

(1967) 02 DEL CK 0014

In the Delhi High Court

Case No : Letters Patent Appeal No. 99-D of 1964, against the Judgment of Mehar Singh, J., reported in AIR 1966 Punj 169

Union of India and Others

APPELLANT

Vs

S. Sarup Singh

RESPONDENT

Date of Decision : 15-02-1967

Acts Referred:

Citation : AIR 1968 Delhi 219

Hon'ble Judges : T.V.R. Tatachari, J;I.D. Dua, J

Bench : Division Bench

Advocate : Parkash Narain and Arun B. Saharya, for the Appellant; Gurucharan Singh and Chaman Lal, for the Respondent

Judgement

(1) This Letters Patent appeal is filed by the Union of India and other against the judgment of a learned Single Judge (Mehar Singh, J.) of the High Court of Punjab, dated 21st August, 1964, directing that writ in the nature of mandamus be issued to the second appellant, Chief Controlling Revenue Authority for Delhi State, to state a case under sub-section (1) of Section 57 of the Indian Stamp act, in writ petition C. W. No. 189-D of 1964 filed under Article 226 of the Constitution by the respondent herein.

(2) The respondent herein, S. Sarup Singh, filed the aforesaid writ petition C. W. No. 189-D of 1964 in the High Court of Punjab in the following circumstances:

(3) The facts stated in the judgment of the learned Single Judge are not disputed before us. The respondent herein and his sons constituted a joint Hindu family. His wife purchased some time in February 1952, a building site in the Diplomatic Enclave, New Delhi, for about Rs. 41,000. The respondent herein contributed Rs. 23,300 as a gift to his wife to enable her to meet a part of the price to be paid for the site. According to the respondent the amount which he gifted to his wife was out of the funds of the joint Hindu family. During the construction of a building on the aforesaid site, the respondent herein made further gifts of a total amount of Rs. 1,40,000 to his wife to enable her to complete the building. The

building was completed some time in 1954.

(4) Subsequently, on 25th February, 1956, the respondent herein executed a registered Release Deed in which he made a declaration that the property in question was the property of his wife, Again, on 27th March, 1962, the respondent herein executed an instrument, which was described as a Trust Deed. In this document, he narrated some history of his family and the property of the family, and then referred to the amounts of Rs. 23,300 and Rupees 1,40,000 gifted to his wife from out of the joint family funds. He then stated in the said document that

"the house at 3, Kitchner Road, Diplomatic Enclave, New Delhi, belongs to my wife Sardarni Ravinder Sarup Singh and neither I personally, nor the joint Hindu family has any rights in it, as already declared in the registered Release Deed dated 15th of February, 1956" (5) The said instrument was presented for registration on 29th May, 1962, and was impounded on the same date by the Registration Authorities under Sections 33 and 38 of the Indian Stamp Act, 1899 (Act II of 1899). The instrument was forwarded to the Collector of Stamps to be dealt with according to the provisions of the Act for the purpose of realisation of the statutory stamp duty and any penalty that may be imposed for the deficiency in the stamp duty. The Sub-Registrar treated the instrument as a Gift Deed under Item 33 in Schedule I, as amended in Delhi, of the said Act, and held that the instrument was liable to a stamp duty of Rs. 4,200 and Corporation Free of Rs. 5,600, making a total of Rs. 9,800. The instrument was originally executed on a stamp paper of Rs. 30. The Sub-Registrar, Therefore, pointed out that the deficiency was of Rs. 9770.

The Collector of stamps third appellant herein, took this matter into consideration and held that the instrument should be treated as a Deed of Gift of movables, it being a gift of money, and as such, was liable to a stamp duty of Rs. 3,260 at the rate of 2 per cent on the total amount gifted, that is to say, Rs. 1,33,300. So, deducting Rs. 30 from that amount, he fixed the deficiency at Rs. 3,230. He then imposed a penalty of Rs. 16,150, which is 5 times the amount of the deficiency, u/s 40 of the Indian Stamp Act. He thus directed, by his order dated 22nd February, 1963, that a total amount of Rs. 19,380 should be paid by the respondent herein.

