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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2981/2016 & CM APPL. 12542/2016

BHIM SINGH TANWAR Petitioner
Through Mr. Sunil Chauhan, Advocate
versus

COLLECTOR OF STAMPS & ANR. Respondents
Through Mr. Devendra Dedha, Advocate for
R-1 and 2.

WITH

+ W.P.(C) 2949/2016 & CM APPL. 12340/2016

BHIM SINGH TANWAR Petitioner
Through Mr. Sunil Chauhan, Advocate
versus

COLLECTOR OF STAMPS & ANR. Respondents
Through Mr. Devendra Dedha, Advocate for
R-1 and 2.

% Date of Decision : 5th April, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. At the outset, learned counsel for the respondents states that in view of the realignment of Districts, respondent no. 1 should have been Collector of Stamps/SDM Alipur and not SDM Narela. Learned counsel for petitioners

prays that respondent no. 1 be impleaded through Collector of Stamps, Alipur. Ordered accordingly. Let an amended memo of parties be filed during the course of the day.

2. It is pertinent to mention that present writ petitions have been filed challenging the judgment and order dated 30th November, 2015 passed by Additional District Judge-II (North West), Rohini in RCA Nos. 01/2012 and 02/2012 whereby the petitioners' appeals were dismissed on the ground that the documents sought to be registered fall in the category of sale deed and not release deed/relinquishment deed. Petitioners further seek a direction to respondent no.2-Sub-Registrar to register the documents as relinquishment deeds.

3. It has been averred that petitioners along with one Mr. Rishi Kumar and Mr. Gopi Chand inherited the land comprising Khasra No.29/7 (4-16) situated within the Revenue Estate of village Palla, Delhi upon demise of their mother Smt. Bhoti Devi. The land was mutated in the names of the petitioners and Mr. Rishi Kumar along with five sons of Mr. Gopi Chand to the extent of 1/3rd share each.

4. It has been further averred that 1/3rd share of sons of late Mr. Gopi Chand was released in favour of the petitioners by two separate deeds.

5. Learned counsel for petitioners states that the only requirement for releasing the share is that the releasor must be recorded as co-owner along with the releasee and this condition is admittedly fulfilled in the present cases. In support of his submission, he relies upon the judgment of Allahabad High Court in *Smt. Balwant Kaur & Ors. vs. State of U.P.*, AIR 1987 Allahabad 107.

6. Issue notice.

7. Mr. Devendra Dedha, Advocate accepts notice on behalf of respondents. He states that he has nothing to submit in the present cases.

8. Since the issue involved in the present cases is purely a legal one, this Court does not deem appropriate to await a response from the respondents.

9. Having perused the paper book, this Court is of the opinion that as all the parties to the documents sought to be registered are co-sharers and had an antecedent title in the land in question, documents in issue are Release Deeds and not the Sale Deeds. After all the land is not being conveyed to the petitioners and no new rights are being created in their favour, except enhancement of their existing shares.

10. Consequently, present writ petitions are allowed and the impugned orders are set aside. Respondent no. 2 is directed to register the documents in question as Release Deeds/Relinquishment Deeds within six weeks.

MANMOHAN, J

APRIL 05, 2016

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