made the instrument liable to stamp duty u/s 3(a) as it stood before the amendment"....It has been further observed that "after amendment by U. P. Legislature the position in law is that execution of an instrument in U. P. is made the primary dutiable event and liability to stamp duty arises on such execution....

37. The above observation do support the view which we are proposing to take in the present case i.e. the relevant date for the purpose of determining the market value on which the stamp duty is payable is the date on which the instrument in question is executed, or in other words when the taxable event takes place.

38. In the above case the Apex Court also observed that U. P. Stamp Rules in view of Section 76 of the Act "operates as part of the Stamp Act". If that is so, resort to Rules 340 and 341 to interpret the Act cannot be faulted.

39. Now we will consider the star case on which heavy reliance has been placed by the applicant i.e. S.P. Padmavathi Vs. State of Tamil Nadu and Others, This is the anchor sheet of the applicant's contention. No doubt the controversy involved therein was more or less similar to the present case except that the amendment carried in the State of Tamil Nadu by way of insertion of Section 47-A is somewhat different. We will notice the difference in the latter part of this judgment. The Division Bench of Madras High Court has answered the

controversy in para 28 of the report which reads:

In the case of instrument of conveyance executed pursuant to the decree for specific performance passed by the Civil Court, in which there is no allegation of deliberate undervaluation or lack of bona fides in valuing the subject of transfer with a view to evade payment of proper stamp duty, the mere fact that there is a time-gap between the agreement of sale and the execution of the document by itself is not sufficient for the Registering Officer to invoke his power u/s 47-A of the Stamp Act, unless there are reasons to believe that there is an attempt on the part of the parties to the instrument to undervalue with a view to evade payment of proper stamp duty.

40. The Madras High Court proceeded to decide the controversy on the basis of that Section 18 of the Stamp Act "also does not suggest that the market value on the date of execution, alone be the basis for stamp duty" after referring Clause (12) of Section 2 of the Act, which defines words "executed" and "execution" means "signed" and "signature" proceeded to hold that "it is not possible to hold that only inference possible from this provisions that its market value of the property on the date of execution of sale deed alone should be basis for stamp duty. It then proceeded to hold that in the absence of finding that "there was lack of bona fide or any reason to believe that there was no valuation" it reached to the conclusion as quoted above.

41. We regret that we are unable to agree with the aforesaid approach of Madras High Court. Indisputably the Stamp Act is to be interpreted like any other taxing statute. In taxing statute lack of bona fides or mala fides unless so provided is wholly irrelevant for the construction of the statutory provision. Lack of bona fide nowhere finds place u/s 47-A of the Act specially as inserted in U.P. We have already reproduced the interpretation placed by the Apex Court on Section 47-A(1) of the Act, which empowers the Registering Officer to refer the instrument even before registration if the instrument is undervalued in the sense that the market value of the property mentioned in the instrument in question is less than the minimum market value as determined under the relevant Rules. Therefore, the aforesaid judgment of the Madras High Court is quite distinguishable and we find hardly its application in the State of U.P.

42. Section 47-A as inserted in the State of Tamil Nadu has been reproduced in para 8 of the report. The said section empowers the Registering Officer after registering such instrument to refer the same to the Collector for determination of the market value if the Registering Officer "has reason to believe" that the "market value of the property has not been truly set forth in the instrument. On comparison with as amended in the State of Tamil Nadu it is not analogous to Section 47-A(1), as amended in U.P. but is analogous to Section 47-A(2) of the State of U.P. Amendment in Sub-section (1) of Section 47-A as amended in U.P. does not correspond to the Amendment made by the State of Tamil Nadu in Section 47-A of the Act.

43. The argument of the applicant that consideration as disclosed in the agreement should be taken as market value of the property on the date of execution of the sale deed cannot be accepted for the simple reason that the agreement to sell and sale deed do not stand at par. A person who has got only contract for sale or has got decree for specific performance of contract, has got no interest in the land. He can only enforce the contract compelling the other side to execute a sale deed, failing which the Court might execute the sale deed. Section 54 of the Transfer of Property Act also says so, that a mere contract to sell does not create any interest in favour of the vendor. A Full Bench of this Court in the case of Mahendra Nath and Another Vs. Smt. Baikunthi Devi and Others, has held that the question of ceasing of interest would arise only when the plaintiff had any interest in the land, but till the sale deed was executed, the plaintiff could not get any right in the land. It has quoted a passage from the judgment of Supreme Court in the case of Satyabrata Ghose Vs. Mugneeram Bangur and Co. and Another, which is reproduced below:

According to Indian Law which has embodied in Section 54 of the T.P. Act, a contract for sale of land does not of itself create any interest in the property which is subject matter for the contract, the obligation of the parties to contract for sale of land are, therefore, the same as in other ordinary contracts....