Against that order of the Collector of Stamps, the respondent herein filed a Revision Application before the Chief Controlling Revenue-authority, the second appellant herein. The said Chief Controlling Revenue-authority, by its order dated 3rd March, 1964, pointed out that there was a mistake in the calculation of the stamp duty, and that the correct amount was Rs. 3,270, and deducting Rs. 30 out of it, fixed the deficiency at Rs. 3,240. The said authority also reduced the penalty to an equal amount i.e., to sum of Rs. 3,240. Thus, under the order of the second appellant herein, the demand against the respondent herein was fixed at Rs. 6,480.

(6) Feeling aggrieved by the said order of the Chief Controller Revenue-authority, the respondent herein the writ petition C. W. No. 189-D of 1964 in the High Court of Punjab under Article 226 of the Constitution of India praying for the quashing of the orders of the appellants 2 and 3 herein. The writ petition was heard by a Single Judge of the High Court (Mehar Singh, J.). By his judgment and order, dated 21st August, 1964, the learned Judge took the view that the demand made against the respondent depends upon the interpretation of the document in question, that the question involved was whether the recitals, in the document, in question of gift of moveables in the shape of money made at least 8 years before the date of the document, would or would not turn into a Gift Deed which attracts stamp duty under Item 33 in Schedule 1 of the Act, that it was a substantial question of law, and that it was a fit case in which a direction in the nature of mandamus should be issued to the second appellant, the Chief Controlling Revenue-authority, requiring the said authority to refer the case, with its opinion thereon, to the High Court under sub-section (1) (b) of Section 57 of the Indian Stamp Act.

(7) It is against the said judgment and order that this Letters Patent appeal has been preferred by the Union of India and others.

(8) Shri Prakash Narain, the learned counsel for the appellants, contended before us--

1. that the respondent herein was not entitled to the relief granted to him by the learned single Judge, as the respondent did not avail himself of the remedy provided to him in the Act, and did not apply before the Chief Controlling Revenue-authority for a reference u/s 57(1) of the Act.

2. that when a mode of approach to the High Court was provided by the statute itself, it is that mode of approach only that has to be made to the High Court and no other mode, including the recourse to Article 226 of the Constitution;

3. that now writ petition of mandamus could be issued to the Revenue-authority unless the said Revenue-authority had been requested to do something which it was bound to do in spite of the request; and

4. that the Chief Controlling Revenue-authority cannot make a reference u/s 57(1) of the Act unless the case was pending before it, and that the learned Single Judge erred in holding that a direction in the nature of mandamus should still be issued to the said Authority requiring it to make a reference to the High Court.

(9) For a proper appreciation of the contention of the appellants, a reference has to be made to Sections 56 and 57 of the Indian Stamp Act. The said sections are as follows:--

"56. Control of, statement of case to, Chief Controlling Revenue-authority. - (1) The powers exercisable by a Collector under Chapter Iv and Chapter V and under Clause (a) of the first proviso to Section 26 shall in all cases be subject to the

control of the Chief Controlling Revenue-authority.

(2) If any Collector, acting u/s 31, Section 40, or Section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

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) or 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 for that State;

(b) if it arises in the Union Territory of Delhi or Himachal Pradesh, to the High Court of Punjab;

(c) if it arises in the Union territory of Manipur or Tripura, to the High Court of Assam;

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

(e) if it arises in the Union territory of the Laccadive, Minicoy and Amindivi Islands, to the High Court of Kerala.

(10) Section 56(1) confers a revisional power upon the Chief Controlling Revenue-authority, and provides for the control of the powers exercisable by a Collector under Chapter IV and Chapter V and under Clause (a) of the first proviso to Section 26 of the Act, by the said Authority. Section 56(2) provides for a reference of the case by the Collector for the decision of the Chief Controlling Revenue Authority. Section 57(1) empowers the Chief Controlling Revenue-authority to refer to the High Court any case, which was either referred to it by the Collector u/s 56(2) of the Act; or which otherwise came to its notice.

