REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2024
Arising out of SLP (CIVIL) NO(S). 12842 OF 2018

MUKATLAL **....APPELLANT(S)**

VERSUS

KAILASH CHAND (D) THROUGH LRS.
AND ORS. **....RESPONDENT(S)**

J U D G M E N T

Mehta, J.

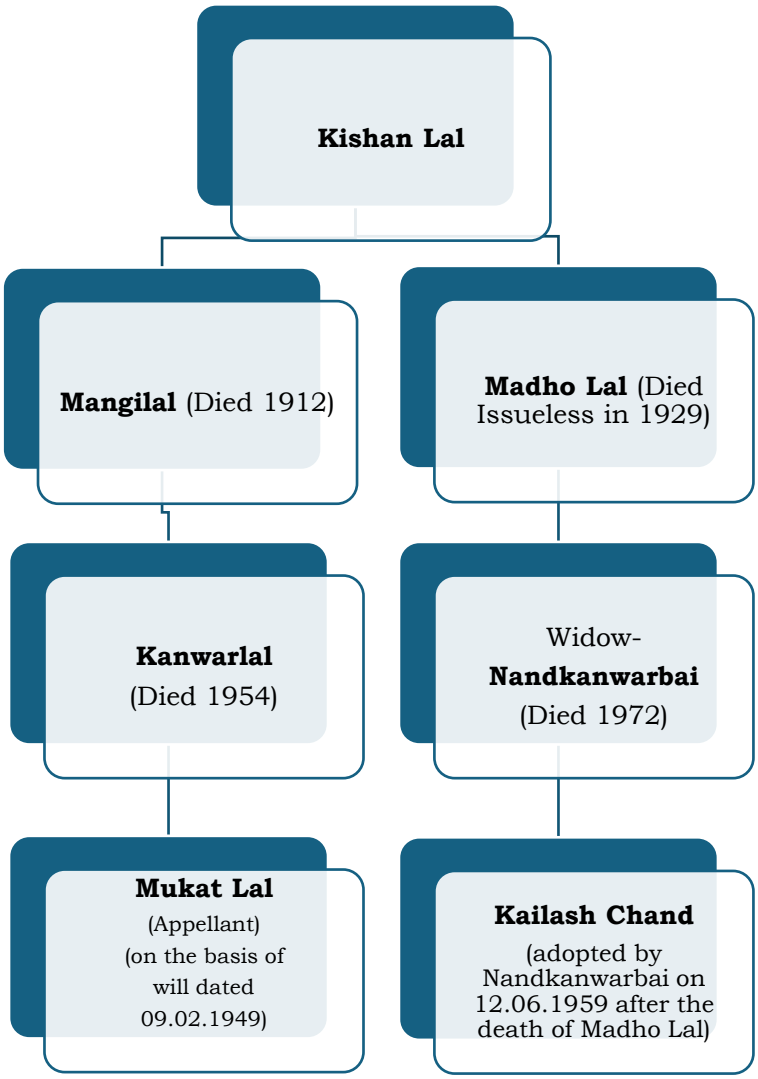
1. Leave granted.

2. The instant appeal by special leave challenges the final judgment and order dated 2nd November, 2017 passed by learned Division Bench of the Rajasthan High Court in D.B. Special Appeal (Writ) No. 1029 of 2006 whereby the appeal preferred by the appellant questioning the legality and validity of the judgment dated 21st July, 2006 passed by learned Single Judge of the

Rajasthan High Court in S.B. Civil Writ Petition No. 1587 of 1993 was dismissed.

3. For the sake of convenience, the parties shall be referred to by their rank in the Revenue Court.

4. In order to appreciate the controversy involved in the matter in the proper perspective, it would be beneficial to reproduce the genealogical table/pedigree of the families of the parties.



