

with problems to unify and integrate people of India professing different religious faiths, born in different castes, sex or sub-sections in the society speaking different Languages and dialects in different regions and provided secular Constitution to integrate all sections of the society as a united Bharat. The directive principles of the Constitution themselves visualise diversity and attempted to foster uniformity among people of different faiths. A uniform law, though is highly desirable, enactment thereof in one go perhaps may be counter-productive to unity and integrity of the nation. In a democracy governed by rule of law, gradual

progressive change and order should be brought about. Making law or amendment to a law is a slow process and the legislature attempts to remedy where the need is felt most acute. It would, therefore, be inexpedient and incorrect to think that all laws have to be made uniformly applicable to all people in one go. The mischief or defect which is most acute can be remedied by process of law at stages". The word caution given by the great judge cannot be ignored. UCC should not be hurried.

Article 44 means a thing. It portrays a great objective and a goal to be attained.

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#### A CRITICAL STUDY OF MULTIPLE IMPORTANCE SECTION 4 OF THE NEGOTIABLE INSTRUMENT ACT, V/S-À-V/S SECTION 12(3) OF THE STAMP ACT

By

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Whether it is mandatory the promissory note should contain two signatures of the maker or borrower one as a maker or borrower and the other towards cancellation of the adhesive stamps and omission of any of either of the two would lead to the instrument being void and inadmissible in evidence?

As a prefatory caveat in order to get hang over the centripode issue that emanates for consideration, it is desirable and profitable to extract the relevant provisions of the Negotiable Instrument Act and Stamp Act.

Section 4 of the Negotiable Instrument Act defines a promissory note as follows :

“A” Promissory note is an instrument in writing (not being a bank note or currency note) containing an unconditional undertaking signed by the maker to pay certain sum

of money only to or to the order of a certain person, or to bearer of the instrument”.

It is thus evident the instrument *inter alia*, must be signed by the maker of the instrument.

#### *Section 12 Indian Stamp Act*

#### *Cancellation of adhesive stamps*

1(a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall while affixing such stamp cancel the same so that it cannot be used again.

(b) Whoever executes any instrument on any paper bearing adhesive stamp shall, at the time of execution, unless such stamp has already been cancelled in manner aforesaid cancel the same so that it cannot be used again.

(2) Any instrument bearing adhesive stamp, which has not been cancelled so that not be used again, shall, so far as such stamp is concerned be deemed be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or the name or initials of his firm with the true date of his so writing or in any other effectual manner.

It is thus evident the section explains the mode of cancellation of adhesive stamps, not merely by signature, and otherwise as suggested supra and its legal effect of non cancellation.

The writer made a diligent search for any authoritative pronouncement on this thorny issue. It appears there is no authoritative pronouncement as to the legal effect of non-compliance of two signatures as suggested supra.

However with respect to failure to cancel the adhesive stamps.

Mode of cancellation of adhesive stamps.

- (1) The cancellation may be by drawing diagonal lines across the adhesive stamps is sufficient (15 IC202).
- (2) Drawing lines across an adhesive stamp is a good cancellation (AIR 1937 Rang 408, AIR 1961 Raj. 43).
- (3) Drawing of two parallel lines on the three stamps affixed to a promissory note where the perusal of the note showed that the intention to cancel was clear (AIR 1963 AP 432).

In the back drop of these authorities it is not possible to lay down any general rule as to what mode of cancellation would be

effective. Thus whatever might be the mode of cancellation there must be cancellation of the adhesive stamps affixed to rule out the possibility of inadmissibility as unstamped and the suit on a promissory note based on a unstamped promissory note is not maintainable.

The Court has no power to direct cancellation of the un-cancelled stamps (1963 (2) An. WR 176).

### Conclusion

The Promissory note should contain two signatures of the maker one for execution as provided under Section 4 of the Negotiable Instrument Act and the other for cancellation of adhesive stamps under Section 12 of the Stamp Act by any mode as suggested supra, to avoid inadmissibility of promissory note.

*Note:*—The writing of the name of the maker or even by signature across the adhesive stamps which is meant for cancellation of the adhesive stamps as provided under Section 12 of the Stamp Act does not amount to the Signature of the borrower by itself which leads to the execution of the promissory note within the meaning of Section 4 of the Negotiable Instrument Act. There must be independent Signature of the borrower despite the signature of the borrower even otherwise on the adhesive stamps which is meant for cancellation of the adhesive stamps.

To the extent of the ability with which the writer is endowed an attempt is made seeking for an authoritative pronouncement on this centripode or thorny issue of day-to-day importance.

Any sophisticated contra-view is wroth welcome in view of its importance of day-to-day occurrence.