(1984) 02 MP CK 0006

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 299 of 1980

State of Madhya Pradesh and Others — APPELLANT

Vs

Martand Singh Joodeo — RESPONDENT

Date of Decision : 27-02-1984

Acts Referred:
Stamp Act, 1899 — Section 57

Citation : AIR 1984 MP 92 : (1984) JLJ 329

Hon'ble Judges : G.L. Oza, Acting C.J.;S.S. Sharma, J;B.C. Varma, J

Bench : Full Bench

Advocate : R.K. Verma, Dy. Advocate General, for the Appellant; R.P. Pandey, for the Respondent

Final Decision : Dismissed

Judgement

Oza, Ag. C.J.

1. This is a reference made by the Chief Revenue Authority to this Court u/s 57(1), Stamp Act. It was a revision petition filed before the Chief Revenue Authority against an order passed by the Collector of Stamps (Sub-Divisional Officer), reference being made to him by the Sub-Registrar to the effect that the stamp duty which was paid by the petitioner was less than what should have been paid and that extra stamps worth Rupees 62,470/- together with the deficit of Rupees 12,494/- should be made good by the petitioner. The reference which was made by the Sub-Registrar was under the provisions of Article 45, Schedule I-A, Stamp Act, after an audit objection having been raised. It appears that no objection was taken at the time of registration but an objection was taken when the audit objection was raised and the Sub-Registrar made a reference, to the Collector of Stamps (Sub-Divisional Officer) and the Sub-Divisional Officer passed an order against which a revision petition was filed before the Chief Revenue Authority (Board of Revenue).

2. The learned member, Board of Revenue, in the decision in the revision petition

held that the contention of the counsel for the petitioner deserves to be accepted as it is already "well established in law according to several rulings of their Lordships of the High Court of Madhya Pradesh that once a document has been registered, the Sub-Registrar is not empowered to make a reference as regards an understamped document and that the Sub-Divisional Officer and Collector of Stamps is much less empowered to pass an order upon such a reference." The learned member has also observed that "it has been held time and again that such reference can be made by the Sub-Registrar prior to the registration of a document and not thereafter". Having come to this conclusion, the learned member has made this reference by saying that the Hon''ble Court may pass such order as they may deem fit. Unfortunately the learned member, has not either framed a question nor has expressed any doubt about the decision of any question of law which he seeks the opinion of this Court. The learned member has also considered the impact of the amendment introduced by insertion of Section 47A and observed that a reference could be made by the registering authority only when an objection was taken at the time of registration. A reading of the order passed by the learned member of the Board, therefore, indicates that the matter is concluded by the decisions of this Court but still it is not clear as to hy the learned member thought it fit to make a reference. It appears that the learned member felt that he can always send a case for decision of this Court as and when he thinks fit but that is not the law. Section 57, Stamp Act reads:

"57. Statement of case by Chief Controlling Revenue Authority to High Court.--

(1) The Chief Controlling- Revenue Authority may state any case referred to it u/s 56, sub-section (2), ox otherwise coming to its notice, and refer such case, with its own opinion thereon,--

(a) if it arises in a State; to the High Court of that Stated

(b) if it arises in the Union Territory of Delhi to the High Court of Delhi;

(c) if it arises in the Union Territory of Arunachal Pradesh or Mizoram, to the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);

(d) if it arises in the Union Territory of the Andaman and Nicobar Islands, to the High Court at Calcutta;

(e) if it arises in the Union Territory of the Lakshdweep, to the High Count of Kerala;

(ee) if it arises in the Union Territory of Chandigarh, to the High Court of Punjab and Haryana;

(f) if it arises in the Union Territory of Dadra and Nagar Haveli, to the High Court of Bombay.

(2) Every such case shall be decided by not less than three Judges of the High Court to which it is referred, and in case of difference, the opinion of the majority

shall prevail."

This section came up for consideration by a Full Bench of the Andhra Pradesh High Court in Vinay Construction and Development Company, Hyderabad Vs. Inspector General of Registration and Stamps, Andhra Pradesh, Hyderabad and Another, and it was observed :---

"We think it necessary to point out that it is the duty of the Revenue Board as the Chief Controlling Revenue Authority to formulate questions and refer them to the High Court for its opinion. Section 59(1) of the Act says that the High Court upon the hearing of any such case shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded. Though no doubt this provision does not specifically state that the Board should formulate a question or questions to avoid all controversy as to the exact point or points on which the Board requires the opinion of the High Court arising out of the case stated by it and also in view of the fact that the jurisdiction of the High Court, as under the Income Tax Act, is advisory in character, the High Court insists on such questions being formulated."

In our opinion, the Andhra Pradesh High Court has taken a correct view of the law. In this view of the matter, therefore, in our opinion there is no question for making a reference to this Court.

3. The learned member has rightly observed that the question as to whether, after the registration the Sub-Registrar could make a reference or not is concluded by the Full Bench of this Court in Komal Chand and Another Vs. The State of Madhya Pradesh, and in view of this, in our opinion, no question remains for which a reference could be made to this Court. A perusal of the order passed by the learned member of the Board of Revenue, therefore, clearly indicates that there is nothing in the order of reference which may require the decision of this Court u/s 57(1), Stamp Act.

4. The reference is rejected. In the circumstances, parties are directed to bear their own costs.