(11) The Chief Controlling Revenue-authority has two main functions under those two Sections. Firstly, u/s 56(2), it has to decide the amount of stamp duty chargeable on the instrument in a case referred to it by the Collector, while acting under Sections 31, 40 and 41 of the Act. Secondly, u/s 57(1), the Chief Controlling Revenue-authority, may state any case referred to it by the Collector u/s 56(2) of the Act, or which otherwise comes to its notice, and refers such case, with its opinion thereon, to the High Court. The words "otherwise coming to its notice" in Section 57(1) would include a case which comes to its notice in the exercise of its revisional powers u/s 56(1) of the Act.

(12) The nature of the power to refer conferred on the Chief Controlling Revenue-

authority by Section 57(1) of the Act was considered by the Supreme Court of India in Chief Controlling Revenue Authority and Superintendent of Stamps Vs. Maharashtra Sugar Mills Ltd., , the Supreme Court observed as follows:

"The absence of the works "feels doubt as the amount of duty to be paid in respect of an instrument" in Section 57 supports the view that the reference contemplated under that Section is not for the benefit of the appellant only but enures also for the benefit of the party affected by the assessment. In our opinion, the power contained in Section 57 is in the nature of an obligation or is coupled with an obligation and under the circumstances can be demanded to be used also by the parties affected by the assessment of the stamp duty" Again . 544 SCR = 221 AIR.

It was observed as follows.

"In our opinion, in the present case the power to make a reference u/s 57 is not only for the benefit of the appellant. It is coupled cast out him, as a public officer to do the right thing and when an important and intricate question of law in respect of the construction of a document arises, as a public servant it is his duty to make the reference. If he omits to do so, it is within the power of the Court to direct him to discharge that duty and make a reference to the Court. Now, taking up the first contention on behalf of the appellant that the respondent should have applied for a u/s 57(1) of the Act, we have to point out that it is authority by way of an application for making a reference to the High Court. The Revenue - authority itself can act suo montu and refer a case to the High Court even without any application by the aggrieved assessed. So, the contention that the respondent herein cannot be given the relief by way of a reference to the High Court unless he had formally applied to the Revenue-authority, is untenable and cannot be accepted. (13) The second contention on behalf of the appellants that the Act provides a mode of approach to the High Court and it is only that mode that should be followed, is also untenable. The argument of the learned counsel for the appellants is that the Act confers the power to refer a case to the High Court on the Chief Controlling Revenue-authority that can make the reference by virtue of that power, and that it is not open to the High Court in a petition under Article 226 of the Constitution of India, to direct the authority to refer a case to the High Court. This argument is clearly unsound in view of the decision of the Supreme Court referred to above. As held by the Supreme Court the section imposed a duty on the Revenue-authority to do the right thing, and when an important question regarding the interpretation or construction of a document is involved to make reference. If the Revenue-authority omits to do so, it is within the power of the High Court to direct the Revenue-authority to discharge that duty ;and make a reference to the High Court. This, the High Court can do either by way of a direction or an order or a writ of mandamus, as its wide power under Art. 226 of the Constitution include the issue of such a direction, order Writ of Mandamus.

(14) The third contention is almost the same as the previous two contentions,

and the decision of the Supreme Court is a complete answer to it. When an important question of law is involved in a case, it is the duty of the Revenue-authority to make a reference, and the discharge of the duty is not dependent upon a formal requisition by the aggrieved assessed. The Revenue-authority should suo montu discharge the said duty cast upon it, and if it omits to do so, the High Court has power under Article 226 of the Constitution to direct the Revenue-authority to discharge that duty and make a reference to the High Court.

