



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	14.11.2024
Pronounced on	21 .01.2025

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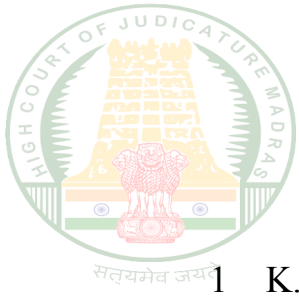
CORAM:
THE HONOURABLE MS.JUSTICE R.N.MANJULA

S.A.No.806 of 2014
and
M.P.No.1 of 2014

- 1 Sundaramani(died)
S/o Sivaraja Mudaliar,
Koovam Village And Post,
Thiruvallur Taluk And District.
 - 2 Srinivasan
S/o Sundaramani,
Koovam Village And Post,
Thiruvallur Taluk And District.
 - 3 Shanmugam
S/o Sundaramani,
Koovam Village And Post,
Thiruvallur Taluk And District.
 - 4 S.Mangayarkarselvi
W/o.late Sundaramani,
Koovam Village And Post,
Thiruvallur Taluk And District.
 - 5 S.Kanniammal
D/o.late Sundaramani
Koovam Village And Post,
Thiruvallur Taluk And District.
- [A1 Died A4 And 5 Brought On Record As
Legal Heirs Of The deceased fist appellant]

...

Appellants



Vs

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1 K.V.Sarvesan(died)
S/o Vajravadivelu No.1/327,
Pillaiyar Koil Street,
Vilangadupakkam Red Hills Via
Chennai 52

2 Mrs.Suguna @ Kamatchi
W/o K.V.Sarvesan,
Dr. Ambedkar St. ,
Pagasalai Village Post,
Thiruvalamagadu Taluk,
Thiruvallur District.

...

Respondents

[R1 Died Rr2 Brought On Record As Legal heir Of
The deceased 1st respondent vide order dated 01.08.2022
made in CMP.Nos.22480, 22481 & 22482/17 in SA.No.806/14.]

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgement and decree in A.S.No.31/2011 passed by the Subordinate Judge, Thiruvallur, dated 23.01.2014 reversing the judgement and decree in OS.No.262/2002 passed by the District Munsif, Thiruvallur dated 22.12.2009.

For Appellants : Mr.C.T.Mohan, Senior Counsel
for Mr. R.Vijayaraghava.
For Respondents : Mr. R.Krishnaswamy for R2
: R1-Died



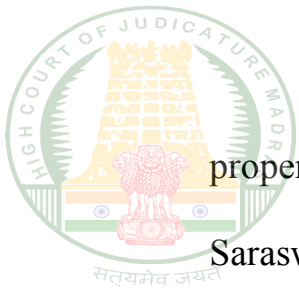
JUDGMENT

Heard Mr.C.T.Mohan, learned Senior Counsel for the appellants and Mr.R.Krishnaswamy, learned Counsel for R2 and perused the materials available on record.

2. The appellants are defendants in the suit. The plaintiffs filed the suit O.S.No.262 of 2002, for declaring their title over the suit property against the defendants; for recovery of possession and for permanent injunction. The trial Court dismissed the suit and on the first appeal preferred by the plaintiffs, the first appellate Court allowed the appeal and reversed the judgment of the trial Court and decreed the suit. Hence, the defendants have preferred the present Second Appeal.

3. The brief facts of the case reads as follows:

The suit property was originally owned by one Duraisamy Mudaliar who had a son and two daughters viz., Sivaraj Mudaliar, Saraswathi Ammal and Kamakshi Ammal. In the year 1949, the said Duraisamy Mudaliar executed a registered Gift Deed in favour of his daughter Saraswathi Ammal and he died in the year 1957. The said Saraswathi Ammal acquired the

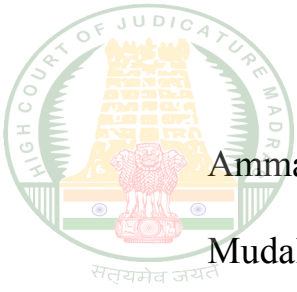


property and enjoyed the same. The recital of the deed would state that Saraswathy Ammal has only a limited right to enjoy the properties and after her lifetime, the title will vest on her sister's son (plaintiff herein).

