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BHAGAT RAM vs. TEJA SINGH

Authored by- Varun Agarwal

&

Shubhangi Kansal

TABLE OF CONTENTS

S. No.	PARTICULARS
I.	FACTS
II.	ISSUES
III.	RULES
IV.	ANALYSIS
V.	CONCLUSION
VI.	RATIO DECIDENDI
VII.	SOCIO-LEGAL ANALYSIS

I. FACTS

In the present case, certain land was owned by one "Kehr Singh" in the village of Antowali (now part of Pakistan). He died before the partition and was survived by his widow, Smt. Kirpo, and two children, namely Smt. Shanti and Smt. Indro. Subsequently, his widow, Smt. Kirpo succeeded as the life owner of his estate. After the partition, Smt. Kirpo migrated to India with her children, where, in lieu of the property left by her in Pakistan, she was allotted an equal amount of land in the village of Nara, Hoshiyarpur (hereinafter referred to as the "suit land").

Smt. Kirpo died on 25th December 1951 and was survived by two daughters, each of whom inherited an equal share of the suit land as life owners. Subsequently, on the enactment of the Hindu Succession Act, 1956 (hereinafter referred to as the "Act"), they became full owners thereof. Smt. Shanti died in 1960 without having had any children. As a result, her share in the suit land was mutated in the name of her surviving sister, Smt. Indro.

Shri Bhagat Ram (the defendant-appellant) had entered into an agreement with Smt. Indro, for the sale of the suit land, instituted proceedings for the specific performance thereof, which was decreed in his favour. In response, Shri Teja Singh (the plaintiff-respondent), brother of the pre-deceased husband of Smt. Shanti instituted proceedings on the grounds that her half share in the suit land devolved upon him as per Section 15 (1) (b) of the Act. The principal contention raised by the appellant was that based on the facts and circumstances, the provisions under sub-section (2) and not subsection (1) of Section 15 shall be applicable.

The Trial Court, in its judgment, held that Smt. Shanti had acquired full ownership rights in respect of her share in the estate; and therefore, the case was ruled under Section 15 (1) of the Act. The Court, on the said grounds, decreed the suit of the plaintiff. The appeal preferred against the said decree was dismissed.

Subsequently, the defendant filed a second appeal before the Punjab & Haryana High Court. The High Court, in its judgment, upheld the decision of the Trial Court and dismissed the appeal. Thereafter, the appellant preferred an appeal by special leave before the Supreme Court.

II. ISSUES

The principal issue in the case was: Whether the property inherited by the female Hindu from her father or mother before the commencement of the Hindu Succession Act, 1956 would devolve upon the heirs of her father under Section 15 (2) on her death irrespective of Section 14 or not?

III. RULES

The Hindu Succession Act, 1956-

Section 14. Property of a female Hindu to be her absolute property—

(1) “Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Explanation.—In this subsection, “property” includes 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 skill or exertion, or by purchase or by prescription, or in any other manner whatsoever and also any such property held by her as stridhan immediately before the commencement of this Act.....”

15. General rules of succession in the case of female Hindus-

(1) “The property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16—

(a) firstly, upon the sons and daughters (including the children of any predeceased son or daughter) and the husband; (b) secondly, upon the heirs of the husband; (c) thirdly, upon the mother and father; (d) fourthly, upon the heirs of the father; and (e) lastly, upon the heirs of the mother.”

(2) “Notwithstanding anything contained in sub-section (1)—

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein but upon the heirs of the father....”

IV. ANALYSIS

The Hon'ble Supreme Court, in its decision, clarifying the provisions under Section 15 (2) (b), stated that if a female Hindu dies intestate and without any children (including children of any pre-deceased son or daughter), the devolution of her estate shall be based on the source from which the property was inherited. If the property was received by the female Hindu from her father or mother, and there were no offsprings of the deceased, the property would solely pass to the father's heirs. In the present case, the property in question was inherited from the mother of the deceased. Therefore, her sister being the sole surviving heir of the father of the deceased, certainly inherited the property.

The contention raised on behalf of the respondents was that at the time of inheritance, Smt. Shanti only had limited rights over the property but gained full ownership rights by virtue of Section 14 of the Hindu Succession Act, 1956; and therefore, the property is to be treated as her own property and should devolve per the rules under Section 15 (1). It was further contended that the provisions under Section 15 of the Act would have a prospective effect; and so, the provisions under Section 15 (2) shall be applicable only in the context of property inherited after the commencement of the Act.

The Court, in response, observed that the inheritance does not have to have occurred after the commencement of the Act. It held that the legislative intent was clear, i.e. if the property originally belonged to the parents of the deceased female Hindu, it should pass to the legal heirs of the father. Similarly, if the property were inherited by a female Hindu from her husband or father-in-law, it would pass to the husband's heirs under identical circumstances. Therefore, the source of inheritance is of utmost importance for the devolution of property of a female Hindu.

