

Case No.172/2014

Smt. Sunita Vs. Smt. Naresh Kumari & Ors.

10.02.2015

Present : None.

1. The case was fixed for orders on admission and the brief facts of the case as stated by Petitioner are as under :

(i) That the Smt. Sunita/Petitioner is the recorded co-bhumidhar to the extent of ½ share comprising in Khata Khatauni No. 113/6 bearing Khasra No. 12/2/1 (2-1), 13/11/1 (0-12), 11/3 (3-13), 12 (4-12), 19 (4-16), 20/2 (4-12), 21 (4-16), 22 (4-16), 24/4 (4-12), 5 (4-12), 25/17 (3-19), 24 (4-11), 25/1 (0-5), 25/2 (2-8), 257(1-18) and 258 (1-0), total land measuring 54 Bighas 13 Biswas situated in the Revenue Estate of Village Surhera, Najafgarh, New Delhi.

(ii) That being the co-sharer/co-bhumidhar the Petitioner has filed a suit under Sec. 55 of Delhi Land Reforms Act alongwith an application under Order 39 Rule 1 & 2 of CPC before the Ld. SDM/RA, Najafgarh, Delhi bearing suit No. 134/2011 titles as “Smt. Sunita Vs Braham Parkash & Ors.” which is still pending before Ld. RA.

(iii) That during the pendency of the said suit, Smt. Naresh Kumari, the Respondent No. 1 has filed an application under order 1 Rule 10 of CPC for impleading her as necessary party in the suit on the basis of a Gift Deed dated 30-06-2010 purported to be executed by the deceased husband of the petitioner in respect of ½ share in Kh. No. 24/4 (4-12) and 24/5 (4-12) out of total joint holding of the Petitioner and Respondent No. 2 to 5.

(iv) That the SDM/RA has allowed the application of the Respondent No. 1 and has impleaded her as necessary party vide order dated 26-08-2014.

2. Aggrieved by the said order Petitioner has filed the present revision petition and has prayed for setting aside the impugned order dated 26.08.2014 of SDM/RA on the following ground :

(i) That the said Gift Deed is in violation of Delhi Land Reforms Act because a co-bhumidhar has no right to transfer a particular Khasra Number in a joint holding.

(ii) That that the said Gift Deed dated 30-06-2010 is forged and fabricated and also in clear violation of Sec. 33 of Delhi Land Reforms Act. That the said Gift Deed is in violation of

Sec. 33 and thus the same is nullity in the eyes of law and no title has been conferred upon the Respondent No. 1.

(iii) That Respondent No. 1 has no locus-standi to be impleaded in the suit as necessary party because no title has been devolved upon the Respondent No. 1 on the basis of Gift Deed dated 30-06-2010 and thus the Respondent No. 1 is not a necessary party in the suit.

(iv) That the said Gift Deed dated 30-06-2010 is in regard to ½ share in Kh. No. 24//4 (4-12) and 24//5 (4-12) out of total joint holding of the Petitioner and Respondent No. 2 to 5.

3. I have heard the matter at length, considered the written submissions of Petitioner and also the documents placed on record as well as impugned order. The RA/ SDM has held that there is registered gift deed in favour of applicant/R-1 herein in respect of part of suit land and the said gift deed was executed and got registered by the recorded bhumidar during his lifetime and all rights, titled and interest were transferred in favour of donee i.e. Smt. Naresh Kumari. Therefore, Smt. Naresh Kumari has been able to show prima-facie her interest in suit property and she is necessary party for effective and complete adjudication of the issues involved in the case before SDM/RA. Hence SDM/RA impleaded Smt. Naresh Kumari as one of the defendant.

4. I agree with the view of the SDM/RA that there is registered gift deed in favour of Smt. Naresh Kumari/R-1 herein in respect of part of suit land and the said gift deed was executed and got registered by the recorded bhumidar during his lifetime and all rights, titled and interest were transferred in favour of donee i.e. Smt. Naresh Kumari. These facts are sufficient for impleadment of Smt. Naresh Kumari as defendant in the suit pending before SDM/RA.

5. In view of above, I find no infirmity in the impugned order of SDM/RA dated 26.8.2014. Hence present Revision Petition is dismissed *in limine*.

6. The case is disposed of accordingly.

7. File be consigned to record room after completion.

-sd-
(DHARAM PAL)
Financial Commissioner, Delhi
10th February, 2015