Saraswathy Ammal died without any issues on 23.10.2001. The first defendant is the brother's son of late Saraswathi Ammal who had performed the funeral ceremonies of Saraswathi Ammal and who was declared as a foster son of late Saraswathi Ammal. After the death of Saraswathi Ammal, the plaintiff wanted to take possession of the suit property, but, the defendants threatened the plaintiff not to enter the suit property.

4. The averments made in the written statement filed by the first defendant is as follows:

The first defendant is the adopted son of Saraswathi Ammal. The Saraswathi Ammal has been in possession and enjoyment of the suit property independently. When the first defendant was 1½ years old, he was adopted by Saraswathi Ammal and her husband Rajamunusamy Mudaliar through Dathu Omam. From 1953 onwards, the first defendant was brought up by Saraswathi Ammal and her husband as their own son. The defendants 2 & 3 are the grandchildren of late Saraswathi Ammal. The Saraswathi



Ammal along with her brother who was also the only son of Duraisamy Mudaliar executed a registered Settlement Deed in favour of the defendants 2 & 3 on 20.06.1979. The first defendant as the father and natural guardian of the defendants 2 & 3 accepted the said Settlement Deed. The plaintiff does not have any right over the suit property.

5. Though the defendants 2 & 3 filed their separate written statement, they had adopted the written statement of the first defendant.

6. During the course of the trial, on the side of the plaintiffs, two witnesses have been examined as PW.1 and P.W.2 and Ex.A1 to Ex.A4 were marked. On the side of the defendants, four witnesses have been examined as D.W.1 to D.W.4 and Ex.B1 to Ex.B8 were marked.

7. After the conclusion of the trial and on considering the materials available on record, the Trial Court has dismissed the suit and on the first appeal preferred by the plaintiff, the first appellate Court allowed the appeal and reversed the judgement of the trial Court and decreed the suit. Hence, the defendants have preferred the present Second Appeal. While admitting



this Second Appeal, the following substantial questions of law were framed for consideration:

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"1.Is the First Appellate court is right in coming to the conclusion that Section 14(2) of the Hindu Succession Act, 1956 will only apply when Section 14(1) specifically states that Sreedhana property will become the absolute property of the Hindu female?

2.Is the First Appellate Court is right in the light of Ex.A1 that restriction can be imposed in respect of Sreedhana property?

3.Whether the limited estate of the female Hindu got enlarged on the date of coming into force of Hindu Succession Act, 1956 in terms of Section 14(1) of the Act?

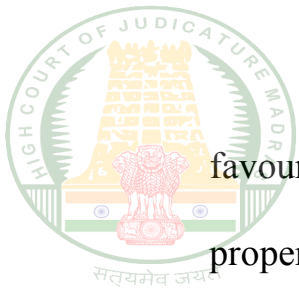
4.Is the suit maintainable without challenging the settlement deed dated 20.06.1979(Ex.B3)?

8. The learned Senior Counsel for the appellants / second defendant submitted that Sec.14(2) of the Hindu Succession Act 1956 will not apply to the facts of this case. As per Ex.A1 dated 31.08.1949, it is clearly stated that the suit property was given to Saraswathy Ammal by her father as *stridhana*



for her maintenance and livelihood. After coming into force of the Hindu Succession Act 1956, the life interest of a Hindu woman would become her absolute property in view of Section 14(1) of the Hindu Succession Act 1956. Saraswathy Ammal had executed a deed of settlement on 26.09.1979 vide Ex.B3 in favour of defendants 2 and 3. The first appellate Court, without properly understanding the contents of Ex.A1, came to an erroneous conclusion that Sec. 14(2) only will apply and not Sec. 14(1) of the Hindu Succession Act. Since Saraswathy Ammal has got her absolute right in respect of the suit property, the settlement deed executed by her in favour of defendants 2 and 3 will confer absolute right over them. The plaintiff did not challenge the settlement deed dated 26.09.1979 within a period of limitation, and hence the suit is barred by limitation.