Justice K.G. Balakrishnan, stated in p. 14 of the judgment-***"We do not think that the fact that a female Hindu originally had a limited right and later, acquired the full right.... would alter the rules of succession given in sub-section 2 of Section 15"***¹.

The Court made reference to the judgment delivered in the case of ***Bajya v. Smt. Gopikabai and Another***². In that case, one "P" was the owner of certain land. Upon his death in 1936, the property devolved upon his widow, "S". "S" died on the 6th of November, 1956 (i.e., after the enactment of the Hindu Succession Act, 1956). Thereafter, a dispute arose between the parties about the inheritance of the property left behind by "S". The plaintiff laid claim to the property on the grounds that she was the daughter of "T", the sister of the last male holder, "P". Whereas, the defendants claimed to be the "sapindas" of "P" under the Mitakshara Law.

¹Bhagat Ram (D) by Lrs. vs. Teja Singh (D) by Lrs, (2001) MANU/SC/0711/2001.

²Bajya vs. Gopikabai and Ors., (1978) MANU/SC/0403/1978.

The Supreme Court, in its judgment, held that the case would fall under Section 15 (2) (b), as "S" died intestate, without having any children, and received her interest in the property from her husband. Therefore, the property would pass to the legal heirs of the husband.

The Court, further reinforced its holding by making reference to the decision in the cases of *The State of Punjab vs Balwant Singh and Ors.*³ and making comments on the contradictory position of the Punjab and Haryana High Court in the case of *Amar Kaur vs Raman Kumari and Ors.*⁴. It apprehended that the lack of strict implementation of provisions under Section 15 subsection (2) would enable persons who aren't even slightly related to the deceased to acquire rights to inherit the estate, which would defeat the intent and purpose of the enactment of a special pattern of succession.

V. CONCLUSION

The decision in the case at hand is noteworthy for it resolved the dubiety surrounding the succession of the property in the case of a female Hindu dying intestate. It played an important role in outlining that the origins of the property are of the essence. *The Supreme Court went at length to clarify the provision, and based on the stated reasoning, allowed the appeal.*

VI. RATIO DECIDENDI

Yes, the property, if inherited from the father or mother, would devolve upon the heirs of the father, as the source from which a female Hindu had inherited the property is significant for the devolution of her property. The fact that a female Hindu has limited ownership rights at first and then achieves full ownership rights does not affect the implementation of the rules prescribed under subsection (2) of Section 15 of the Hindu Succession Act, 1956.

³State of Punjab vs. Balwant Singh and Ors., (1991) MANU/SC/0737/1991.

⁴Amar Kaur vs. Raman Kumari and Ors., (1984) MANU/PH/0226/1985.

VII. SOCIO-LEGAL ANALYSIS

It won't be wrong to say that women are the backbone of every progressive society. Women's central role in society has contributed to nations' long-term stability, growth, and development. History has been a witness that women if given equal opportunities to demonstrate their abilities, are equally competent as their male counterparts. Women's rights to full and equal participation in all aspects of social and economic life are fundamental and have been protected under the Constitution. Yet, they have been constantly placed on a lower pedestal and considered inferior to their male counterparts.

Manusmriti, the first ancient legal text of Hinduism, believes:

“A woman ought to be dependent on her father in childhood, on her husband in youth, and her sons in declining years”.

It is safe to say that nothing much has changed since then, as women have for long been deprived of equal rights in property owing to the notions of hegemonic masculinity perpetuated by ancient patriarchal beliefs. Several amendments have been made in the rules of succession to achieve the objective of gender equality perpetuated by the Constitution; yet, on the analysis of these so-called “progressive” provisions, we can discover the deep roots of patriarchy. The essay attempts to analyse how changes brought about in good faith have failed to achieve their intended goals due to the prevalence of such notions in the subconscious of lawmakers.

For a better understanding of such deep-seated patriarchal notions, we must first analyse how the property rights of women have evolved. In his works, Manu, regarded as the first lawgiver, stated that a man is free of his obligation to the souls of his ancestors with the birth of a son. As a result, such a son deserves to inherit his entire estate. Ancient law provides an inherent relationship between the laws governing inheritance and customs for ancestral worship, wherein the male descendants, up to three generations, were considered worthy of offering oblation to the manes of the deceased and thus entitled to the right of inheritance. The property rights were not extended to the female heirs, provided that they were maintained as a part of the family. Such deprivation of rights was based on the notions perpetuated by religious texts (such as Naradasmriti and Manusmriti), which symbolized women as someone perpetually dependent on male authority and incapable of exercising sound judgment.

