

of complaints. The section merely prohibits the entertainment of a complaint in a Court governed by the Procedure Code without a sanction.

QUEEN-
EMPRESS
".
VENKAYYA.

We set aside the acquittal and direct the Sessions Judge to rehear the appeal.

APPELLATE CIVIL—FULL BENCH.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, Mr. Justice Kernan, Mr. Justice Muttusami Ayyar, and Mr. Justice Parker.

REFERENCE UNDER THE STAMP ACT, s. 46.*

1888.
March 23.

Stamp Act, ss. 3 (10), 55, 57—Duly stamped—Document issued without endorsement required by rules passed and published under ss. 55 and 57.

The omission of a stamp vendor to endorse on a stamped paper the particulars required by rule (9) of the revised rules published under ss. 55 and 57 of the Indian Stamp Act, 1879, by the Government of Madras, with the approval of the Governor-General in Council, does not render a document "not duly stamped" within the meaning of s. 3 (10) of the Indian Stamp Act, 1879.

REFERENCE under s. 46 of the Indian Stamp Act, 1879, by the Board of Revenue.

The case was stated by the Secretary to the Board of Revenue as follows:—

"The enclosed agreement was executed by the toddy farmer of Sidhout on a stamp paper supplied to him by the Tahsildar. By an oversight the usual endorsement required by rule 9 (a) of the Madras Government Notification, No. 129, dated 24th July 1883, was not made on the document. The question for decision is—Whether the omission of the endorsement renders the document not duly stamped.

"On the one hand it may be urged that 'duly stamped' means 'stamped in accordance with the law,' s. 3 (10) of the Act. The rules framed under s. 55 have the force of law (s. 57), and one of those rules is that above referred to which prescribes that the stamp vendor 'shall write on the back of every stamp paper which he sells' a certain endorsement. It may be argued that this is a

* Referred Case 5 of 1888.

REFERENCE
UNDER STAMP
ACT, s. 46.

legal obligation and that its breach renders the documents 'not duly stamped.'

"On the other hand it may be argued that these rules issued by the Local Government, subject to the control of the Governor-General in Council under s. 55, concern the executive duties of the stamp vendors, and are to be broadly distinguished from the rules framed by the Government of India Notification, No. 1288, dated 3rd March 1882, which concern the proper stamps to be issued in certain cases. It may be also contended that if an instrument was not 'duly stamped,' because the stamp vendor violated rule (9) above referred to, as regards the endorsement, it would be equally 'not duly stamped' if he failed to make the entries in his register required by the same rule. The Board are not agreed on the point and therefore deem it desirable to obtain an authoritative decision of the High Court."

The Government Pleader (Mr. Powell) appeared on behalf of the Board of Revenue.

The Full Bench (Collins, C.J., Kernan, Muttusami Ayyar and Parker, J.J.) delivered the following

JUDGMENT:—We are of opinion that the document in question is duly stamped.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Shephard.

CHANDU (DEFENDANT No. 2), APPELLANT,

and

RAMAN (PLAINTIFF), RESPONDENT.*

Malabar law—Decree for maintenance against karnavan—Execution against tarwad property.

A member of a Malabar tarwad having obtained a decree for maintenance against her karnavan, assigned the decree to the plaintiff, who proceeded to execute it against the tarwad property. The then karnavan objected and his claim was allowed. In a suit by plaintiff to have it declared that he was entitled to execute the decree against tarwad property:

Held that the plaintiff was entitled to execute the decree against the tarwad property.

* Second Appeal No. 689 of 1887.