9. The learned Senior Counsel for the second respondent submitted that the First Appellate Court has rightly applied Sec. 14(1) of the Hindu Succession Act to the facts of this case. In the gift deed Ex.A1, the Saraswathy Ammal has been given with only a limited life interest over the suit property and hence, she cannot execute the settlement deed in favour of defendants 2 and 3. As Saraswathi Ammal executed the settlement deed in



favour of defendants 2 and 3 without having absolute title over the suit property, that will not convey any title in favour of them.

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DISCUSSION:

For the sake of convenient discussion, the appellants are referred as defendants and the respondents are referred as plaintiffs.

10. The fact that the suit property was originally belonged to one Duraisamy Mudaliar and he had executed a settlement deed in favour of his daughter Saraswathi Ammal in the year 1949 is not disputed. The said settlement deed dated 31.08.1949 is available in Ex.A1. The recitals of the settlement deed would state that Saraswathy Ammal can enjoy the income derived from the suit property and the absolute interest will be passed on to her children. It is further stated in the settlement deed that if Saraswathy Ammal did not have any child, her sister's son would get absolute interest over the property. Had the settlement deed contained only these recitals, it could have been an easy task to conclude that it is a conditional settlement deed which would not fall under Sec.14 (1) but only under Sec.14 (2) of the Hindu Succession Act-1956.



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11. But the settlement deed would further read that the property is given to Saraswathy Ammal as *stridhana* by her father, as she did not have any enough income of her own and that she can make use of the property for her maintenance. The settlement deed has been executed prior to the coming into force of the Hindu Succession Act-1956. The appellants/defendants would claim that after the advent of the Hindu Succession Act-1956, by virtue of Sec.14(1) of the Act, the suit property had become the absolute property of the beneficiary namely, Saraswathy Ammal and hence, she has the absolute entitlement over the property.

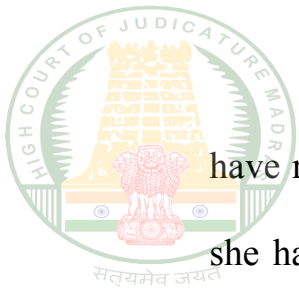
12. It is claimed by the defendants that even during the lifetime of Saraswathy Ammal, she had executed a settlement deed in favour of defendants 2 and 3, who are her brother's grandchildren born through her brother's son, who is the 1st defendant. The said settlement deed executed in favour of the defendants 2 and 3 was dated 20.06.1979 which is marked as Ex.B3. The defendants have claimed that the plaintiffs ought to have filed the suit only after challenging Ex.B3-settlement deed by claiming a relief to declare that the said settlement deed is null and void.



13. However the learned counsel for the plaintiffs submitted that as the Ex.B3-settlement deed has been executed contrary to the conditions found in Ex.A1-gift deed, and so, the plaintiffs can choose to ignore the same. It is further claimed that the plaintiff derived his title only through Ex.A1 and hence, he has filed the suit on the basis of the same.

14. Though the trial Court had arrived at a conclusion that Section 14(1) of the Hindu Succession Act-1956 will be applicable to the beneficiary in Ex.A1 namely the Saraswathy Ammal, as she had alienated the property during her life time in favour the defendants 2 and 3 and hence, the plaintiff does not have any right or title over the suit property. However, the First Appellate Court had made an observation that the entitlement of Saraswathy Ammal would fall under Section 14(2) of the Hindu Succession Act 1956, because the recitals of the gift deed would state that Saraswathy Ammal has a limited interest and hence she did not have any right to alienate the property.

15. The First Appellate Court has also gone into the details of the fact of adoption of the 1st defendant by Saraswathy Ammal. The defendants



have raised a plea stating that the 1st defendant is the adopted son and that she had adopted him even while he was one and half years old and as her adopted son, the 1st defendant had been living with Saraswathy Ammal.

The First Appellate Court had observed the materials available on records and claimed that it is difficult to accept the adoption theory taken up by the defendants.

16. But the issue involved in this case is entirely different and it revolves around whether the executant namely Saraswathy Ammal of the settlement deed Ex.B3 dated 20.06.1979 has the absolute right to settle her properties in the favour of the defendants 2 and 3 by tracing the title deed through Ex.A1 gift deed dated 31.08.1949.