44. This Court in Hakim Enayat Ullah Vs. Khalil Ullah Khan and Another, has held that (i) that decree for specific performance only declares rights of the decree holder to have a transfer of property covered by decree executed in his favour; (ii) that a decree by itself does not transfer the title; (iii) the decree gives rights to have the decree executed; (iv) that on his failure to have a sale deed executed on behalf of the judgment-debtor. The relevant passage is reproduced below:

A decree for specific performance only declares right of decree-holder to have a transfer of property covered by the decree executed in his favour. The decree by itself does not transfer the title. That themselves so is apparent from the fact that in order to get the title of the property the decree-holder is to proceed in execution in accordance with the provisions of Order 21 of the Code. So long the sale deed is not executed in favour of the decree-holder either by the defendant in the suit or by the Court the title to the property remains vested in the defendant and till the execution of the sale deed, decree-holder has no right to possession of the property. It is only the execution of the sale deed that transfers the title of the property.

45. The aforesaid judgment has been followed by the Madras High Court in the case of Christine Pais v. K. Ugappa Setty AIR 1966 Mys 229, wherein it has been held that in a suit for specific performance of contract to sell, title passes with execution and registration of sale deed and does not flow from decree.

46. We find that an identical view has been taken by Full Bench of Andhra Pradesh High Court in the case of K. Venkateswarlu and Others Vs. K. Pedda

Venkaiah and Others, wherein Sri S. B. Sinha, C.J. as he then was held that in a suit for specific performance of contract the relevant date would be that the date of execution of the deed of sale.

47. In Dinesh Kumar Mittal v. ITO 1991 UPTC 1209, Justice B. P. Jeevan Reddy as he then was has observed that "we cannot recognize any rule of law to the effect that the valuation determined for the purposes of stamp duty is the actual consideration passing between the parties, to a sale the actual consideration may be more or may be less."

47A. "Market value" means what a willing purchaser would pay to a willing seller for the property, having regard to the advantages available to the land and the development activities which may be going on in the vicinity and potentiality of the land and as such, an offer of sale of land to an industrialist on concessional rate with a view to induce him to set up industry in a particular area is not market value, Mahabir Prasad Santuka and Others Vs. Collector, Cuttack and Others,

48. "Market value" of land means A price at which both buyers and sellers are willing to do business; the market or current price.

49. The upshot of the above discussion is that the decree of specific performance passed by the Civil Court does not itself extinguish nor create right, title or interest of a party to the suit. The title is passed on the date the sale is executed by Court in place of the defendant. This also indicates that for the purpose of stamp duty besides UP Rule 34 1 reproduced above, the date of the execution of the sale deed is the relevant date for determining the market value covered under the instrument of conveyance. We find, the view we are taking has been taken by the learned single Judge in the case of Ram Govind Misra v. CCRA 2000 All LJ 2550 (supra) and D.B. in the case of Smt. Har Pyari v. State of U.P. (supra). We find no reason to disagree with the above view taken by the learned single Judge as well as Division Bench of this Court.

50. We would further add, for future guidance, as to when "penalty" can be imposed u/s 47-A of the Act. In the instant case, the Assistant Commissioner (Stamps), Kanpur, on receiving the file from District Stamp Officer, apart from determining deficiency in stamp duty to the tune of Rs. 4,96,887-50 p., also imposed "penalty" to the tune of Rs. 2,02,142.50 p.

51. It is true that the question relating to imposition of penalty", in the admitted facts and circumstances of the case, has not been referred but it is appropriate that, this Court should deal with this question which is not only inherent but also incidentally covered under question Nos. 1 and 2 and it is desirable to decide this issue also. Section 27(1) of the Act reads:

27. Facts affecting duty to be set forth in instruments-- (1) The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, shall be

fully and truly set-forth therein.

52. Aforesaid provision provides that "consideration" and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. This provision came up for consideration before Supreme Court in *Himalaya House Co. Ltd., Bombay Vs. The Chief Controlling Revenue Authority*, . The Apex Court explained that even where a person did not set forth the "true market value" of the property in question, law conferred no jurisdiction upon the authorities impose penalty or to recover deficient stamp duty on the real market value. To overcome the difficulty, large number of States in India, including State of U.P., amended Stamp Act.