Chronological List of Events: -

Dates	Event
After the death of Kishan Lal, Hindu Undivided Family(HUF) property devolved among his two sons, Mangilal and Madho Lal.	
1912	Mangilal passed away. (Survived by his son, Kanwarlal)
1929	Madho Lal passed away (Issueless, survived by his widow- Smt. Nandkanwarbai)
09.02.1949	Kanwarlal executed a will in favour of his son, Mukat Lal (appellant herein).
1954	Kanwarlal Passed Away.
First Set of Legal Proceedings	
1958	Smt. Nandkanwarbai filed Civil Suit No. 11of 1958 for declaration of title and possession in respect of the suit property.
21.05.1959	Civil Suit No. 11 of 1958 was dismissed however the Civil Judge held that Smt. Nandkanwarbai had the right to be maintained out of the suit property.
12.06.1959	Smt. Nandkanwarbai adopted Kailash Chand(original respondent herein).
12.07.1966	Mukat Lal preferred Appeal No. 64 of 1966 against order dated 21.05.1959 passed in Civil Suit No. 11 of 1958.
09.02.1968	Civil Judge allowed Appeal No. 64 of 1966 and set aside the order to the extent that it gave Smt. Nandkanwarbai the right to be maintained out of the suit property. Aggrieved, Smt. Nandkanwarbai preferred SB Civil Second Appeal No. 347 of 1968
1972	Smt. Nandkanwarbai passed away. Kailash Chand was substituted as legal representative of deceased Smt. Nandkanwarbai in 1973.

20.03.1973	High Court allowed SB Civil Second Appeal No. 347 of 1968 and held that Smt. Nandkanwarbai was entitled to the right of maintenance out of the suit property, she being the widow of the deceased coparcener in joint Hindu family property.
Present Proceedings	
20.06.1979	Revenue Suit No. 37 of 1979 under section 53 of Rajasthan Tenancy Act, 1956 was filed by Kailash Chand, for partition of the suit property, in the capacity of the legal heir of his adopted mother Smt. Nandkanwarbai.
14.12.1983	Revenue Suit No. 37 of 1979 was allowed and decreed by Sub Divisional Officer, Bundi wherein it was held that Kailash Chand being the sole legal heir of Smt. Nandkanwarbai has coparcenary rights over the lands belonging to Madho Lal.
1984	Mukat Lal preferred Appeal No. 12 of 1984 challenging order dated 14.12.1983 before Revenue Appellate Authority, Kota.
31.01.1986	Revenue Appellate Authority, Kota allowed Appeal No. 12 of 1984 and decree passed by Sub Divisional Magistrate, Bundi dated 14.12.1983 was set aside.
1986	Kailash Chand preferred Second Appeal being S.A. 120 of 1986 before Board of Revenue, Ajmer.
12.03.1992	Board of Revenue, Ajmer dismissed S.A. 120 of 1986
1993	Kailash Chand filed a Writ Petition being S.B. Civil Writ Petition No. 1587 of 1993 before High Court challenging the order passed by Board of Revenue, Ajmer dated 12.03.1992.
21.07.2006	Ld. Single Judge allowed S.B. Civil Writ Petition No. 1587 of 1993 and set aside the judgments passed by Revenue Appellate Authority, Kota and Board of Revenue, Ajmer.
2006	Mukat Lal filed a Writ Appeal being DB Special Appeal (Writ) No. 1029 of 2006 before the Division Bench.
02.11.2017	Ld. Division Bench dismissed DB Special Appeal (Writ) No. 1029 of 2006 and upheld the order of the Ld. Single Judge dated 21.07.2006.

06.02.2018	Present SLP was filed.

5. The core question of law involved in this appeal is as to the right of the plaintiff Kailash Chand being legal heir of Hindu widow Smt. Nandkanwarbai to enforce her right of succession in the unpartitioned Joint Hindu Family property by virtue of Section 14(1) of the Hindu Succession Act, 1956 (hereinafter being referred to as 'Succession Act') by filing a suit in the Revenue Court.

6. Few facts, most germane and relevant to the issue are required to be extracted from the chronology of dates and events. The suit property was owned by Kishan Lal who had two sons, namely, Mangilal and Madho Lal. Madho Lal was married to Smt. Nandkanwarbai. Mangilal had a son Kanwarlal. Mangilal died in the year 1912 whereas Madho Lal died issueless in 1929. Smt. Nandkanwarbai claims to have adopted plaintiff Kailash Chand on 12th June, 1959 that is nearly after 30 years from the date of death of Madho Lal. Kanwarlal had executed a will of the entire unpartitioned estate in favour of defendant Mukat Lal(appellant herein) on 9th February, 1949. Shri Kanwarlal passed away in the year 1954. Thus, the suit property devolved upon defendant Mukat Lal under the will executed by late Shri Kanwarlal.