17. The legal position with regard to Sections 14(1) and 14(2) of the Hindu Succession Act-1956 is concerned, it is well settled that if a Hindu woman has got a pre-existing right in the property and she was in possession of the property after or before the coming into force of the Act, her limited interest in the property will be extended and she can claim absolute interest over the same.



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18. Prior to the enactment of the Act, most of the properties settled in favour of the Hindu females will be only to have a limited interest. The absolute interest for a Hindu female is unknown to Hindu Law, until the Hindu Succession Act came into force. Even the Hindu woman does not have absolute right over her *Stridhana* property and whatever rights she enjoyed was only a possessory right. As there cannot be any reason for limiting the entitlement of the Hindu woman only for possession and not for alienation, it was thought fit to have suitable provisions under the Hindu Succession Act to enable a Hindu woman to have her property as an absolute one.

19. Now coming to Sec.14 of the Hindu Succession Act-1956, the language of Section is found as under:

"Section 14 in The Hindu Succession Act, 1956

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



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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. "

20. The explanation to Sec.14(1) would enlist certain properties which can be considered as the absolute property of a Hindu woman. It is stated in the explanation that the term '*property*' adopted in Section 14(1) would include the movable and immovable properties acquired by a female Hindu by inheritance, or devise or had a partition or in lieu of maintenance or arrears of maintenance or gift by any persons whether a relative or not before the Act or after the marriage, the property could have been acquired by her own skill or by purchase or by prescription or in any other manner and also the such property held by her as '*stridhana*' and they will become her absolute property after the advent of the Act.



21. In the instant case though the executant of the gift deed had stated that Saraswathy Ammal can have a limited interest of enjoying the income of the property till her life time. That arrangement has been made considering her need for maintenance. Even if a property is left to the possession of the Hindu female towards maintenance that will become her absolute property in view of Section 14(1) and the explanation given to the same.

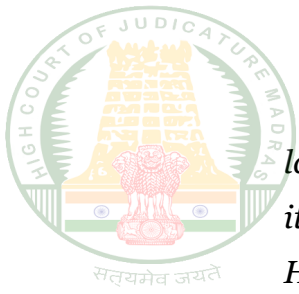
22. In the much celebrated judgement of the Hon'ble Supreme Court in ***V.Tulasamma and Others Vs. Sessa Reddy (dead) by L.Rs*** [reported in (1977) 3 SCC 90], the Hon'ble full Bench of the Supreme Court has held that Sec.14 sub section (1) cannot be interpreted in such a way *i.e.* its efficacy is robbed in order to deprive a Hindu female with a protection given to her by Sub Section (1). In the language of the Hon'ble Supreme Court the above preposition is laid as under:

“69. It cannot be interpreted in a manner which would rob sub-section (1) of its efficacy and deprive a Hindu female of the protection sought to be given to her by sub-section (1). The language of sub-section (2) is apparently wide to include acquisition of property by a Hindu female under an instrument or a decree or order or award where the instrument, decree, order or award prescribes a restricted estate for her in the property and this would



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apparently cover a case where property is given to a Hindu female at a partition or in lieu of maintenance and the instrument, decree, order or award giving such property prescribes limited interest for her in the property. But that would virtually emasculate sub-section (1), for in that event, a large number of cases where property is given to a Hindu female at a partition or in lieu of maintenance under an instrument, order or award would be excluded from the operation of the beneficial provision enacted in sub-section (1), since in most of such cases, where property is allotted to the Hindu female prior to the enactment of the Act, there would be a provision, in consonance with the old Sastric law then prevailing, prescribing limited interest in the property and where property is given to the Hindu female subsequent to the enactment of the Act, it would be the easiest thing for the dominant male to provide that the Hindu female shall have only a restricted interest in the property and thus make a mockery of sub-section (1). The Explanation to sub-section (1) which includes within the scope of that sub-section property acquired by a female Hindu at a partition or in lieu of maintenance would also be rendered meaningless, because there would hardly be a few cases where the instrument, decree, order or award giving property to a Hindu female at a partition or in lieu of maintenance would not contain a provision prescribing restricted estate in the property. The social purpose of the law would be frustrated and the reformist zeal underlying the statutory provision would be chilled. That surely could never have been the intention of the Legislature in enacting sub-section (2). It is an elementary rule of construction that no provision of a statute should be construed in isolation but it should be construed with reference to the context and in the light of other provisions of the statute so as, as far as possible, to make a consistent enactment of the whole statute. Sub-section (2) must, therefore, be read in the context of sub-section (1) so as to leave as