53. Section 2 of U.P. Act No. XI of 1969 (which came into force on 1st October, 1969), incorporated Section 47-A in the Principal Act. Sub-section (1) of new Section 47-A provides that if the market value of any property (which is the subject of any instrument on which duty is chargeable on the market value of the property) as set forth in such instrument is less than even the minimum value determined in accordance with any Rules made under this Act, the Registering Officer appointed under the Indian Registration Act, 1908, shall refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. Sub-section (2) provides that if the Registering Officer (while registering any instrument on which duty is chargeable on the market value of the property) has reason to believe that the market value of the property which is the subject of such instrument "has not been truly set forth" in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. Under subsection (3) of this Section, Collector has been empowered to determine the market value of the property which is the subject matter of an "instrument" and the duty payable thereon. It further provides that the differences, if any, in the amount of duty disclosed in the instrument vis-a-vis the amount determined u/s 47-A(3) read with Section 47-A(1) shall be payable by the person liable to pay duty. Sub-section (4) of Section 47-A refers to a case and empowers "Collector" on reference being made by a Registering Authority u/s 47-A(2) of the Act to examine the instrument for the purpose of correctness of the market value of the property and after examination if he finds that the market value was not truly set forth, he may determine the market value and duty payable thereon in accordance with procedure provided in subsection (3).

54. Sub-sections (3) and (4), as they stood prior to U.P. Amendment Act, 38 of 2001, made no reference to payment of "penalty".

55. In the case of *Kaka Singh Vs. The Additional Collector and District Magistrate (Finance and Revenue), Bulandshahr and Another*, , this Court considered scope of Section 47-A and its view was duly approved in Full Bench decision of this Court in the case of *Girish Kumar Srivastava v. State of U.P.* 1998(1) All Civil Journal 199, decided on 8-12-1997. Relevant paras 6, 9, 11, 12, 13 and 14 of

the said decision are reproduced below:

6. Section 47-A was inserted by means of an amendment. The scheme of Section 47-A of the Act is to deal with those cases where private parties by arrangement clandestinely or fraudulently undervalued the property which is the subject-matter of transfer with a view to deprive the Government of legitimate revenue by way of stamp duty. Before addition of Section 47-A, there was no provision in the Stamp Act empowering the revenue authorities to make an enquiry of the value of the property conveyed for determining the duty chargeable. Section 27 of the Stamp Act laid down that the consideration if any and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. In case a person did not set forth true amount for which the transaction had taken place, the revenue authorities had no power to proceed with the defaulter. *Himalaya House Co. Ltd., Bombay Vs. The Chief Controlling Revenue Authority*, . The Supreme Court held that for the purpose of Article 23, the value of consideration must be taken to be one as set forth in the conveyance deed. The question whether the purpose of determining the value of the consideration to revenue must have regard to what the parties to the instrument have elected to state the consideration to be.

9. From the above, we find that Sub-sections (1) and (2) of Section 47-A apply to two different situations. In the instant case, the Registering Officer was since of the opinion that the market value as set forth in the sale deed was less than even the minimum value determined in accordance with the rules, he referred the same to the Collector. Before the Collector, the petitioner had filed evidence but by applying the Rule 341, the Additional Collector found that the market value set forth in the conveyance was less and, thereafter, by applying the rule of calculation or computation of the market value stated in Rule 341, he determined the market value of the two sale deeds and found the stamp duty payable thereon.

11. Section 75 of the Act empowers a State Government to make rules to carry out generally the purpose of the Act. The purpose of Section 47-A is only to avoid evasion of the stamp duty.

12. In Sub-section (2) of Section 47-A the words important for consideration of its scope are "truly" and "set forth". The word "truly" would empower the Collector to examine whether the market value stated in the document is not in conformity with the fact. If a party has agreed to pay more and mentions less in the conveyance of which one of the purposes could be evasion of stamp duty, the Collector would be entitled to find the real value for which the property had been sold in that case and after determining the correct value for which the property has been sold, to make a demand of the difference of the amount of duty payable as such.

13. In *The State of Tamil Nadu Vs. T.N. Chandrasekharan*, , while dealing with

the object of Section 47-A, the Madras High Court held:

We are inclined to think that the object of the Amending Act being to avoid large scale evasion of stamp duty, it is not meant to be applied in a matter of fact fashion and in a haphazard way. Market value itself as we already mentioned is a changing factor and will depend on various circumstances and matters relevant to the consideration. No exactitude is in the nature of things possible. In working the Act, great caution should be taken in order that it may not work as an engine of oppression. Having regard to the object of the Act. we are inclined to think that normally the consideration stated as the market value in a given instrument brought for registration should be taken to be correct unless circumstances exist which suggest fraudulent evasion.

14. Section 47-A fills in the lacuna which was found by the Supreme Court in *Himalaya House Co. Ltd., Bombay Vs. The Chief Controlling Revenue Authority*, it empowers the Collector to deal with those cases where the parties by arrangement deliberately undervalue the property with a view to defraud the Government of the legitimate revenue by way of stamp duty. It is not correct that the Collector is not empowered to determine on a case being referred to him by the Sub-Registrar u/s 47-A(1), that the market value is in fact less than the minimum value to be determined by Rule 341 and to find on that basis whether the transaction sets forth the market value truly or not. Similarly, the hands and power of the Collector are not confined to the minimum value given in Rule 341. It can hold it to be more if it is satisfied on the materials brought before him to that effect. Rule 341 had been framed by the legislature only for the limited purpose of providing a guideline. It is not conclusive. That being so, under Sub-section (1) of Section 47-A, if the Registering Officer is satisfied that the market value is less than even the minimum value, he may refer the document to the Collector for determination of the value of such property. This is the only function of Rule 341. It is neither binding on the person who produces the instrument for registration nor on the State Government.

