

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

1. CR-2888-2017 (O&M)
Date of decision : 26.02.2020

Bimla Devi

...Petitioner

Versus

Ashok Kumar and others

...Respondents

2. CR-3327-2017 (O&M)
Date of decision : 26.02.2020

Prahlad Kumar (since deceased) through his LRs

...Petitioner(s)

Versus

Amar Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Sood, Advocate for the petitioner.
(In both the revision petitions)

Mr. S.M. Wadhera, Advocate
for respondent No.1 (In CR-2888-2017) and
for respondent No.2(a) and 2(b) (In CR-3327-2017)

Ms. Dhivya Jerath, Advocate
for respondent No.2 (In CR-2888-2017)

ANIL KSHETARPAL, J. (ORAL)

By this order, two revision petitions bearing CR Nos.2888 and 3327 of 2017, shall stand disposed of.

Challenge is to the identical orders passed by the learned trial Court keeping the objection with regard to the admissibility of the family settlement on the ground that it has not been properly stamped, open to be decided at later stage.

Learned trial Court has found that there is no occasion for the Court, at this stage, to impound the alleged family settlement dated 26.01.1998 on the ground that it is not properly stamped.

Learned counsel for the defendant-petitioner contends that the alleged family settlement is in fact a relinquishment deed. Hence, he submitted that the Court committed an error in keeping the objection open, for subsequent decision. He further submitted that in view of Section 36 of the Indian Stamp Act, 1855, once the document is admitted in evidence, its admissibility cannot be questioned except as provided in Section 61 of the Indian Stamp Act, 1855. Hence, he submitted that the Court was under obligation to consider the objection then and there.

This Court has considered the submissions. However, find no substance therein.

Learned counsel for the petitioner was requested to draw attention of the Court to an entry in the Schedule to the Indian Stamp Act, 1855 requiring affixation of stamp on a family settlement. The document in question is titled as family settlement. However, the petitioner claims

that it is a relinquishment deed of immovable property. Ultimately, the Court after appreciating the evidence can arrive at a conclusion that whether such family settlement is a relinquishment deed or a family settlement. As and when such finding is recorded, the Court would be at liberty to pass appropriate orders. Defendant No.6 has already raised objection which has been kept open. There is no document to hold that the document was required to be stamped and it is insufficiently stamped, at this stage.

In view thereof, once the objection has been kept open, Section 36 of the Indian Stamp Act, 1855 would not operate.

Hence, both the revision petitions are disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

26.02.2020

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No