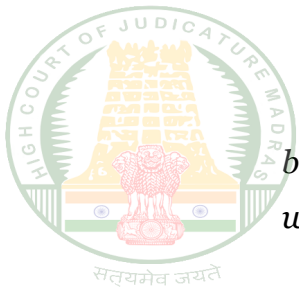
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large a scope for operation as possible to sub-section (1) and so read, it must be confined to cases where property is acquired by a female Hindu for the first time as a grant without any pre-existing right, under a gift, will, instrument, decree, order or award, the terms of which prescribe a restricted estate in the property. This constructional approach finds support in the decision in [Badri Prasad's](#) case (supra) where this Court observed that sub-section (2) "can come into operation only if acquisition in any of the methods enacted therein is made for the first time without there being any pre-existing right in the female Hindu who is in possession of the property". It may also be noted that when the Hindu Succession Bill 1954, which ultimately culminated into the Act, was referred to a Joint Committee of the Rajya Sabha, clause 15(2) of the Draft Bill, corresponding to the present sub-section (2) of [section 14](#), referred only to acquisition of property by a Hindu female under gift or will and it was subsequently that the other modes of acquisition were added so as to include acquisition of property under an instrument, decree, order or award. This circumstance would also seem to indicate that the legislative intendment was that sub-section (2) should be applicable only to cases where acquisition of property is made by a Hindu female for the first time without any pre-existing right-a kind of acquisition akin to one under gift or will. Where, however, property is acquired by a Hindu female at a partition or in lieu of right of maintenance, it is in virtue of a pre-existing right and such an acquisition would not be within the scope and ambit of sub-section (2), even if the instrument, decree, order or award allotting the property prescribes a restricted estate in the property."



23. However in order to give an effective interpretation of Sec.14 (1) there should be some pre-existing right and without any pre-existing right, Sec.14(1) cannot be attracted and her entitlement in the absence of any vestige of pre-existing right would fall under Sec.14(2). In this regard the relevant to cite the judgement of the Hon'ble Supreme Court held in ***C.Masilamani Mudaliar and others Vs. Idol of Sri Swaminathaswami Swaminathaswami Thirukoil and others*** reported in (1996) 8 SCC 525. In the said judgement the Hon'ble Supreme Court has held as under:

27.As held by this Court, if the acquisition of the property attracts sub-section [1] of Section 14, sub-section [2] does not come into play. If the acquisition is for the first times, without any vestige of pre-existing right under the instrument, document or device etc. then sub-section [2] of Section 14 gets attracted. Sub-section [2] being in the nature of an exception, it does not engulf and wipe out the operation of sub-section [1]. Sub-section [2] of Section 14 independently operates in its own sphere. The right to disposition of property by a Hindu under Section 30 is required to be understood in this perspective and if any attempt is made to put restriction upon the property possessed by a Hindu female under an instrument, document or device, though executed after the Act had come into force, it must be interpreted in the light of the facts and circumstances in each case and to construe whether Hindu female acquired or possessed the property in recognition of her pre-existing right or she gets the rights for the first time under the instrument without any vestige of pre-existing right. If the answer is in the positive, sub-section [1] of Section 14 gets attracted. Thus construed,



both subsections [1] and [2] of [Section 14](#) will be given their full play without rendering either as otios or aids as means of avoidance.

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24. By citing the above decision, it is claimed by the plaintiffs that Saraswathy Ammal did not have any pre existing right because on the date of the gift deed Ex.A1 Saraswathy Ammal got married and her father did not have any obligation to maintain her. It is claimed that there is no pre-existing right present in order to get converted into an absolute right for Saraswathy Ammal.