56. Section 47-A(1) of the Act is quoted above. Reading of Section 47-A(1) of the Act, as applicable in the State of U.P., prior to enforcement of U.P. Amendment Act No. 38 of 2001, had no provision for "imposition of penalty" as noted- by Full Bench in the case of *Girish Kumar Srivastava* (supra). Division Bench of this Court in its later decision vide judgment and order dated 27-5-1999 in the case of *Smt. Har Pyari v. District Registrar, Aligarh* 1999 (2) ACJ 1211 followed the above view.

57. Fourth point, out of Five Points noted by the Court, in this judgment, reads:

"Can penalty be imposed u/s 47-A?" and vide para-9 of the judgment, Court held:

...No penalty can be imposed in proceedings u/s 47-A of the Act. This is so held by a Full Bench decision of this Court....

58. In the case of *S.P. Padmavathi Vs. State of Tamil Nadu and Others*, the Court

considered and interpreted Section 47-A(3) as inserted by Tamil Nadu Amendment Act 24 of 1967). While considering the scope of Section 47-A (as in force in State of Madras), their Lordships referred to Section 47-A(1) of the said Act which is *pari materia* to Section 47-A(2) of the Indian Stamp Act (as in force in State of U.P.).

59. In paras 9 and 12 of the said decision, while answering point No. 1 viz. ("what is scope of Section 47-A of the Act?"), their Lordships observed:

Pr. 9...In working the Act, great caution should be taken in order that it may not work as an engine of oppression. Having regard to the object of the Act, we are inclined to think that normally the consideration stated as the market value in a given instrument brought for registration should be taken to be correct unless circumstances "exist which suggest fraudulent evasion....

Pr. 12. Power u/s 47-A of the Act can only be exercised when the Registering Officer has reason to believe that the market value of the property, which is the subject of conveyance, has not been truly set forth, with a view to fraudulently evade payment of proper stamp duty. Mere lapse of time between the date of agreement and the execution of the document will not be the determining factor that the document is undervalued and such circumstance by itself is not sufficient to invoke the power u/s 47-A of the Act, unless there is lack of bona fides and fraudulent attempt on the part of the parties to the document to undervalue the subject of transfer with a view to evade payment of proper stamp duty....

60. Interestingly, before U. P. Act 38 of 2001 had come into force, Section 47-A as such in State of U.P. - did not deal differently with the two situations- (1) where property has been valued bona fide without intention to evade stamp duty and (2) when market value of the property in question has not been truly set forth in such instrument with a view to evade payment of proper stamp duty in other words - instrument is deliberately undervalued for the purpose of deceitful gain.

61. It is, therefore, clear that in view of the aforesaid decision of this Court and to make the provisions more stringent, the State of U.P. enacted U.P. Act 38 of 2001 and vide Sub-section (4) of Section 47-A of the Stamp Act made provision for "penalty". Sub-section (4) (as amended by U.P. Act 38 of 2001) provides that if on enquiry under Sub-section (2) and examination under subsection (3), the Collector finds that the market value of the property has been truly set forth and the instrument duly stamped, he shall certify by endorsement that it is duly stamped and return it to the person who made the reference. However, in case where market value is not truly set forth and the instrument not duly stamped, he shall require the payment of proper duty or the amount required to make up the deficiency in the same, together with a penalty of an amount not exceeding four times the amount of the proper duty.

62. It is interesting to note that vide Section (4-A) (as inserted by U.P. Act 38 of

2001), provision for payment of "simple interest" has been made only in a case where "market value is not truly set forth" whereas "interest" accrues or payable in a case where market value is truly set forth. A conjoint reading of aforesaid provisions clearly indicates that Section 47-A has differently treated a case where market value has been truly set forth and, on the other hand, a case where market value is not truly set forth.

63. In this view of the matter, it is abundantly clear that imposition of "penalty" by the Assistant Commissioner (Stamps) is wholly uncalled for and without jurisdiction. Accordingly it is held that the order imposing penalty is arbitrary, without jurisdiction and no penalty can be imposed in the facts of the present case.

64. In view of the above discussion we answer the second question by holding that the relevant date for determining the market value of the property for being subject-matter of the sale deed is the third i.e. January 3, 1985 when the Court executed the sale deed in question on behalf of the vendors.

65. The Registrar General is directed to send a copy of this judgment to the Chief Controlling Revenue Authority in accordance with Section 59 of the Stamp Act.

66. The reference is decided accordingly. No order as to costs.