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

% ***Date of Decision: 24.11.2025***

+ **W.P.(C) 6668/2025 and CM APPL.64175/2025**

SMITA KHULLAR & ORS. .....Petitioners

Through: Mr. Zeeshan Diwan, Mr. Krishan Datta and Mr. Harsha and Ms. Ankita Yadav, Advocates.

versus

THE SUB DIVISIONAL MAGISTRATE & ANR. .....Respondents

Through: Mr. Lalltaksh Joshi and Mr. Sameer Gupta, Advocates for GNCTD.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition has been filed by the Petitioner No. 1/ Dr. Smita Khullar, her daughter petitioner No. 2/Neha Khullar and her son petitioner No. 3/Kartikeya Khullar, seeking quashing of order(s) / notice(s) dated 26.12.2024, 02.01.2025, 16.01.2025, 14.02.2025, 25.02.2025 and 30.04.2025 sent by the Respondent No. 1 i.e. office of the Sub-Divisional Magistrate (Hauz Khas), who is also the collector of stamps (hereinafter referred as SDM) and Respondent No.2 i.e. office of Sub-Registrar VII-A, Sarojini Nagar seeking a response from the Petitioners on a relinquishment deed dated 16.12.2024, executed by Petitioner No. 2 - Neha Khullar in favour of her mother Petitioner No. 1- Smita Khullar.

2. The background of the case is that the property bearing no. B-5/129, Safdarjung Enclave, New Delhi – 29 (hereinafter *"subject property"*) was purchased by one Jagat Ram Khullar, who executed a registered will dated

21.05.2001 in favour of his wife, Smt. Bimla Khullar.

3. Smt. Bimla Khullar died leaving behind a registered will dated 31.10.2013 in favour of her son Mr. Naresh Kumar Khullar and the legal heirs of her deceased son Late Sh. Rakesh Kumar Khullar (who died intestate on 14.09.2010). Hence, the petitioners inherited the subject property by way of the above chain of succession.

4. In the above backdrop, a relinquishment deed came to be executed by the petitioner no.3 in favour of petitioner no.1. The same was accepted and registered *vide* Registration No. 2025/8/1/28 in Book No.1, Volume No.3412, Page No.159 to 170 on 01.01.2025. However, the relinquishment deed executed by the petitioner no.2 in favour of the petitioner no.1 was impounded by the respondent no. 2, and was sent to respondent no.1 for adjudicating the stamp duty payable. Ostensibly, since the document was taken to be a gift deed and not a release/relinquishment deed, the respondent no.1 sent the impugned notices seeking the petitioner's response as to why the stamp duty should not be applied accordingly.

5. It is contended that the evident reason for impounding the relinquishment deed was that the respondent no. 2/Sub Registrar VII-A, Sarojini Nagar followed the law laid down by this Court in ***Tripta Kaushik v. Sub-Registrar VI-A & Anr.*** (2020 SCC Online Del 2748).

6. Learned counsel for the petitioners submits that the issue involved in the matter has now been settled by a judgment of the Division Bench of this Court in ***Ramesh Sharma vs. Government of N.C.T. of Delhi & Ors.*** 2025:DHC:8835-DB. In the said case, the Division Bench of this Court has overruled the view take in ***Tripta Kaushik*** (supra) and held as under:

"14. After having analysed the arguments of the learned counsel for the

parties, the following issue requires adjudication: Whether for the purposes of the Indian Stamp Act, 189911, the relinquishment of rights in a property by the sisters (co-owners) in favour of their brother (another co-owner) can be treated as Gifts?

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19. Therefore, upon perusal of the abovementioned judgments, it is reiterated that Relinquishment does not tantamount to an alienation of rights, and an RD between the co-owners holds equal force as an RD between the coparceners.

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23. From the abovementioned discussion, it is observed that the release deed can only feed title but cannot transfer title. In this case, the Appellant, his mother, and the five sisters all became co-sharers in the suit property on the death of the father. The transaction was between the family members, wherein the chances of economic consideration are remote. Hence, in the present matter, the RDs have only added a title to the already existing title of the Appellant. Therefore, an error was committed in the Impugned Order by treating the RDs as deeds of gift for the purposes of the Stamp Act and upholding its impounding.

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28. Therefore, the answer to the issue before us is in negative. Thus, the relinquishment of rights in a property by the sisters (co-owners) in favour of their brother (another co-owner) cannot be said to be a Gift for the purposes of the Stamp Act.

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30. On a plain reading of the RDs, it becomes evident that the sisters executed the RDs to release their share in favour of their brother, Sh. Ramesh Sharma, and there was no economic consideration/transaction exchanged at the time of the execution. Moreover, as the Will executed by late Sh. Jagdish Prasad Sharma, Sh. Ramesh Sharma had already became owner to the extent of 50% share. All the RDs were basically acknowledging the bequest made by late Sh. Jagdish Prasad Sharma in favour of Sh. Ramesh Sharma.

31. Additionally, on bare perusal of all the RDs, it is evident that the recitals in all the RDs are identical and styled as release deeds. In the said documents, the five sisters of the Appellant have separately agreed to relinquish their rights in the Suit Property in favour of their brother.

Even the execution of all the RDs took place within a period of 14 days only. As rightly held by the Learned Single Judge, this Court is also of the same view that the RDs form part of a single transaction and hence cannot be a single determinative factor for the RDs to be considered as Gift Deeds.

32. In any event, in the peculiar facts of the case, the Court, upon appreciation of evidence, as and when led, may come to the conclusion that relinquishment of rights by all the sisters in favour of their brother was in the nature of a Family Settlement."

7. It is submitted that in terms of the aforesaid pronouncement of a Division Bench of this Court it is clear that the subject relinquishment deed, having been given by one co-owner in favour of another co-owner, cannot be characterised as a gift for the purpose of levy of stamp duty and that there was no occasion for the respondent no. 1 to have impounded the same. There is merit in the said contention.

8. In the circumstances, the present petition is allowed. The impugned order dated 26.12.2024, whereby the concerned relinquishment deed was sought to be impounded, is set aside. Consequently, the subsequent notices (as referred to hereinabove), are also quashed.

9. Further, it is clarified that the concerned document filed as Annexure-A4 to the present petition shall be treated as a relinquishment deed. The office of sub Registrar VII-A, Sarojini Nagar /respondent no.2 is directed to complete the necessary formalities for registration thereof.

10. The present petition stands disposed of in the above terms. Pending application(s) also stand disposed of.

SACHIN DATTA, J

NOVEMBER 24, 2025/*at*