(15) The learned counsel for the appellants brought to our notice the decision in *Sheo Shankar v. State Government of Madhya Pradesh*, Air 1951 Nag 58 . In this decision, the learned Judges, Hidayatullah, Mangalmurti and Mudhokar, JJ., dealt with an application under Article 226 of the Constitution for a writ of mandamus directing the respondent Government not to enforce against the petitioner the Central Provinces and Berar Prohibition Act VII of 1908, and also for a writ of mandamus directing the respondent Government to withdraw and cancel all notifications, rules and orders made under the provisions of the said Act. In that context, Hidayatullah, J., as he then was, observed as follows:-

"65. The petitioner has filed the petition for a mere declaratory opinion. He has done no act under the Act, nor has any action been taken under the Act to his detriment. He has not even made a demand for a permit, and thus there is no demand and refusal. The Prohibition Act has not been enforced against him as such. His only complaint is that as a result of the impugned Act he cannot do many things which he has in his mind. Mandamus cannot issue unless there is a demand, and a refusal or some act or omission is to be ordered. It is not expected that this Court will sit down to examine the constitutionality of all the Sections of the Act and the rules and notifications with a view to finding out what is constitutional or what is not." The learned counsel for the appellants relied on the sentence "mandamus cannot issue unless there is a demand and a refusal or some act or omission has to be ordered", and argued that a writ of mandamus should not have been issued in the present case as the respondent did not move the Revenue-authority to refer the case and consequently there was no refusal by the Revenue-authority to refer the case.

(16) We have already expressed our view that in the context of the provisions in Section 57 of the Indian Stamp Act, a writ of mandamus can be issued by the High Court even though the Revenue-authority was not moved for referring the case to the High Court. The observation of the learned Judge in the aforesaid sentence was made in a different context, and does not, in our opinion, support the contention of the appellant.

(17) The learned counsel for the appellants next drew our attention to the decision in *The Jupiter General Insurance Co. Ltd. Vs. Rajagopalan and Another*, , and relied upon the observations in paragraph 126 of the judgment therein. In that paragraph, the learned Judges, Harnam Singh and Soni, JJ., pointed out that before the introduction of Article 226 of the Constitution, orders in the nature of

mandamus were issued by the High Courts of Calcutta, Madras and Bombay u/s 45 of the Specific Relief Act, and that before an order could be issued, five conditions had to be satisfied. The learned Judges then set out clauses (a) to (e) in the proviso to Section 45 of the Specific Relief Act. As pointed by the learned Judges, before the Constitution of India came into force, the remedy of a writ of mandamus was subject to the conditions laid down in Section 45 of the Specific Relief Act. Article 226 of the Constitution has now provided the remedies by way of various writs included that of mandamus, but without any of the requirements or limitations contained in the proviso to Section 45 of the Specific Relief Act. So, the learned counsel cannot, in our opinion, derive any support from the said passage in the decision cited by him.

(18) The learned counsel for the appellant also cited the decision in *Nanbat Rai v. Union of India*, Air 1958 P&H 137, had relied upon the observations in paragraphs 26 and 27 of the judgment regarding the requisites of a writ of mandamus. In paragraph 26, the learned counsel Judge, Kanpur, J., referred to the provisions in Section 45 of the Specific Relief Act. In paragraph 27, the learned Judge referred to the decision in *The Jupiter General Insurance Co. Ltd. Vs. Rajagopalan and Another*, , as well as the observations of Banerjee, J., in *Union of India (UOI) and Another Vs. Elbridge Watson*, , to the effect that Section 45 of the Specific Relief Act has not been repealed by Article 226 of the Constitution and that the Article has enlarged the jurisdiction of the courts for the issue of writs mentioned in that Article. Then, on the facts of that particular case, the learned Judge, Kapur, J., held that the petitioner before him "was not able to bring his case within the principles underlying Section 45 of the Specific Relief Act which are the principles which govern the issue of a writ of mandamus under Article 226". As observed by Banerjee, J. Article 226 has enlarged the jurisdiction of the Courts for the issue of writs mentioned therein. It, Therefore, seems to us that while the Court might insist in particular circumstance of those cases, on the fulfillment of the requirements in Section 45 of the Specific Relief Act, the same should not be insisted upon as a general rule in every case, and thereby place a limitation on the enlarged jurisdiction of the Court under Article 226 of the Constitution. In the present case, we have already discussed and pointed out that a writ of mandamus could be issued to the second appellant directing it to refer the case to the High Court.