25. On the issue whether the married daughter has got any right of maintenance from her father, this Court has held in the case of **Kaliammal Vs. S.Kannan** reported in **1999-1-L.W.459**, that the father has got no legal or moral obligation to maintain her daughter. If there is no pre-existing right as to maintenance, then the Hindu woman cannot set up a new enhanced right over the property on which she was given with a limited interest. In such case, Sec.14(2) would only apply.

26. In the case of **Kaliammal** (*cited supra*) this Court has held as under:



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"26. The second part of the document creates a limited interest in favour of married daughters and under the document, the married daughters were given a right to enjoy the property without alienation or encumbrance and if anyone of the daughters dies without issues, her share would devolve upon the other two daughters and their issues after her lifetime. Therefore, by virtue of the recitals contained in the deed, a new right is created in favour of the married daughters. As already seen, a married daughter, if not a destitute, is not entitled to claim as of right the maintenance as there is no pre-existing right of maintenance against her father or his properties and the father is equally under no legal or moral obligation to maintain his married daughters if she is not a destitute. In other words, a new right was created in favour of the appellant in the deed of settlement and the settlor has also imposed certain restrictions in the matter of enjoyment of the property and the properties were not given to the appellant in recognition of any pre-existing right of maintenance of married daughters which they possessed against the property. Since the instrument in question has conferred a new right, title or interest on the married daughter, her rights to the properties would fall within the scope of [Section 14\(2\)](#) of the Hindu Succession Act. In my view, the grant was not in recognition or implementation of the pre-existing right to claim maintenance and so, the case would fall within the purview of [Section 14\(2\)](#) of the Act and not under [Section 14\(1\)](#) of the Hindu Succession Act. "

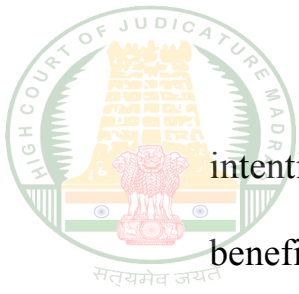
27. In the instant case, Saraswathi Ammal was a married woman and she was not a destitute. However, her father thought it fit to make her some



arrangement as she did not have enough income. The fathers intention did not stop there. He had also stated in the gift deed that he wished to treat the property as a *stridhana* property given to his daughter. Through Ex.A1 the donor had not only made arrangement for better maintenance for his daughter, he also wished the property to be treated as her *stridhana* property. The explanation to Sec.14(1) would make an explicit reference about *stridhana* and that cannot be overlooked.

28. Despite the appellant cited certain decisions about pre-existing right, those cases involve the arrangement made by the husband for the wife in respect of certain properties towards her maintenance. As the husband has got the obligation to maintain the wife, no doubt those properties are attached with a pre-existing right. But here is a case where an arrangement has been made by the father of a married woman and hence, it is claimed by the plaintiff that no absolute right can be claimed by Saraswathy Ammal and any such right so claimed would be a new right.

29. As stated already the executant of the gift deed had stated in an unequivocal term ' *stridhana* ' in more than one place of the gift deed. So the



intention of the executant was to have the suit property as *stridhana* of the beneficiary. Now the next question *would come what would be* considered as *stridhana*. Whatever property given to a Hindu Woman at the time of her marriage can be considered as *stridhana*.

30. Apart from the above gifts given at the time of marriage any other gifts made in token of love by father-in-law, mother-in-law, father, mother and brother of a Hindu Woman would also be considered as *stridhana*. So long as the property falls under the definition of *stridhana* undoubtedly a Hindu Woman can exercise her absolute right and not a limited right. In this regard, it is appropriate to refer the judgement of the Hon'ble Supreme Court in ***Pratibha Rani vs Suraj Kumar & Anr.***, reported in **(1985) 2 SCC 370**. In the said judgment, the Hon'ble Full Bench of the Supreme Court has observed as under:

"6. To the same effect is Maines' treatise on Hindu Law at page 728. The characteristics of Saudayika have also been spelt out by Mulla's Hindu law at page 168 (section 113) which gives a complete list of the stridhan property of a woman both before and during coverture, which may be extracted thus:

"113. Manu enumerates six kinds of stridhana:



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1. Gifts made before the nuptial fire, explained by Katyayana to mean gifts made at the time of marriage before the fire which is the witness of the nuptial (adhyagni).