7. Smt. Nandkanwarbai, widow of late Madho Lal filed a Civil Suit No. 11 of 1958 seeking a declaration of title and possession over the suit property contending that the property in question was a joint Hindu family property and that the will allegedly executed by late Kanwarlal was illegal. It was further contended in the suit that defendant Mukat Lal was not entitled to any share in the HUF property by virtue of the will. The Civil Court dismissed the said suit vide judgment and decree dated 21st May, 1959 while recognizing the right of Smt. Nandkanwarbai only to the extent of receiving maintenance from the suit property.

8. Smt. Nandkanwarbai, did not challenge the said judgment any further. However, defendant Mukat Lal on attaining majority, preferred an appeal against the judgment dated 21st May, 1959 which was allowed by the learned Senior Civil Judge vide judgment dated 9th February, 1968 and the judgment and decree passed by the civil Court in favour of Smt. Nandkanwarbai to the extent of the right to receive maintenance from the suit property was set aside.

9. Being aggrieved, Smt. Nandkanwarbai preferred a Second Appeal No. 347 of 1968 before the learned Single Judge of Rajasthan High Court. During the pendency of the said second

appeal, in the year 1972 Smt. Nandkanwarbai passed away and her legal heir i.e. plaintiff Kailash Chand was taken on record. Learned Single Judge of Rajasthan High Court, vide judgment dated 20th March, 1973 allowed the second appeal filed by Smt. Nandkanwarbai and restored the civil Court's judgment to the extent of her right to be maintained from the suit property. Resultantly, the status of defendant Mukat Lal as being the beneficiary of the suit lands as being the legatee of the will made by his father Shri Kanwarlal stood crystallized.

10. The plaintiff Kailash Chand filed Revenue Suit No. 37 of 1979 for partition of the suit property before the Revenue Court claiming that Smt. Nandkanwarbai was entitled to a rightful share in the property by virtue of Section 14(1) of the Succession Act.

11. The present appeal arises from the aforesaid Revenue Suit No. 37 of 1979 seeking partition which culminated in the impugned judgment dated 2nd November, 2017 passed by the learned Division Bench of the Rajasthan High Court.

12. It may be reiterated that the issue regarding title and possession over the suit property stands concluded against Smt. Nandkanwarbai(deceased widow) vide judgment and decree dated 21st May, 1959 passed in Civil Suit No. 11 of 1958. The said Civil

Suit was dismissed by the competent Court qua the relief of possession and title while recognizing the right to Smt. Nandkanwarbai only to the extent of receiving maintenance from the estate. Admittedly, Smt. Nandkanwarbai did not challenge the judgment and decree dated 21st May, 1959 and thus, it attained finality to the extent of possession and title. Apropos, there is no dispute qua the fact that Smt. Nandkanwarbai was never in possession of the suit property.

13. Shri Puneet Jain, learned counsel representing the appellant advanced the following pertinent submissions and urged that the Division Bench erred in law in dismissing the appeal preferred by the appellant affirming the judgment of the learned Single Judge and restoring the judgment and decree of the Revenue Court.

(i) That Smt. Nandkanwarbai had no interest, either limited or otherwise, in the suit land which could fructify into absolute ownership under section 14(1) of the Succession Act and the Division Bench erred in treating "Charge over property towards Maintenance" as possession over the property.

