

1964

Present : Sri Skanda Rajah, J., and Sirimane, J.

PANDITA DHAMMINDHA NAYAKA THERO, Petitioner, *and*
F. J. DIAS, Respondent

S. C. 476/64—Application for Revision in D. C. Colombo, 781/Z

Stamp duties—Application in revision—Production of certified copies of Court proceedings—Value of stamps which should be affixed—Civil Procedure Code, s. 205—Stamp Ordinance (Cap. 247), Schedule A, Part I, item 24 ; Part II, items 11, 32, 33.

In an application for revision, certified copies of proceedings in a District Court case, certified by the Secretary of that Court, and stamped according to the value or "class" of that action, as set out in Part II of the Stamp Ordinance, need not be stamped again when they are produced in the Supreme Court. Item 24 of Part I of Schedule A of the Stamp Ordinance does not apply to certified copies of proceedings in Court which are specially provided for in Part II.

APPPLICATION to revise an order of the District Court, Colombo.

H. V. Perera, Q.C., with *Miss Maureen Seneviratne*, for Petitioner.

J. G. T. Weeraratne, Crown Counsel, with *A. A. D. de Silva*, as *Amicus Curiae*.

Cur. adv. vult.

December 16, 1964. SIRIMANE, J.—

In this application for revision, the petitioner annexed certain certified copies of proceedings in a District Court case, certified by the Secretary of that Court, and stamped according to the value or “class” of that action, as set out in Part II of the Stamp Ordinance (Chapter 247).

Section 205 of the Civil Procedure Code provides as follows:—

“ Upon being paid such fee as the court shall from time to time determine, the secretary or chief clerk of the court shall at all times furnish to any person applying for the same, and supplying the necessary stamp, copies of the proceedings in any action, or any part thereof, or upon such application and production of such stamp shall examine and certify to the correctness of any such copies made by such person.”

The Registrar of the Supreme Court had refused to accept these papers on the ground that they were not properly stamped. His contention, shortly, is as follows:—Certified copies of documents issued by a public officer fall under Item 24 of Part I in Schedule A to the Stamp Ordinance, which provides for a stamp duty of Re 1 on such a copy. He contends that thereafter, when such certified copies are produced in Law proceedings they should be stamped again according to the Class of the case and the Court in which they are produced, as set out in Part II of the Stamp Ordinance. The proctor for the petitioner has contested the correctness of the Registrar’s contention, and has submitted that the certified copies have been correctly stamped by the certifying officer, and that no further stamping is necessary.

The question whether these exhibits have been correctly stamped has been referred to us.

Item 24 referred to above reads as follows :—

“ 24. Copy or extract, certified, of any document issued by a Public Officer not otherwise specially provided for 1·00 ”

The item appears in Part I of Schedule A, the heading, of which reads as follows :—

“ Containing the duties on instruments of conveyance, contracts, obligations, and security for money ; on deeds in general and on other instruments, matters and things not falling under Parts II, III, IV and V.”

Item 33 in Part II under the heading “ In the District Court.” is as follows :—

“ 33. Copy duly certified of all matters of record not otherwise provided for” (The different stamp duties according to the class of the case are then set out.)

I think it is clear that item 24 which appears in Part I does not apply to certified copies of proceedings in Court which are specially provided for in Part II.

A document which is properly stamped need not be stamped again when produced in Court proceedings.

Item 11 in Part II which applies to stamp duties on documents produced in the Supreme Court provides for the payment of duty on an “ Exhibit of every document on which no stamp is affixed or impressed unless the duplicate bears a stamp ”.

Item 32 makes a similar provision for documents produced in the District Court.

The learned Crown Counsel whose assistance at the argument we thankfully acknowledge, while placing before us the Registrar's point of view, also drew our attention to the fact that Item 24 was introduced only in 1919 by Ordinance No. 32 of that year, while duties on law proceedings were provided for, even as far back as 1890 (See Schedule to Stamp Ordinance 3 of 1890).

For these reasons we are of the view that the exhibits in this case have been correctly stamped and should be accepted.

SRI SKANDA RAJAH, J.—I agree.

Exhibits declared to have been correctly stamped.