

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Sugato Majumdar

**SA/92/2006
IA. NO: CAN/1/2005
(Old No: CAN/15946/2005)**

**PADMA RANI PAL AND ORS
VS
SHASTI CHARAN PAL AND ORS**

For the Appellants : Arnab Roy, Adv.
Satyam Mukherjee, Adv.

For the Respondents : Sohini Chakraborty, Adv.
Prabir Banerjee, Adv.

Heard on : 16.12.2025

Judgment on : 18.12.2025

Sugato Majumdar, J :

The instant second appeal is preferred against the Judgment of the First Appellate Court dated 13th September, 2004.

The nutshell of the plaint case is that the Suit Plot No. 718 measuring about 9.7/10 decimal of land belonged to one Shaibalani Dasi who transferred the same to her daughter Lakshmibala by virtue of registered gift deed dated 12/12/1980. Lakshmibala owned and possessed the suit property. Lakshmibala was the wife of Apurba Kumar Pal who was the elder brother of the present Plaintiffs. During life time, Lakshmibala transferred a part of the property. On death of Lakshmibala, the property was inherited by the Plaintiffs as the legal heirs. After death of Lakshmibala, the Plaintiffs as legal heirs were in possession of the suit property. But subsequently the Defendant denied their title. So cloud was cast upon the title of the Plaintiffs in respect of the suit property and the Plaintiff instituted the suit, praying

for declaration of title and permanent injunction. During pendency of the suit, they amended the plaint to incorporate the prayer for recovery of possession with mesne-profit in view of subsequent dispossession.

The plea of the Defendants in the written statement was that Shaibalani the mother of the aforesaid, Lakshmibala was the mother of the Defendants too, since Lakshmibala was their sister. The Lakshmibala lost her Husband 17 years back and she was driven out from the matrimonial home. The property was purchased by her as well as father of the Defendants in the name of Shaibalani. As such, Shaibalani had no right, title and interest in the suit property. In fact, the property in the name of Shaibalani was the benamdar of her husband Indrachandra Pal in respect of the suit property. It was also alleged that gift deed executed by Shaibalani was void.

The Trial Court decreed the suit in favour of the Plaintiff. Appeal was preferred by the Defendants which was also dismissed.

At the time of admission of the Second Appeal, the following substantial question of law was framed:-

“1. Lakshmibala having acquired the suit property by virtue of a deed of gift from her mother, whether the learned courts below committed substantial error of law in holding that on the death of Lakshmibala the property devolved to the plaintiffs, the heirs of her husband.”

Shaibalani, the mother of Lakshmibala transferred the suit property by way of gift to Lakshmibala. That deed of gift was not set aside. Although a plea of benami was taken that was the Trial Court did not adjudicate it in favour of the Defendant.

The Learned Counsel for the Appellant/Defendant submitted that by virtue of Section 14 (2) of the Hindu Succession Act, 1956, the Defendants are entitled to the property of the deceased Lakshmibala.

Per contra, the Learned Counsel for the Respondent submitted that the property was not inherited by Lakshmibala but she acquired title by way of gift for which Section 14 (2) of the Hindu Succession Act, 1956 will not be applicable and legal heirs of the husband would inherit the estate of Lakshmibala.

I have heard rival submissions.

Lakshmibala herself did not inherit the suit property but acquired.

Section 14 may be quoted below:-

“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 sub-section, “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 stridhana immediately before the commencement of this Act.

[\(2\)](#) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a 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 instrument or the decree, order or award prescribe a restricted estate in such property.”

This specific use of the word ‘inherited’ excludes operation of the ambit of the fresh transfer or acquire. This is deliberately limited to inheritance. Lakshmibala acquired the title from the mother not by of inheritance but by transfer which is the

new title, conferred upon her. On her death, in absence of husband or sons or daughters, the property would devolve upon the heirs of the husband in accordance with Section 14 (1) of the Hindu Succession Act, 1956.

In **V. Tulasamma & Ors. Vs. Sesha Reddy [(1977) 3 SCC 99]**, three Judges Bench of the Supreme Court of India considered the provisions of Section 14 (2). It was observed that Sub-section (2) of Section 14 applies to instruments, decrees, awards and gifts etc. which create independent and new title in favour of the females for the first time. It is clear that the estate acquired by the Lakshmibala was not a restricted estate. It is a new right created in her favour by her mother as a result of transfer by way of gift. The principle, enunciated in **V. Tulasamma's** case was subsequently reiterated and followed in number of decisions. In three Judges Bench in **Bai Vajia (Dead) by Lrs. Vs. Thakorbbhai Chelabhai & Ors. [(1979) 3 SCC 300]** reiterated the same principal. In **Nazar Singh & Ors. Vs. Jagjit Kaur & Ors. [(1996) 1 SCC 35]**, this principal was further reiterated.

The concurrent finding of the both the courts below, for reasons discussed above do not suffer any error in view of this settled principle of law. These concurrent findings demand no interference by this Court.

For the reasons stated above, in the instant appeal is dismissed on merit without costs.

Lower Court Record be returned.

(Sugato Majumdar, J.)