

1888

JULY 16.

APPEL-
LATE
CIVIL.

13 B. 280.

13 B. 280.

[280] APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, Mr. Justice Nanabhai Haridas and Mr. Justice Birdwood.

IN THE MATTER OF AMBAI AND ANOTHER.* [16th July, 1888.]

Stamp Act, I of 1879, art. 38, sch. I—Deed acknowledging former adoption and investing the person adopted with powers of a son—Such deed exempt from stamp duty.

Ambai, who was a childless Hindu widow, acknowledged the fact of the due adoption of Ravbhaji by a deed which recited that she having been childless had asked the father of the executee to give the executee in adoption, and he having consented, the executee was adopted with due ceremonies on the 1st August, 1887. It further recited that the original name of the executee was changed, and the executee was thenceforth to bear the changed name, and to get all the powers which usually vested in a son. The Commissioner, C.D., feeling doubt as to whether it could be treated as a deed of adoption, referred it for the opinion of the High Court.

Held, that the document was distinct from an adoption deed or authority to adopt so as to be liable to stamp duty under Act I of 1879, art. 38, sch. I, and that it was not liable to any stamp duty.

[F., 13 B. 281.]

REFERENCE by Arthur Crawford, Commissioner, C. D., under s. 46 of Stamp Act I of 1879.

The question referred by the Commissioner, C. D., for the High Court's decision was:—

With what stamp duty is the following deed of adoption chargeable?

The Commissioner was of opinion that the document was distinct from an "adoption deed" or "authority to adopt," which is liable to stamp duty under art. 38 of sch. I of the Stamp Act, and that it was not liable to any stamp duty at all:—

"(Deed of adoption.)

"It is about two years since I lost my husband Eshvant Ravbhaji. I have no male or female issue. Without an issue the existence of a man in this world is in vain, and without a male issue in the next world absolution is not possible: There being also no one in whose name the patilki vatan could be held hereafter, I spoke to your father Chimnaji valad Nanaji of whom you are the youngest son, and he having consented, I placed you [281] in my lap on the 1st of August, 1887, and adopted you as my son according to the customs and usages of the Hindu religion. You have thus become my son from that date. Your name Bhima valad Chimnaji in the old house is changed to Ravbhaji valad Eshvant from the said date, and you will, therefore, now use that name everywhere. You have got all the powers usually vested in a son. I have executed this adoption deed of my free will and pleasure.

"[Signature of AMBAI KOM YESHVANT.]"

There was no appearance for the parties.

OPINION.

Per Curiam:—We concur with the Commissioner, C. D.

* Civil Reference No. 3 of 1888.