(19) The last contention on behalf of the appellants is that the Chief Controlling Revenue-authority cannot make a reference u/s 57(1) of the Act unless the case is pending before it, and that consequently the High Court cannot issue a writ of mandamus directing the Authority to make a reference when no case is pending before the said Authority. The argument is that u/s 57(1), the Chief Controlling Revenue-authority can refer a case to the High Court only in a case pending before it, and that the said Authority cannot, Therefore, make a reference, if no case is pending before it. It is further pointed out that the present case, so far as the Revenue-authority is concerned, was closed by the order of the said Authority, dated 3rd March, 1964, and thereafter the case was not pending

before the said Authority, and that the writ petition filed in the High Court was for the issue of a writ of certiorari quashing the order of the Chief Controlling Revenue-authority, dated 3rd March, 1964 and when the High Court declined to issue a writ of certiorari, it could not issue a writ of mandamus to the Revenue-authority, as no case was pending before the said Chief Controlling Revenue-authority.

(20) It is true that a reading of the provisions in Section 57, 58 and 59 of the Act shows that the three sections contemplate a reference to the High Court by the Chief Controlling Revenue-authority in a case which is pending before it, because the provisions in Section 58 and 59 make it clear that the High Court has to give its opinion on the question referred to it, and thereafter the Revenue-authority has to dispose of the case conformably to the judgment or opinion given by the High Court.

In other words, the entire process of making a reference to the High Court by the Chief Controlling Revenue - authority, the giving of an opinion by the High Court, in conformity with the judgment or opinion of the High Court, as indicated by the language of the aforesaid sections, is a single process in a case which is pending before the Revenue - authority. The provision of the Act do contemplate - authority in order that the case may be referred to the High Court for its opinion. This has been held in a number of decisions, and we may refer to one of them viz., Board of Revenue Vs. Lakshmipat Singhanian, . But, the question now raised on behalf of the appellants is, when, as in the present case, the case before the Revenue -authority was closed dated march 1964, and no case as such was pending before it, could the High Court issue a writ of mandamus directing the Authority to refer the case to the High Court ? On this question, there are three decisions of the High Court of Madras viz., V.S. Shanmugha Mudaliar Vs. Board of Revenue, Madras and Another, , N. Saradambal Ammal Vs. The Chief Controlling Revenue Authority, Madras, and Sundaram Finance Private Ltd. Vs. Board of Revenue and Another, which have to be considered

(21) In V.S. Shanmugha Mudaliar Vs. Board of Revenue, Madras and Another, , the Revenue Divisional Officer levied stamp duty and penalty on a document on the ground that it was a Partition Deed. An appeal against that order to the Board of Revenue was dismissed on the ground that there was no reason to interfere. The aggrieved party thereupon filed writ petition the High Court of Madras for the issue of a writ of certiorari quashing the order of the board of Revenue, but the High Court dismissed the writ petition on the ground that the order of the Board of Revenue was not contrary to the principle of natural justice. Thereafter, the aggrieved assessed filed another application for a writ of prohibition or other appropriate order to restrain the Board of revenue from enforcing the stamp duty and penalty. That writ petition was dismissed by a Single Judge on the ground that by the dismissal of the prior writ petition, there was a final adjudication that the stamp duty imposed by the Revenue Divisional Officer was not correct. In a further appeal under the Letters Patent to a Division

Bench of the same High Court,, Rajamannar, C.J. and somasundaram, J. Relying on the decision of the Supreme Court in Chief Controlling Revenue Authority and Superintendent of Stamps Vs. Maharashtra Sugar Mills Ltd., , held that though the order of the Revenue Board to make reference to the High Court u/s 57 of the Indian Stamp Act. The learned Judges pointed out that the decision of the Supreme Court is ample authority for the position that in an appropriate case, the High Court can and ought to issue a writ in the nature of mandamus to direct the Board of Revenue to make a reference to the High Court.

