OD-5

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/5/2019 (Old No: GA/2025/2019)
[OLD NO. CS/221/2010]
In CS/40/2024

CHANDRA PRAKASH JHUNJHUNWALA
Vs
THE NUCLEAR POWER

BEFORE:
The Hon'ble JUSTICE BIVAS PATTANAYAK
Date : 1st August, 2024.

Appearance:

Mr. Rahul Karmakar,
Ms. Ishita Kundu,
Advocates for the plaintiff.

Mr. Anil Kr. Dhar,
Advocates for defendant.

The Court:- Perused the report of the learned Registrar, Original Side dated 30th July, 2024 as submitted in terms of the order dated 9th May, 2024.

By order dated 26th June, 2018 following direction was issued:

"On perusal of Section 33 of the Indian Stamp Act, 1899, it appears that if an instrument has not been duly stamped, every person or authority being entitled to receive evidence shall impound the said document. However, under Section 33 (2)(b), a Judge of a High Court can delegate the power of examining and impounding any instrument which has not been duly stamped to an Officer appointed for this purpose.

In view of the above, the Registrar, Original Side is appointed to examine and impound the lease deed dated 25th August, 1988 which was sought to be relied upon by the counsel for the plaintiff in the examination-in-chief on 18th June, 2018. The Registrar, Original Side shall proceed in accordance with the provisions of The Indian Stamp Act, 1899 as well as relevant entries of the Stamp Duty Manual, West Bengal as well as any other relevant statutes which may be applicable in the instant case. The Registrar is also at liberty to adjudicate upon *the penalty involved or refer the said issue as provided under The Indian Stamp Act, 1899."*

In compliance thereof a copy of lease deed dated 25th August, 1988 was forwarded to the Collector of Stamp Revenue, Kolkata for examination and report. The Controller-in-Charge, Stamp Revenue by its letter dated 30th November, 2018 has informed that the Stamp Duty assessed under Section 35(1)(ii) of Schedule I A of Indian Stamp Act is Rs. 84,521/- and penalty under Section 35 of the Act is Rs. 479/- total amounting Rs. 85,000/-.

Mr. Rahul Karmakar, learned Advocate for the plaintiff submits that the plaintiff is agreeable to deposit the stamp duty and penalty assessed by the concerned Department.

Learned Advocate representing the plaintiff is directed to take necessary steps so that the stamp duty and penalty assessed, may be deposited within the returnable date.

Learned Registrar, Original Side is directed to take steps for depositing of the stamp duty and penalty as assessed and registration of the said lease deed upon deposit of necessary charges.

List this matter after three weeks.

(BIVAS PATTANAYAK, J.)

D.Ghosh
AR(CR)