(ii) It was contended that in order to attract Section 14(1) of the Succession Act, there must be a "Property possessed by the Hindu Women" but in the present case, the suit for

possession and title filed by Smt. Nandkanwarbai was dismissed and hence she was never in possession, either legal or actual, over the suit property.

iii) That the civil suit for title and possession filed by Smt. Nandkanwarbai having been dismissed, the judgment of the civil Court operated as res judicata and hence the relief could not have been granted to her adopted son[Kailash Chand(plaintiff)] in the subsequent partition suit filed in the Revenue Court.

iv) While placing reliance on the decision of this Court in ***Ram Vishal(dead) by LRs. And Others v. Jagannath and Another***[1], it was contended that since Smt. Nandkanwarbai was never in possession of the suit property which were agricultural lands' either by inheritance or in lieu of maintenance, as a consequence, Section 14(1) of the Succession Act could not be applied so as to confer proprietary rights upon her adopted son[Kailash Chand(plaintiff)].

v) Learned counsel, Shri Jain further contended that reliance placed by the learned Single Judge on the decision of ***Vasant and Anr. v. Dattu & Ors.***[2]**,** is *ex-facie* erroneous as the said

[1] (2004) 9 SCC 302
[2] (1987) 1 SCC 160

judgment deals with issues related to properties held by the joint Hindu family having several surviving coparceners and not that of a sole surviving coparcener.

He thus, implored the Court to accept the appeal and set aside the impugned judgments.

14. *E-converso*, Shri Bishwajit Bhattacharya, learned senior advocate representing the respondents, vehemently and fervently opposed the submissions advanced by learned counsel for the appellant and contended that the issue in the present case regarding the ambit of the rights of a female Hindu on the undivided joint Hindu family estate under Section 14(1) of the Succession Act has been settled by this Court in the case of ***Munni Devi alias Nathi Devi(Dead) Thr LRs & Ors. v. Rajendra alias Lallu Lal(Dead) Thr LRs & Ors.***[3] He placed reliance on the pertinent observations(reproduced *infra*) made by this Court in ***Munni Devi****(supra)* and implored the Court to dismiss the appeal and affirm the impugned judgments.

15. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the impugned judgment and the material available on record.

[3] 2022 SCC OnLine SC 643

16. The plank contention of Shri Puneet Jain, learned counsel representing the appellant for assailing the impugned judgments was that the deceased widow Smt. Nandkanwarbai was never in possession of the suit property and as a consequence, her adopted son, plaintiff Kailash Chand, was precluded from claiming partition of the suit property by virtue of succession and hence, the Revenue suit was not maintainable. He had placed reliance on the findings arrived at by the civil Court in the suit filed by Smt. Nandkanwarbai to buttress this contention.

17. At the outset, it may be noted that in so far as the aspect that Smt. Nandkanwarbai(deceased widow) had never been in possession of the suit property is concerned, the same is virtually an admitted position from the record because she never challenged the judgment and decree dated 21st May, 1959 whereby the suit filed by her for declaration of title and possession was dismissed by the civil Court and she was held only entitled to receive maintenance from the undivided estate. Thus, indisputably neither Smt. Nadkanwarbai nor the plaintiff Kailash Chand were ever in possession of the suit land.

18. In the case of ***Munni Devi****(supra)* which was heavily relied upon by the learned counsel for the respondent Shri Bhattacharya,

the admitted position was that Bhonri Devi, widow of Late Dhannalalji was actually residing in the suit property during the time the coparcener Shri Harinarayanji was alive and even after his death, she continued to reside in the said house and used to collect the rents from the tenants who were occupying the suit property till the date of filing of suit.

19. A Bench of two Honourable Judges of this Court after considering the gamut of Section 14 of the Succession Act in the case of ***Munni Devi***(*supra*) observed as below: -

> "**14.** In view of the above, there remains no shadow of doubt that a Hindu woman's right to maintenance was not and is not an empty formality or an illusory claim being conceded as a matter of grace and generosity. It is a tangible right against the property, which flows from the spiritual relationship between the husband and the wife. The said right was recognised and enjoined by pure Shastric Hindu Law, which existed even before the passing of the 1937 or the 1946 Acts. Those Acts merely gave statutory backing recognising the position as was existing under the Shastric Hindu Law. Where a Hindu widow is in possession of the property of her husband or of the husband's HUF, she has a right to be maintained out of the said property. She is entitled to retain the possession of that property in lieu of her right to maintenance. Section 14(1) and the Explanation thereto envisages liberal construction in favour of the females, with the object of advancing and promoting the socio-economic ends sought to be achieved by the said legislation. **As explained in V. Tulasamma (supra) case, the words "possessed by" used in Section 14(1) are of the widest possible amplitude and include the state of owning a property, even though the Hindu woman is not in actual or physical possession of the same. Of course, it is equally well settled that the possession of the widow, must be under some vestige of a claim, right or title, because the section does not contemplate the possession of any rank trespasser without any right or title**.

