

PLAGIARISM SCAN REPORT

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ARGUMENTS ADVANCED BY PETITIONER

The gift deed did not contain any conditions that warranted the Assistant Commissioner to entertain the petition.

The Assistant Commissioner should not have set aside the sale deed executed in favor of the petitioner.

Previous judgments from the Apex Court, this Court, and the High Court of Kerala have already addressed similar issues, supporting the petitioner's stance.

The order of the Assistant Commissioner should be quashed, and the status quo ante should be restored in favor of the petitioner.

Any other issues between the parties should be resolved in civil court.

At the time of the sale, the father was present, and financial arrangements were made to ensure his welfare (e.g., transferring ₹15 lakhs to the father's account and providing ₹10,000 monthly as interest).

ARGUMENTS ADVANCED BY THE RESPONDENT

After the death of the wife, the property should not devolve back solely to the donor (the father); rather, all family members are entitled to a share.

The father's assumption that the property reverted to him was incorrect, making the subsequent gift deed and sale deed legally invalid.

All parties need to approach the civil court to determine their respective rights.

The petitioner, as a subsequent purchaser, cannot have more rights than the 4th respondent (the son and donee of the gift deed).

The property was a commercial property with the father deriving income from it until the sale deed was executed, suggesting the actions post the wife's death were null and void.

Acknowledged the arrangement of ₹15 lakhs transferred to the father's account and the monthly ₹10,000 interest, indicating the father was not left without support.

ANALYSIS BY THE COURT:

Assistant Commissioner could not have annulled the gift deed, unless the condition that is observed by the Apex Court in SUDESH CHHIKARA v. RAMTI DEVI is fulfilled in a gift deed.

Interpreting Section 23 of the Act and analyzing the law on the point holds that unless a condition is stipulated in favour of the senior citizen in the recitals of the gift deed, the Assistant Commissioner would not get jurisdiction to annul the gift deed.

Assistant Commissioner cannot annul a gift deed, if the deed does not contain any conditions of amenities or the donor to be taken care of with all physical means. The issue in the case at hand is identical and in the considered view of this Court, stands covered on all its fours to the afore-quoted judgments. Therefore, the order of the Assistant Commissioner is rendered unsustainable, only insofar as annulment of the gift deed. The order of maintenance stands sustained.

Order of the Assistant Commissioner in question before the Court, as he cannot be left remediless; more so, in the light of the fact that the order of the Assistant Commissioner cannot be interfered with by the civil Court in exercise of any jurisdiction

Parties can approach the competent civil Court for redressal of their residuary grievances.

The donor of the gift deed is held entitled to maintenance at `10,000/- to be paid by the 4th respondent/son apart from `10,000/- that the deposit with the LIC is earning, with liberty to seek enhancement of maintenance on any warranting circumstance, before the Assistant Commissioner.

CONCLUSION

The court has allowed the writ petition and issued the following orders:

The order of the Assistant Commissioner dated July 7, 2021, is quashed.

The annulled gift deed and sale deed are restored.

The donor (father) is entitled to receive maintenance of ₹10,000 per month from the 4th respondent (son), in addition to the ₹10,000 per month earned from the deposit with LIC. The father can seek an increase in maintenance from the Assistant Commissioner if circumstances warrant.

The father and any other family members can approach the civil court for any other grievances, if legally permissible.

All other contentions of the parties, apart from the one considered in this case, remain open.

Pending applications are also disposed of.

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