

RAJASTHAN HIGH COURT

Gayatri Devi

Vs.

Board of Revenue

Civil Writ Petition No. 3753 of 1990

(K.S. Rathore, J.)

13.04.2004

ORDER

K. S. Rathore, J.

1. Brief facts of the case are that Smt. Ganga Devi wife of Ram Gopal executed a released deed on 16-12-1984 which was written on a stamp of Rs. 100/- and same was registered on 18-12-1984. Notice was issued to Smt. Ganga Devi directing her to make the payment of Rs. 18,626/- and to return the original document.

2. Since Smt. Ganga Devi died during the proceeding, the petitioner being a beneficiary of the aforesaid property, has filed this writ petition challenging the order passed by the Additional Collector (Stamps), Dausa dated 1st December, 1987 and the decision passed by the Board of Revenue dated 5-10-89 along with the demand notice issued pursuant to the aforesaid orders.

3. Learned counsel for the petitioner submits that the document which was registered as released deed has wrongly been considered as conveyance (gift deed). He referred Clause 55 of the Rajasthan Stamps Law Adoption Act, 1952 wherein released deed is defined which is reproduced hereunder:-

"Release, that is to say, any instrument, (not being such a release as is provided for by Section 23-A) where by a person renounces a claim upon another person or against any specified property -

(a) if the amount or value of the claim does not exceed Rs. 1000/-.

4. He also referred the definition clause of conveyance of the Indian Stamps Act, 1899 and categorically submits that since the property belonged to Ganga Devi and she

wants to release her rights in favor of the petitioner and at the relevant point of time only 100/- Rs. stamps was required to register such released deed.

5. The released deed was registered by the respondent and same was after registration returned to Smt. Ganga Devi and this case was reopened only when the Auditor General of Rajasthan conducted inspection and found that this document was wrongly registered as released deed because the document was in fact a conveyance and thus notice was issued to Smt. Ganga Devi.

6. Learned Dy. Govt. Advocate does not dispute that subsequently after registering the released deed inspection was conducted by the Auditor General of Rajasthan and it was found that this document was wrongly registered as released deed because the document was in fact a conveyance and notice was issued to Smt. Ganga Devi on which a report came that Smt. Ganga Devi expired. On such eventuality notice was served upon the petitioner asking her to deposit fees to return the original document and the matter was sent to Additional Collector (Stamps), Dausa to proceed with the matter under Section 14(c) of the Stamps Duty Act.

7. Heard learned counsel for the respective parties. A perusal of Clause 55 of the Act of 1952 shows that the instrument by which a person renounces a claim upon another person or against any specified property and if the amount or value of the claim does not exceed Rs. 1,000/-, then such instrument can be registered as released deed as provided for by Section 23-A.

8. As per Section 23-A Certain instruments connected with mortgages of marketable securities to be chargeable as agreement. In view of sub-section (2) of Section 23-A a release or discharge of any such instrument shall only be chargeable with the like duty. In the instant case, as is evident that Ganga Devi herself admitted that the property belongs to her which was acquired through a Will executed in her favor having a value of Rs. 1,50,000/- which is exceeding Rs. 1,000/- and in such circumstances, document which was registered admittedly cannot be termed as a released deed.

9. Conveyance is defined under Section 10 and conveyance includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I.

10. Consequently, I do not find any illegality in the judgments passed by the Additional Collector (Stamps), Dausa and that of Board of Revenue and as such no

interference whatsoever is required by this Court.

11. Therefore, the writ petition fails being devoid of merit and same is herewith dismissed with no orders as to costs.

Petition dismissed.