

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.1854 of 2008 (O&M)

Date of Order: 15.03.2019

Smt. Maina Devi

..Appellant

Versus

Smt. Radha Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate,
for the appellant.

Mr. R.S.Mamli, Advocate,
for respondent no.1.

Mr. Rajesh Lamba, Advocate,
for respondents no.2 to 7.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court reversing the judgment and decree passed by the trial court.

Issue which needs determination is “whether a deed of release which clearly refers to transfer of the property by one sister to another can be set aside on the ground that release deed in between the sisters was not permissible”?

This court has carefully gone through the alleged release deed Ex.D1, dated 15.02.2000. In the release deed Smt. Maina Devi daughter of Ram Ji Lal has specifically got written that she is transferring the property in dispute to her sister Radha Devi. It has further been got written that on execution of this deed, she has become absolute owner in possession of the property. Irrespective of the fact that whether the deed is titled as release

deed or not, on liberal reading of the document it is clear that it is in fact a transfer deed. The deed is registered and appropriate stamp duty has been paid. The deed also has photographs of the transferor and transferee with their respective thumb impressions. Execution of the transfer deed has been proved.

Hon'ble Supreme Court in the judgment reported as *Kuppuswamy Chettiar vs. A.S.P.A. Arumugam Chettiar, 1967 AIR SC 1395* has held that the relinquishment/release deed which uses the words “transfer of the property” is to be treated as “transfer” and therefore, such deed cannot be set aside on the ground that no relinquishment/release deed was permissible.

Learned counsel appearing for the appellant has relied upon a judgment passed by a Coordinate Bench in the case of *Mohinder Singh and others vs. Mukhtiar Singh (died) through his LRs and others, 2011(3) R.C.R.(Civil), 361* to contend that the relinquishment deed is not permissible in case the transferee has no pre-existing right. It may be noted that attention of the Court in the case of *Mohinder Singh and others (supra)* was not drawn to the judgment passed by the Hon'ble Supreme Court in the case of *Kuppuswamy Chettiar(supra)*. Still further, this court has gone through the deed which, although, has been styled as release deed whereas it is clearly a transfer deed. It is not the case of the appellant that such transfer deed between the sisters is not permissible.

Hence, there is no ground to interfere. The regular second appeal is dismissed.

March 15, 2019

nt

Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)
JUDGE

: Yes/No

: Yes/No