

(2011) 11 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15631 of 2009

Vipan Kumar Verma and another

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Stamp Act, 1899 — Article 40

Citation : (2011) 11 P&H CK 0140

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The writ petition challenges the order treating the document of memorandum of deposit of title deed as creating a mortgage and seeking for application of Article 40 of the Indian Stamp Act. The contention of the petitioners is that the document itself is not the bargain between the parties but merely records the fait accompli of already established facts of the deposit. The particular recitals which are in the document are:-

The executants had already deposited on 15.12.2005 the following documents of title relating to their immovable properties listed hereunder with the Bank with intent to create an equitable mortgage in favour of the Bank over the property to which the documents relate to and described hereunder for the purpose of securing the repayment to the bank of all the amounts owing to the Bank under advances made and to be made to M/s Jai Shree Rice Mills at village Adamwal District Hoshiarpur by way of Cash Credit Limit and term loan not exceeding Rs.81,22,000/-together with interest charges thereon made and to be made to Jai Shree Rice Mills at village Adamwal District Hoshiarpur.

2. This only shows that the documents of title have been deposited and the memorandum is merely a record of such a fact. The document does not require, therefore, to be stamped in the manner required under Article 40 of Indian

Stamp Act. This is governed by substantial case law on the subject and it does not require a review on the same except to state the law enunciated by the Hon"ble Supreme Court as early as in K.J. Nathan Vs. S.V. Maruty Reddy and Others, .

3. The impugned order is quashed and the writ petition is allowed.