2. Gifts made at the bridal procession, that is, says Katyayana, while the bride is being led from the residence of her parents to that of her husband (adhyavanhanika)

3. Gifts made in token of love, that is, says Katyayana, those made through affection by her father-in-law and mother-in-law (pritidatta), and those made at time the of her making obeisance at the feet of elders (padavan danika).

4. Gifts made by father.

5. Gifts made by mother.

6. Gifts made by a brother.

7. It is, therefore, manifest that the position of stridhan of a Hindu married woman's property during coverture is absolutely clear and unambiguous; she is the absolute owner of such property and can deal with it in any manner she likes - she may spend the whole of it or give it away at her own pleasure by gift or will without any reference to her husband. Ordinarily, the husband has no right or interest in it with the sole exception that in times of extreme distress, as in famine illness or the like, the husband can utilise it but he is morally bound to restore it or its value when he is able to do so. It may be further noted that this right is purely personal to the husband and the property so received by him in marriage



cannot be proceeded against even in execution of a decree for debt."

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31. And yet another judgement of the Hon'ble Supreme Court makes it more clear that the properties gifted to a Hindu woman before her marriage, at the time of her marriage or thereafter can also be treated as *stridhana* property. The very same judgement would state about the authority of a Hindu Woman over such property by making it clear that such gifts given as *stridhana* will be her absolute property and she can have the absolute authority over the same. It is so held by the Hon'ble Supreme Court in ***Rashmi Kumar Vs. Mahesh Kumar Bhada*** reported in (1997) 2 SCC

397. The relevant paragraph is extracted hereunder:

"9.A woman's power of disposal, independent of her husband's control, is not confined to saudavika but extends to other properties as well. Devala says: "A women's maintenance (vritti), ornaments, perquisites (sulka), gains (labha), are her stridhana. She herself has the exclusive right to enjoy it. Her husband has no right to use it except in distress...". In "N.R. Raghavachariar's "Hindu law -Principles and Precedents" [8th Edn.] edited by Prof. S. Venkataraman, one of the renowned Professors of Hindu law para 468 deals with "Definition of Stridhana". In para 469 dealing with "Sources of acquisition" it is stated that the sources of acquisition of property in a women's possession are: gifts before marriage, wedding gifts, gifts



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subsequent to marriage etc. Para 470 deals with "Gifts to a maiden". Para 471 deals with "Wedding gifts" and it is stated therein that properties gifted at the time of marriage to the bride, whether by relations or strangers, either Adhiyagni or Adhyavahanika, are the bride's stridhana. In para 481 at page 426, it is stated that ornaments presented to the bride by her husband or father constitute her Stridhana property. In para 487 dealing with "powers during coverture" it is stated that saudayika meaning the gift of affectionate kindred, includes both Yautaka or gifts received at the time of marriage as well as its negative Ayautaka. In respect of such property, whether given by gift or will she is the absolute owner and can deal with it in any way she likes. She may spend, sell or give it away at her own pleasure.

10. It is thus clear that the properties gifted to her before the marriage, at the time of marriage or at the time of giving farewell or thereafter are her stridhana properties. It is her absolute property with all rights to dispose at her own pleasure. He has no control over her stridhana property. Husband may use it during the time of his distress but nonetheless he has a moral obligation to restore the same or its value to his wife. Therefore, stridhana property does not become a joint property of the wife and the husband and the husband has no title or independent dominion over the property as owner thereof."

32. In the latest judgement of the Hon'ble Supreme Court in ***Mulakala Malleshwara Rao & Another Vs. State of Telengana & Another*** report in **2024 SCC OnLine SC 2285**, it has been made crystal clear that the Hindu female would be the sole owner of the *strithan* and no one else other



than her can have a right of alienation over same. The relevant paragraph of the above judgement is extracted as under:

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"7. As evidenced from the above, the jurisprudence as has been developed by this Court is unequivocal with respect to the singular right of the female (wife or former wife) as the case may be, being the sole owner of 'stridhan'. It has been held that a husband has no right, and it has to then be necessarily concluded that a father too, has no right when the daughter is alive, well, and entirely capable of making decisions such as pursuing the cause of the recovery of her 'stridhan'."

