

(1991) 08 AHC CK 0080

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4514 of 1988

Ramesh Kumar

APPELLANT

Vs

Additional District Magistrate (Finance and Revenue) and
Others

RESPONDENT

Date of Decision : 12-08-1991

Acts Referred:

Stamp Act, 1899 — Article 35

Citation : (1991) 2 AWC 108 : (1992) RD 204

Hon'ble Judges : D.S. Sinha, J;A.N. Varma, J

Bench : Division Bench

Advocate : T.S. Dabas, for the Appellant;

Final Decision : Dismissed

Judgement

A.N. Varma, J.—The question which falls for determination in this case is whether the lease granted to the Petitioner under the Ferries Act on 25-8-1987 for collection of toll over the bridge called Ban Setu is covered by Clause (a) or by Clause (b) of Article 35 of Schedule I.B. to the Stamp Act as applicable in Uttar Pradesh.

2. The facts are simple. The Petitioner was granted the aforesaid lease on a premium of Rs. 2,30,000/- for a period of one year. In pursuance of the order accepting the Petitioner's bid, he submitted the Stamp duty as calculated under Clause (a)(i) of Article 35 of the aforesaid schedule to the Stamp Act.

3. The Respondents, however, called upon the Petitioner to deposit stamp calculated under Clause (b) and not (a)(i) of the said Act. The Petitioner assails the correctness of this stand.

4. Clause (a)(i) of Article 35 of Schedule 1-B, on which counsel for the Petitioner relies, states;

35. Lease, including an under- lease or sub-lease and any agreement to let or

sub let. (a) Where by such lease the rent is fixed and no premium is paid or delivered-- (i) where the lease purports to be for a term not exceeding one year; 15) for the whole amount payable or deliverable under such lease. Clause (b) of the same Article on which the Respondents rely, on the other hand, provides:

Where the lease is granted for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

5. It will thus be seen that Article 35 of the aforesaid Schedule has been bifurcated into two parts (a) and (b). Clause (a) deals with leases in which rent is fixed and no premium is paid while Clause (b) is concerned with the leases which are granted for a fine or premium, or for money advanced and where no rent is reserved.

6. In the present case, it is not disputed that the lease is one which was granted for a premium of Rs. 2,30,000/- and no rent was reserved. It thus squarely falls under Clause (b) and not Clause (a). The Department was right in calling upon the Petitioner to pay the additional stamp duty in terms of Clause (b) of Article 35.

7. There is no merit in this petition and the same is dismissed. There will, however, be no order as to costs.