

1873.
July 15.

[APPELLATE CIVIL JURISDICTION.]

Referred Case.

IN RE TUKA'RA'M HARI A'TRE ET AL.

General Stamp Act XVIII. of 1869, Secs. 3 and 14—Conveyance.

An instrument, which purports to convey two or more properties for a sum of money, composed of items described in the instrument as the values of those properties, is simply a deed of sale coming under the definition of "conveyance" in Act XVIII. of 1869, Sec. 3. The stamp duty, properly leviable upon such an instrument, should, therefore, be calculated upon the aggregate sum specified therein, and not upon the various items composing that sum.

THIS was a reference, under Act XVIII. of 1869, Sec. 41, by W. H. Havelock, Revenue Commissioner, Southern Division, for the decision of the High Court.

On the 15th October 1872, Tukárám Hari A'tre executed to Govindráv Chintáman Jog an instrument, the material portions of which are given below :—

"* * * Having received from you Rs. 1,000, one thousand, I have sold to you my estates as particularly described below..

"* * * My own dwelling-house consisting * * *
Value Rs. 375.

"Mirási land * * * Value Rs. 125

"Mortgaged land * * * Value „ 200

"Land situated * * * Value „ 125

"Land situated * * * Value „ 175

"The house and lands, as described and mentioned above, being my own by purchase, together with my *mirási* rights and mortgage lien thereon, I have sold to you as mentioned above * * * "

This instrument, stamped with a stamp of the value of Rs. 10, having been presented for registration to the Subordinate Registrar at Haveli, he objected that it was

insufficiently stamped, the amount of stamp duty having been calculated upon the aggregate sum not upon the various items for which each property had been priced. The Inspector General of Registration was of the same opinion; but, as the Registrar of the district and the Revenue Commissioner held the opposite view, Mr. Havelock referred the case for the orders of the Court.

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 IN RE TUKA'-
 RA'M HARI.

The reference was heard by WESTROPP, C.J., and MELVILL and NA'NA'BHA'I HARIDA'S, JJ.

WESTROPP, C.J.:—The document, the subject of the present reference, is simply a deed of sale, coming solely under the definition of “conveyance” in Act XVIII. of 1869, Sec. 3. Sec. 14 of the Act is applicable only to instruments “so framed as to come within *two or more* of the definitions in Sec. 3,” and the provisoes contained in that section, must be understood as applicable only to the instruments with which the section professes to deal. The document in question here accordingly does not fall within that section or its provisoes, and is, in our opinion, sufficiently stamped.

Reply accordingly.

Act XVIII. of 1869, Section 3 (11):—‘Conveyance’ means any instrument (except a transfer of a share in a company or association, a mortgage deed, a settlement, a lease, an instrument of re-conveyance of mortgaged property, a composition deed, an instrument of gift, or an instrument of exchange or partition deed, where no money is paid for equality of exchange or partition) by which property is conveyed *inter vivos*.