(22) In N. Saradambal Ammal Vs. The Chief Controlling Revenue Authority, Madras, , the question arose as to the proper stamp duty livable on a document styled as an Exchange Deed. The Registrar of Assurances, who was the Collector within the meaning of the Act, fixed at a certain amount as stamp duty chargeable on the document and also levied a certain amount as penalty. The aggrieved assessed thereupon filed a petition before the Chief Controlling Revenue-authority u/s 56 of the Stamp Act praying that the document may be declared to have been properly stamped, or in the alternative, that the case might be referred to the High Court u/s 57(1) . The Revenue-authority held that there was no reason to interfere with the order of the Collector and that there was no necessity to refer the matter to the High Court. The assessed thereupon filed a writ petition in the High Court under Article 226 of the Constitution praying for the issue of a writ of mandamus directing the Revenue-authority to refer the case to the High Court u/s 57(1) of the Indian Stamp act. The writ petition was resisted on behalf of the Revenue-authority on the ground that a reference can only be of a matter which is pending before the Revenue-authority, there was no case in respect of which a decision of the High Court was necessary, and consequently the Revenue-authority would have no jurisdiction to refer the matter to the High Court u/s 57(1) of the Act, and that the High Court cannot issue a writ of mandamus directing the Revenue-authority to do an act which it had no jurisdiction to do. The writ petition was heard by a learned Single Judge of the High Court, Ramachandra Iyer, J. (As he then was). The learned Judge referred to the decisions in (1902) 25 Mad 751, (1902) Mad 752, Cook and Kalvey In Board of Revenue Vs. Lakshmipat Singhania, , relied upon by the Revenue-authority. The principle laid down in those decisions was "that the expression "case" in Section 57 of the Act means a case that has not been already finally and conclusively determined by the Collector or other competent authority, and that unless the Revenue-authority has still resting upon it the duty of disposing of a case, it is not intended by the statute that it should have a right to make reference to the High Court". The learned Judge then observed:-

"It is no doubt correct to say that on the terms of Section 57, the Chief Controlling Revenue-authority would have jurisdiction to refer only a pending case for the decision by the High Court. But, after the Constitution, the matter might stand on a different fotoing. As under Article 226 of the Constitution it would be open to the High Court to issue a writ of certiorari to quash an order of an inferior Tribunal finally deciding the duty payable, the question of pendency of

the case has not much importance when the person aggrieved has sought the issue of a writ under Article 226 of the Constitution". The learned Judge then referred to another decision of the same High Court in *Appala Narsimhalu v. Board of Revenue, Madras*, (1952) 1 M Lj 641, in which, after a Revenue Petition filed before the Revenue Board for revising the levy of certain Stamp duty and penalty was dismissed, the Assessee moved the Revenue Board by a petition for referring the matter to the High Court. The Revenue Board declined to do so. Thereupon, a petition under Art. 226 of the Constitution was filed in the High Court for a writ of mandamus directing Revenue Board to refer the matter to the High Court u/s 57 of the Indian Stamp Act. Subba Rao, J., (as he then was) held that the High Court could issue a writ directing the Revenue Board to refer the question involved in the case. The learned Judge, Ramchandra Iyer, J., then referred to the decision in *V.S. Shanmugha Mudaliar Vs. Board of Revenue, Madras* and Another, , to which we have already referred above. The learned Judge Ramachandra Iyer, J., next referred to and declined to agree with the decision in *L. Nanak Chand Mehrotra and Others Vs. Board of Revenue, U.P. at Allahabad* and Another, , in which a Division Bench of the High Court of Allahabad did not accept the two aforesaid decisions of the High Court of Madras on the ground that the question whether a reference u/s 57 could lie when there was no case pending before the Chief Controlling Revenue-authority, was not considered therein. The learned Judge gave the reasons for his view as follows:-