33. From the above judicial pronouncements on *stridhana* the only inescapable conclusion that can be arrived at is that no one else can claim right over the property which have been given to the Hindu woman as *stridhana*. As the father of Saraswathy Ammal has stated in the gift deed Ex.A1 in clear terms that the said property has been given to her as *stridhana* and she has been in possession of the same by dealing with the same on various occasion, the possessory right given to her would get magnified as an absolute right irrespective of conditions put forth therein.

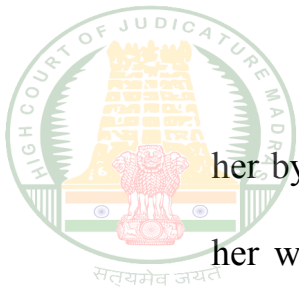
34. In other words, had the property in Ex.A1 gift was given as a supportive property to derive income for her maintenance alone, there cannot be any scope for enhanced right and it would squarely fall under



Sec.14(2) of the Hindu Succession Act 1956. But here is a case where a Hindu female namely Saraswathy Ammal has been allowed to treat the property as *stridhana* property and then enjoy its income towards her maintenance. As the nature of the gift is given to her as *stridhana*, Sec.14(1) would come into play in order to enhance her right as an absolute right and not a limited right.

35. When the trial Court without confusion has held that the limited right of possession over the suit property had evolved as an absolute right in view of Sec.14(1) of the Act, the First Appellate Court has misguided itself and arrived at a conclusion that Sec.14(2) alone will be applicable. The First Appellate Court was unmindful of the fact that the above property has been given to Saraswathy Ammal to consider that as her *stridhana*. It seems that the First Appellate Court had travelled unnecessarily in the factum of adoption of the 1st defendant by late Saraswathy Ammal and its genuineness in order to strengthen its finding which in my opinion is not relevant.

36. After the enactment of the Act in the year 1956, Saraswathy Ammal has taken the liberty of considering the *stridhana* property given to



her by Ex.A1 as her absolute property and she dealt the same according to her whims and needs, she had also settled the said property in favour of defendants 2 and 3 by executing Ex.B3 settlement deed. The 1st defendant as guardian of his children, defendants 2 and 3 has accepted the settlement and take possession of the said property and in enjoyment of the same. The settlement Ex.B3 has not only been executed by Saraswathy Ammal but it also been acted upon and mutation of the revenue records have also been made in this regard. This is a case which involves a pure question of law and hence the oral evidence given by the witnesses, cannot be of much help.

37. As the authority over such '*stridhana*' property is an absolute authority and she has thought it is fit to settle the same in favour of the defendants 2 and 3 during her life time and the settlement has also been acted upon the defendants 2 and 3 acquired title over the suit property and now they are in enjoyment of the same. So the First Appellate Court is wrong in applying Sec.14(2) instead of Sec.14(1) of the Hindu Succession Act,1956 and arrived at an erroneous conclusion of decreeing the suit. As there is an enhancement of right in respect of the suit property in view of



the newly enacted Hindu Succession Act, 1956, no other legal heir except Saraswathy Ammal would get an absolute title over the suit property given to her as *Stridhana*. Hence the plaintiff's claim of title over the suit property in view of Ex.A1, cannot be of any help in his favour. In view of the above discussions, **the substantial question of law is answered in favour of the appellants/defendants.**

38. In the result, this Second Appeal is **allowed**. The judgement of the First Appellate Court is set aside and the judgement and decree granted by the trial Court is restored. No costs. Consequently, the connected miscellaneous petition is closed.

21.01.2025

Speaking order

Index : Yes

Neutral Citation : Yes

jrs



To

1. The Subordinate Judge, Thiruvallur.
2. The District Munsif, Thiruvallur.

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S.A.No.806 of 2014



R.N.MANJULA, J.

jrs

S.A.No.806 of 2014 and
M.P.No.1 of 2014

21.01.2025