The growing incidents of injustice against widows, who were denied the right to be maintained by parents and the relatives of the late spouse, led to the enactment of the Hindu Women's Right to Property Act, 1937, which conferred upon them the limited right to be maintained from their husband's property. However, the scope of such rights did not extend to the right to alienate such property; they merely created a provision to satisfy her bare necessities.

The Hindu Women's Right to Property Act, 1937, was repealed with the enactment of the Hindu Succession Act, 1956, which was the first law to confer on women absolute rights to ownership of property. It conferred daughters, widows, mothers and sons equal rights to separate property. They were now specified under the first class of legal heirs of the deceased male Hindu and were entitled to inherit the estate of their ancestors. A prominent change brought about by the enactment of the Hindu Succession Act, 1956, was the introduction of a special pattern of succession under subsection (2) of Section 15 of the Act. The provision aimed to prevent persons who weren't even remotely related to the original holder of the property from acquiring inheritance rights.

However, reading the provisions under the section in light of those under the immediately preceding section resulted in severe ambiguity at the time of its enactment. It is pertinent to note that the decision in the landmark case of *Bhagat Ram vs Teja Singh* helped clarify the interpretation of the meaning and usage of Sections 14 and 15 of the Hindu Succession Act, 1956. Moreover, the judgment has set a powerful precedent that highlights the complex nature of the laws governing the devolution of property of female Hindus dying intestate.

It helped remove, to a wide extent, the ambiguity surrounding the said section by holding that any property held by a female Hindu, *if inherited from her father or mother, shall devolve*, in the absence of any son or daughter, *upon the heirs of the former*.

Justice K.G. Balakrishnan, in p.12 of the judgment, stated: "*The source from which the female inherits the property is important and that governs the scenario.*"⁵

Little does it specify that the section confers a special right to property upon the heirs of the father even if the female received the property from her mother! Surprisingly, Section 15 (2) was not a part of the Report of the Hindu Law Committee.

The Joint Parliamentary Committee added this provision in 1954 (under the Hindu Succession Bill) and justified its inclusion on the grounds that:

"Such a provision would prevent properties from passing into the hands of persons to whom the justice would demand they should not pass."

⁵Bhagat Ram (D) by Lrs. vs. Teja Singh (D) by Lrs, (2001) MANU/SC/0711/2001.

At this juncture, it is pertinent to note that while the provision aims to devolve the property of the deceased female Hindu, in the absence of a son or daughter (including the children of any predeceased child), to the heirs of the original source, it makes an implied assumption that such property ought to pass only to the heirs of the father and not to the natal relatives of the mother. The 174th Report of The Law Commission of India, spotted the bias, and opined:

“The provision of Section 15(2) of the Hindu Succession Act is indicative of an inclination towards the male... The provision depicts that a property continues to be inherited through the male line from which it comes either back to her father’s family or her husband’s”⁶

Such a pattern of succession deprives the maternal lineage of the deceased of their right to such property. In other words, she may enjoy the property during her lifetime, but upon her death (if she dies issueless), the property would pass to the heirs of the male counterparts, notwithstanding that the property in question never originally belonged to the line.

The Indian State is not unwary of the discrimination against women in the Hindu Succession Act, 1956. The Bombay High Court has even pronounced it violative of Article 15 in *Mamta Dinesh Vakil v. Bansi S. Wadhwa*⁷, but a conclusive ruling is yet to follow.

Meanwhile, the 174th Report of the Law Commission of India highlighted the need for a “gender-neutral legislation,” supporting which the National Commission for Women (NCW) put forth the necessity for the following reforms:

1. Male and female relatives of an intestate should be treated equally.
2. Natal families of men and women should be treated equally.
3. Lineage of male and female ancestors should be recognized equally.
4. Property of an intestate should be symbolized equally, i.e., only an heir’s relation to the intestate (irrespective of the intestate’s gender) should determine their eligibility.

The above suggestions are mindful of the fact that women’s position in society has altered from the time the Hindu Succession Act, 1956, came into being. Today, far more women are getting educated, running their businesses, and owning property than they did in the past. These socio-economic changes stand as a roadblock to the patriarchal standpoint and reflect that the law is no longer compatible with the women of modern India. Not to mention that the discrimination is a gross violation of India’s treaty obligation as a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

⁶174th Law Commission Report, 2000, c 11, p 2.5.

⁷Mamta Dinesh Vakil vs. Bansi S. Wadhwa (2012) MANU/MH/1869/2012.

There is a desperate need to do away with the orthodox notions of male supremacy. We can achieve such change in social morality by undertaking a comprehensive review of the enactments and making necessary amendments. Such an effort will help bring out gender-neutral legislation, which in turn, will enable women to stand on the same pedestal as men;

In the long run, efforts need to be made to enable higher learning and skill development amongst women. The incorporation of such changes will ultimately help create an environment conducive to the upliftment of women.

