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*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

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*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **RANVEER DEWAN VS RASHMI KHANNA** **AND ANOTHER 2018 (12) SCC**

AUTHORED BY - MIHIKA PANDEY & YASH RAJ

## **FACTS: -**

The dispute is regarding a house which is situated at Delhi and it is among the mother, son and daughter of the person. The suit is for the property of Mr. B R Dewan and he is the sole owner of the house and he was married to two women from one there was a son only and from another there was a son (appellant) and daughter (respondent 1) for the appeal and the person owned all the movable and immovable property of that place. The will was made by the Mr. Dewan for the house and in the will the ground was provided to the son and first floor was provided to the daughter. The wife got life interest in the property till her life and she had the right to collect the rent to maintain her and the house and she can keep tenants according to her and she has the right to decide which tenant can be in the house. The will has that the wife has the life interest in the house and the son and daughter can assessed themselves as the owner of the house for their share for tax of the house.

The other properties were for the second wife and there was provision in which it was that the second wife has to pay Rs. 500/- to the first wife. The second wife became probate for the execution and the son and daughter was provided with their shares and then there was a decision to develop the house. The dispute is for the third floor which was later developed and the wife , son and daughter was not able to decide it that the possession of that floor is with which one of them.

## **ISSUES: -**

There were several reliefs granted by the court in the plaint but the relief which was in question here was that:-

1. Whether Mrs. Pritam ( wife of Mr. Dewan) is entitled to be the complete owner of the property ?
2. Whether the rights of Mrs. Pritam was enlarged under sec 14(1) of Hindu succession act?

## **LEGAL PROVISIONS: -**

### SEC 14 (1) of Hindu Succession Act

Any property held by Female hindu whether acquired before or after the commencement of this act will be held by her as full owner thereof and not as limited owner

Explanation: -

In this sub-section “property” included both movable and immovable property acquired by a female Hindu by inheritance or devise or at a partition or in lieu of maintenance or arrears of maintenance or by gift from any person whether a relative or not before at or after her marriage or by her own skills or exertion or by purchase or by prescription or in any other manner whatsoever and also any such property held by her as stridhana immediately before the commencement of this act.

In the plaint it was held that in the relief by the court it was held that the property should be of the wife Mrs. Pritam and she should be the complete owner from ground floor to third floor and roof as her rights were enlarged under sec 14(1) of the Hindu succession act.

### SEC 14(2) of Hindu Succession Act

Nothing contained in sub section 1 shall be applied to any property as gift or acquired under will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift will or other instruments or the decree, order or award prescribed a restricted estate in such property.

In the will made by Mr. B R Dewan it was written that the property of Mr. B R Dewan will be divided among the daughter and the son and daughter will be the owner of the first floor of the house and the son will be the owner of the ground floor of the house and wife will have a life interest in the property and she will be having the rent of the house and she can assign the tenants for the house and the owners of the house will be her son and daughter.

## **JUDGMENT: -**

The court held that the testator has made his the owner of the ground floor and his daughter owner of the first floor and allowed them to be the owners. The wife had the HUF share in the property, one plot in Gaziabad and movable properties. It is the principal of law that the will is primarily

be as it is written.

In the will it is not any confusion in the distribution of the property among the three people and how the distribution of the property should be there and who will get what property. The share of the different property was decided and the interpretation of sec 14 (1) of Hindu Succession act and Sec 14 (2) of Hindu succession act was that these section have said that the property of female will be their if there is no exception in the property. In different cases the court has held that Sec 14 (1) has been in the way to promote the rights of the hindu female and to enlarge the rights and for hindu female to get the rights for them and the limited rights to be the complete rights for them. Sec 14(2) of Hindu succession act is in the type of proviso and it has its own field and it does not have to be according to the sec 14(1) of hindu succession act and Sec 14(2) is for the instruments, decrees, awards, gifts etc which creates independent and new title in favor of female for the first time and does not there for any thing to confirm , endorse etc which is already there and not for the first time. In such cases a restricted estate is permissible and does not creates rights of sec 14(1) of the Hindu succession act.

### **ANALYSIS: -**

The court held that the will should be in the way as it is written. The owner of the property has the right to dispose the property as he wants and it will be divided according to the testamentary document and by succession and if a hindu male divided the property by will the property is deal as the will if there is nothing which is invalid in that for anything. This is the reason the Hindu male has the right to deal with his property by the will and he can also give his wife life interest and limited rights in the property if he has will and he has the right. If there is any limitations by the male for anyone on the property that person has to accept that restriction on that property for him and he has the right for that and other people can not claim for more rights as by the person. In sec 14(2) of the hindu succession act the hindu female has to accept the limited rights which is of her in the property and which the other person has written in the will and she does not have the right that she can enlarge her right in the property and she has to accept the limited rights and her rights can not be enlarged under sec 14(1) and she will get the property as the testamentary document and the limited right in property by the person.

## CONCLUSION: -

In this case the court held that Mrs. Pritam rights will not be deal under sec 14(1) but it will be under sec 14(2) and the reason for that will be that the person was the complete owner of the property and he can distribute the property in the way he wants and he can not be asked about the property and Mr. Dewan had made his son and daughter complete owner of the property and he had also decided in the will that ground floor will be of the son and first floor will be of daughter and he made the son and daughter the complete owner of the property and he said that his wife will have life interest in the property which means that she is not the complete owner of the property and she can not want more rights for the property as the person is the complete owner of the property and he has a will for the property. The property will be of only with the wife as life interest and the rights of the wife will not enlarge under sec 14(1) as the rights on the property is there in the will and the rights should be as the will. The rights of Mrs. Pritam can not be enlarged and she will not be the complete owner of the property the complete owner of the property will be the son and daughter and it is in the will.