"With great respect to the learned Judges of the Allahabad High Court, I am of the view that for the purpose for the issue of an appropriate writ under Article 226 of the Constitution, that question would not arise. If, in the opinion of the High Court, the final decision of the Revenue-authority was without jurisdiction, or was vitiated by an error on the face of the record, the High Court would have ample jurisdiction to issue a writ and thereby quash the final order of the Revenue-authority. In such a case, the matter would be pending before the Revenue-authority and the High Court would have jurisdiction to direct a reference u/s 57(1) of the Act. I am, Therefore, of opinion that whatever might have been the position the Constitution, by virtue of Article 226 of the High court's power to issue an appropriate writ to direct a reference u/s 57(1) of the Act does not depend upon the pendency of a case before the Chief Controlling Revenue-authority. The result is that while the Chief Controlling Revenue-authority may not have power to refer the matter u/s 57(1) in a case where there is no matter pending before it, that it to say, after the matter had been disposed of by any subordinate authority or by itself, the matter would be different when the High Court is approached under Article 226 of the Constitution for the issue of a writ of certiorari to quash the final order of the inferior Tribunal or to issue a writ of mandamus to direct the Chief Controlling Revenue-authority to refer the case. If, such a direction is given , the order, which has finally disposed of the matter, is deemed to have been quashed and the matter set at large. I am, Therefore, of opinion, that it would be open to this Court to issue an appropriate writ in the circumstances of the case." (23) We respectfully agree

with the above reasoning and conclusion of the learned Judge Ramachandra Iyer, J., in the aforesaid decision.

(24) In *Sundaram Finance Private Ltd. Vs. Board of Revenue and Another*, , after the Board of Revenue refused to revise the stamp duty and penalty levied by the Collector, the assessed moved the Revenue Board to refer the case to the High Court u/s 57 of the Act. The Revenue Board dismissed that petition. Thereupon, the assessed filed a writ petition in the High Court, *srinivasan J.*, relying upon the decision of the Supreme Court in *Chief Controlling Revenue Authority and Superintendent of Stamps Vs. Maharashtra Sugar Mills Ltd.*, and the decision of the High Court of Madars in *V.S. Shanmugha Mudaliar Vs. Board of Revenue, Madras and Another*, , issued a writ of mandamus directing the Board of Revenue to refer the case to the High Court.

(25) Further, in the present case, the learned Judge, *Mehar Singh, J.*, was of the opinion that the question involved in the case was a substantial question of law which depends upon the interpretation of the document in question, and that it was a proper case in which the Revenue-authority ought to have exercised its power u/s 57 of the Act and referred the matter to the High Court. Apparently, the learned Judge, *Mehar Singh, J.*, felt that instead of dealing with the merits of the case in exercise of the writ Jurisdiction under Articles 226, it would be a better disposal to hear the matter on a reference u/s 57 of the Act, as it would have a wider scope of enquiry than in a writ proceeding and, Therefore, issued the direction to the Revenue-authority. Apart from this, the appellants herein asked for a larger relief of the issue of a writ of certiorari quashing the order of the Revenue-authority, and the learned Judge granted a lesser relief of a writ of mandamus directing the Revenue-authority to under the case u/s 57 of the Act. Moreover, as already observed by us earlier, the High Court's power under Article 226 of the Constitution are very wide, and the direction to the Revenue-authority could be given either as a direction or as an order, if not by way of a writ of mandamus. The order of the learned Single Judge cannot, Therefore, be said to be contrary to law or without jurisdiction, nor was there any other legal infirmity in the order. In our opinion, the order was a just and proper one inasmuch as the parties would have the advantage of a wider scope of enquiry in a reference u/s 57 of the Act than in a writ proceeding.

(26) For all the above reasons, we confirm the judgment and order of the learned Single Judge, and dismiss this appeal with costs.

(27) Appeal dismissed.