

Goutam Ghosh Vs Mahim Chatterjee

Court: Calcutta High Court

Date of Decision: March 25, 2010

Acts Referred: Constitution of India, 1950 " Article 227
Stamp Act, 1899 " Section 33

Citation: (2011) 2 CHN 490

Hon'ble Judges: Jyotirmay Bhattacharya, J

Bench: Single Bench

Advocate: Gaurav Kumar Basu, for the Appellant; K.C. Arya, for the Respondent

Judgement

Jyotirmay Bhattacharya, J.

The complainant filed a complaint case before the learned State Consumer (sic) Redressal Commission, West

Bengal for enforcement, of an agreement (sic) between the parties. The agreement which was sought to be enforced (sic) executed on 1st July,

1996. Since the said agreement was executed by the (sic) on an insufficiently stamp document, the Petitioner herein filed an application before the

learned State Commission for impounding the said document.

2. Admittedly, the said document was produced by the complainant before the learned State Commission on 27th January, 2005 along with an

authenticated copy thereof. The learned State Commission, after comparing the authenticated copy of the said agreement with the original

agreement, returned the original agreement to the complainant and the authenticated copy was retained with the record.

3. Since the original agreement for sale has not been produced by the complainant before the learned State Commission subsequently, the learned

State Commission rejected the Petitioner's prayer for impounding the said document.

4. As such, the Petitioner is aggrieved. Hence, the Petitioner has filed the instant application under Article 227 of the Constitution of India before

this Court.

5. Heard the learned Advocates for the parties. Considered the materials-on-record including the order impugned.

6. Let me now consider as to how far the learned State Commission was justified in passing the impugned order in the facts of the instant case.

7. No. doubt, it is true that it was the duty of the learned State Commission to impound the said agreement for sale when the said document was

produced by the complainant before the learned State Commission on 27th January, 2005, but fact remains that the original document was

returned to the complainant. Since the original document is not presently available to the learned State Commission, Section 33 of the Indian

Stamp Act, 1899 cannot be invoked in the present case.

8. Since Section 33 of the said Act does not authorise the learned State Commission to impound the copy of the agreement for sale, this Court

does not find any illegality in the order which is impugned in this revisional application.

9. However, it is made clear that whenever the said document in original will be produced by the complainant for enforcement of the said

agreement before the learned State Commission, the learned State Commission will consider the sufficiency of the stamp duty paid on such

agreement, executed by the parties and will pass appropriate order in the light of the provision u/s 33 of the said Act.

10. The revisional application is, thus, disposed of. Urgent xerox certified copy of this order, if applied for, be given to the parties, as expeditiously

as possible.