

18 B. 546 (F.B.).

[546] APPELLATE CIVIL FULL BENCH.

Before Sir Charles Sargent, Kt., Chief Justice, Mr. Justice Candy  
and Mr. Justice Fulton.

1893  
SEP. 26.

FULL  
BENCH.

18 B. 546  
(F.B.).

MANJUNATH MANGESHAYA BAINDUR (*Plaintiff*) v. MANGESH  
SHESHAGIRIAPA GOKARNKAR (*Defendant*)\* [26th September, 1893.]

*Stamp—Stamp Act I of 1879, sch. II, art. 13, cl. (c)—Salt-pans—Lease.*

A counterpart of a lease of salt-pans held not to be exempt from stamp duty, as it did not purport to be a counterpart of a lease granted to a cultivator.

REFERENCE from Rao Sahab H. S. Phadnis, Subordinate Judge of Kumta in the Kanara District, under s. 49 of the Stamp Act (I of 1879).

The plaintiff let his salt-pans to the defendant and brought a suit on the agreement. At the hearing he tendered in evidence a counterpart of the lease or agreement which was not stamped. He contended that it was exempt from stamp duty under sch. II, art. 13 (c) of Act I of 1879.

The Subordinate Judge referred the following question to the High Court:—

“Is the counterpart of a lease of salt-pans exempted from stamp duty under Stamp Act I of 1879, sch. II, art. 13?”

The following is an extract from the reference:—

“Schedule II, art. 13 (c) of Act I of 1879 exempts counterpart of any lease granted to a cultivator;” and the question is, whether the defendant can be considered a cultivator. It is admitted that the defendant took his lease for the production of salt in plaintiff’s salt-pan. A cultivator, according to Webster, is a *tiller* of the soil; while the production of salt requires no tilling. The Salt Act, XII of 1882, invariably uses the word ‘manufacture of salt’ and not ‘cultivation of salt’ to denote the production of salt. I am, therefore, of opinion that the exemption does not extend to leases of salt-pans.”

[547] The following is a translation of the counterpart of the lease:—

“The 5th of May 1889 A.D. To Manjunath Mangeshaya Bindur, residing at Haneballi, in the taluka of Kumta.

“(I) Mangesh Sheshagiri Gokarnkar Mogeri give in writing (this) counterpart lease of a salt-work. In the salt-work No. 56 situate in the saja of Nagrabail, you have a share of  $1\frac{3}{4}$  chittas. This I have rented from you for this the current year of 1889 A.D. for a fixed rent settled at Rs. 142. This money I will pay you in full by the 30th of Magh in the current year Virodhi (19th of February, 1890) and obtain back this counterpart of lease with your endorsement (of payment on it). I will at my own expense hire a place and store in the salt produced in your salt-work.”

ORDER.

FULTON, J. (SARGENT, C. J., CANDY, J., concurring).—As the document referred does not purport to be the counterpart of a lease granted to a cultivator, we agree with the Subordinate Judge in thinking that it is not exempted from stamp duty by cl. (c) of art. 13 of sch. II of the Indian Stamp Act, 1879.

*Order accordingly.*

\* Civil Reference No. 6 of 1893.