

REVISIONAL CIVIL.

Before Bhandari, C. J.

INCOME-TAX OFFICER, ROHTAK,—*Petitioner.**versus*SHRIMATI JANKI DEVI AND UNION OF INDIA,—
Respondents.

Civil Revision No. 204 of 1954.

~~Fatal Accidents Act (XIII of 1855)—Power of Court to~~~~Income-tax Act (XI of 1922)—Section 54—Case under~~
*require Income-tax Officer to give evidence as to whether certain person was or was not assessed to Income-tax.**Case under
Power of Court*

1955

Sept., 2nd

Held, that a Court is not at liberty to require an Income-tax Officer to give evidence as to whether a person was or was not assessed to income-tax unless the provisions of any law for the time being in force require that this fact should be established. No statutory obligation has been imposed on a defendant in a case under the Fatal Accidents Act to establish that the person who lost his life in the accident was or was not assessed to income-tax. Therefore, it was not within the competence of the Senior Sub-Judge to summon the Income-tax Officer and to enquire from him, whether the deceased was or was not assessed to income-tax.

Petition under section 44 of Act IX of 1919, and Article 227 of the Constitution of India, for revision of the order of Shree Rameshwar Dial, Senior Sub-Judge, Gurgaon, dated the 26th May, 1954, ordering the petitioner to give evidence on 23rd June, 1954.

S. M. SIKRI, Advocate-General and H. R. MAHAJAN, for the Petitioner.

D. N. AGGARWAL and N. L. SALOOJA, for the Respondents.

JUDGMENT.

Bhandari, C.J. BHANDARI, C. J. This petition raises the question whether the learned Senior Sub-Judge of Gurgaon was justified in requiring an Income Tax Officer to state whether a certain person was or was not assessed to income-tax.

The facts of the case are fairly simple. Certain relations of one Ram Autar who appears to have died as the result of an accident brought a suit against the Union of India under the provisions of the Fatal Accidents Act. The Union of India requested the Court to summon the Income Tax Officer of the appropriate circle with the object of showing that the deceased was not assessed to income-tax and was not a man of means. Mr. V. S. Gupta, Income-tax Officer, Rohtak, appeared in Court in response to the summons issued to him in regard to matters which had come to his knowledge in his capacity as an Income Tax Officer. The Court directed him to consult his records and to state whether the deceased was assessed to income-tax in a particular year. The witness is dissatisfied with the order and has come to this Court in revision.

Sub-section (1) of section 54 of the Income Tax Act is in the following terms:—

“54(1). All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall

be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof."

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The language of sub-section (1) is by no means clear, for it is possible to argue that although a Court cannot require a public servant to produce certain returns, accounts, documents etc., or to give evidence in respect thereof, it is at liberty to enquire from any such officer whether a person was not assessed to income-tax. The matter has, however, been placed beyond the pale of controversy by the addition of clause (m) to sub-section (3) of section 54 which declares that nothing in this Act shall apply to the disclosure of so much of such particulars to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established. If a Court is at liberty to enquire from any officer whether a person was or was not assessed to income-tax, it was scarcely necessary for the legislature to provide that in certain circumstances an officer may disclose such particulars as are necessary to establish whether a person has or has not been assessed to income-tax in a particular year. I entertain no doubt whatever that a Court is not at liberty to require an Income Tax Officer to give evidence as to whether a person was or was not assessed to income-tax unless the provisions of any law for the time being in force require

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that this fact should be established (*Venkata Seshavatha Ram and others v. Chapalamadugu Venkata Rangayya and others* (1)).

So far as I am aware, no statutory obligation has been imposed on a defendant in a case under the Fatal Accidents Act to establish that the person who lost his life in the accident was or was not assessed to income-tax. It seems to me, therefore, that it was not within the competence of the Senior Sub-Judge to summon the Income Tax Officer and to enquire from him whether the deceased was or was not assessed to income-tax.

For these reasons I would accept the petition, set aside the order of the Senior Sub-Judge and direct that the witness be discharged without being required to give the information which has been required of him.

The parties have been directed to appear before the Senior Sub-Judge on the 10th of October, 1955.