courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 09/11/2025

(1955) 04 AHC CK 0014

Allahabad High Court

Case No: First Appeal No. 241 of 1952

Abdul Hamid	APPELLANT
Vs	
Abdul Rahim and Others	RESPONDENT

Date of Decision: April 14, 1955

Acts Referred:

- Uttar Pradesh Court Fees Act, 1870 - Article 1, 4

Citation: AIR 1955 All 510 : (1955) 25 AWR 392

Hon'ble Judges: Mootham, C.J; Randhir Singh, J; Raghubar Dayal, J

Bench: Full Bench

Advocate: Maheshwari Dayal and Guru Dayal Srivastava, for the Appellant; S. Sadiq Alli and S.C., for the Respondent

Final Decision: Disposed Of

Judgement

Mootham, C.J.
On 13-1-1955, an application was made by the appellant under Rule 13 of Chap. 13 of the Rules of Court for the translation and printing of such parts of the record of the trial court as were considered necessary at the hearing of the appeal. The application was made on, the prescribed form, and in accordance with the provisions of Rule 14 was presented to the Deputy Registrar, The application was unstamped, and the appellant contended that no court-fee was payable thereon. The practice in Allahabad has been to require such applications to bear a court-fee stamp of Rs. 3-12-0, but a different practice prevails in Lucknow where such applications are not stamped, and that practice has been approved in the recent case of -- " Baij Nath Das Vs. Sri Ram Charan Das, . As the question is one of great practical importance it has been referred to a Full Bench for further consideration.

2. In "Baij Nath Das"s case (A)" the view taken was that applications for translation and printing are not applications for the exercise of the judicial functions of the officer of the

Court to whom they are presented, and that they did not therefore require to be stamped. With great respect we do not think that is a wholly correct approach to the problem for a court-fee is payable on many applications or petitions in which the prayer is for the exercise of purely administrative functions, as for example in the case of an application to a District Magistrate for permission to have a display of fireworks or for a police escort (see item 1(b) of Schedule II, Court-fees Act).

3. In our opinion the answer to the question whether a court-fee is payable on applications for translation and printing will depend upon whether such applications come within the ambit of Section 4, Court-fees Act, 1870, which so far as is material reads as follows:

"4. No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received ..... by any of the said High Courts in any case coming before such Court ..... in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence .... unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document."

Item 1(e) of Schedule II of the Act is as follows:

1. Application or petition.	(e) When presented to a High Court:	
	(1) Under the Indian Companies Act, 1913, (Act 7 of 1913), for winding up a Company.	Sixty-two rupees, eight annas.
	(2) Under S. 115, Civil P. C., 1908 (Act 5 of 1908), for revision of an order.	Five rupees.
	(3) In any other case.	Three rupees, twelve annas,

4. We entertain no doubt, and it was indeed conceded before us, that an application for translation and printing, although it must be presented to the Deputy Registrar under the Rules, is an application presented to the Court. The form on which the application must be made bears the heading "In the High Court of Judicature at Allahabad", and it is presented to the Deputy Registrar as an officer of the Court. Nor can we hold otherwise

than that such an application is "filed in or received by" the court in a "case" coming before it (in the present circumstances) in the exercise of its jurisdiction "as regards appeals from the courts subject to its superintendence". We are therefore of opinion that such applications must bear a court-fee stamp of Rs. 3/12/-.

5. It is argued that an application for translation and printing is in no way different from certain other applications for which provision is made in the Rules of Court and which are there treated as not coming within the scope of Section 4, Court-fees Act. These are applications for information (Chap. 8, Rule 30), for inspection of a record (Chap. 39), and for copies (Chap. 40). It appears to us that these applications may stand on a different footing. It is however unnecessary and undesirable that we should express a concluded opinion with regard to the fee payable on these applications for that is not a matter which is before us. The fact that these applications have been treated in the Rules as not coming within the scope of Section 4, Court-fees Act is, strictly speaking, not relevant to the question whether an application for translation and printing does come within the ambit of that section.

6. The Bench which decided "Baij Nath Das"s case (A)" did not have the advantage of hearing argument on behalf of the State, and it does not appear from the short order made by the Court that its attention was invited to the provisions of Section 4, Court-fees Act. With great respect we are of opinion that so much of the order of the Court in that case as decides that an application for translation and printing does not require to be stamped does not appear to be in accordance with law, and must be overruled.