

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No.3008 of 2016 (O&M)
Date of Decision: 27.09.2017**

Salim Khan and others

... Appellants

Versus

Shyama and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjiv Kumar Aggarwal, Advocate,
for the appellants.

RAJIV NARAIN RAINA, J.(Oral)

1. The entire case of the appellants rests on a statement made by Sh. Shyama son of Sadik on December 05, 2006 in the Court of the learned Additional Civil Judge (Senior Division) Safidon in a suit filed by the three plaintiffs in the present suit i.e. Smt. Nebho w/o Sh. Shyama, Salim, Sabar (minor) sons of Sh. Shyama son of Sadeek. The relationship between Smt. Nebho Devi, appellant No.3 in this appeal and Sh. Shyama is of husband and wife.

2. In the suit titled 'Smt. Nebho v. Shyama' prayer was for permanent injunction restraining the defendant from alienating and transferring the suit land situated in the revenue estate of Village Khera Khemawati, Tehsil Safidon, District Jind as also to restrain them from subletting and handing over or delivering possession of any part of the suit land to any proposed vendee and in general for a permanent injunction restraining Sh. Shyama not to interfere in the peaceful joint possession of

the plaintiffs over the lands described in the head note to the plaint. The statement made on solemn oath by Shyama was to the following effect:-

“Stated that I will not sell the suit land. I do not want to contest the suit.”

3. On this statement, the suit was disposed of. On the third day after making the statement Sh. Shyama gifted the property to defendant No.2 Gulzaro Bibi wife of Mamudin son of Meher Ali resident of the same village.

4. The compromise arrived at in Court on the statement of Sh Shyama became the cornerstone of the civil suit. The plaintiffs argued that the gift was in violation of the statement made by Sh. Shyama. The Courts did not agree and I would concur with them that the statement was limited not to sell the land but there was no restraint on Sh. Shyama from disposing of his property by way of gift to a third party.

5. If the plaintiff succumbed to the statement and did not obtain a contested decree then Sh. Shyama's conduct may appear to be deviant in the eyes of the plaintiffs but it is within the confines of the law as a right to dispose of his property by way of gift deed was his. Gulzaro Bibi had gained valuable rights by the gift and the mutation of the gifted property has been sanctioned in her name by the revenue authorities and she has become owner thereof and that should be end of the matter. The title of donee Gulzaro Bibi over the suit property is not open to challenge by the heirs of the doner when it was not shown that he had no right to dispose of his property according to his wish.

6. No argument has been raised by the appellants from the standpoint of Muslim law to annul the gift deed by a civil court decree.

No other point was pressed at the hearing.

8. Accordingly, the appeal is without force and is ordered to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.09.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*