15. The undisputed facts in the instant case are that Dhannalalji, the husband of Bhonri Devi expired in 1936, Ganeshnarayanji, the father-in-law of Bhonri Devi expired in 1938 and Harinarayanji, the brother of Ganeshnarayanji died on 11.11.1953. Daulalji was adopted by Sri Bakshji in the year 1916. Harinarayanji, Ganeshnarayanji and Sri Bakshji had common ancestor Gopalji. It is also not disputed that the suit property was an ancestral property in the hands of Harinarayanji and Ganeshnarayanji. **It is also not disputed that Bhonri Devi was staying in the suit property before the death of Harinarayanji, and after his death she was in possession and in charge of the said property, and was maintaining herself by collecting rent from the tenants who were occupying part of the suit property.**

16. Now it appears from the documents on record that the rent notes (Exhibit A-2 to A-11) executed during the period 1955 to 1965 in respect of the part of the suit property, were executed in the name of Bhonri Devi. The concerned defendants in the suit had also filed their written statements, stating that they were paying rent to Bhonri Devi only. It further appears from the document (Exhibit A-13) that Daulalji had raised an objection against Bhonri Devi paying the house tax in respect of the suit property and that the Municipal Commissioner, Jaipur vide order dated 28.03.1957 had observed that Bhonri Devi was paying the tax in the past also. An appeal against the said order was preferred by Daulalji before the Administrator of Municipal Council, Jaipur however the same was also rejected vide the order dated 28.01.1959. It was observed therein that "In this case there is a dispute regarding ownership. Municipal Commissioner who is the reversing authority in his judgment dated 28.03.1957 held that Bhonri Devi who was paying tax to the municipality in the past, should pay the tax and for question of title the concerned party should seek remedy in the Civil Courts."

17. From the said documents it clearly emerges that Bhonri Devi was paying the house tax prior to 1956 and was collecting the rent from the tenants prior to and after 1956. Pertinently from the document Exhibit-54, it emerges that in 1940 Bhonri Devi, when she was staying with her in-laws, had no source of maintenance, and therefore she was granted Rs. 2.50 per month by way of maintenance, by the Punya Department of the Government. She claiming to be a PARDANASHEEN lady had authorised Daulalji to collect the said amount of maintenance. The said document clearly shows that Bhonri Devi was residing in the suit house since 1940. **Be that as it may, it was well established that Bhonri devi was in possession of the suit house before and after the death of Harinarayanji in 1953**

and had continued to remain in possession thereafter and was collecting rent from the tenants who were in occupation of part of the suit premises since 1955, till the date of filing of the suit in 1965 by the plaintiff Daulalji.

18. The afore-stated facts and circumstances clearly established that Bhonri devi had long settled possession of the suit property, which she had acquired in lieu of her pre-existing right to maintenance, prior to the commencement of the Act of 1956, which entitled her to become a full owner of the suit property by virtue of Section 14(1) of the said Act. Her exclusive possession of suit property after the death of Harinarayanji in 1953 i.e., prior to coming into force of the said Act in 1956, was not only not disputed but was admitted by the plaintiff Daulalji in the plaint itself. Her pre-existing right to maintenance from the estate of the HUF of her husband was also well established. The submission of Mr. Jain for the appellants that mere right to maintenance would not ipso facto create any charge on the property and that for creating legal charge recognising right of Hindu women to maintenance required execution of a document, device or agreement, cannot be countenanced. **Her pre-existing right to maintenance, coupled with her settled legal possession of the property, would be sufficient to create a presumption that she had a vestige of right or claim in the property, though no document was executed or specific charge was created in her favour recognizing her right to maintenance in the property.**

19. It may be noted that in the Will executed by Harinarayanji in favour of Daulalji, there was no mention of the suit property. What was stated in the Will was that whatever movable and immovable property, which belonged to Harinarayanji would be devolved upon Daulalji. It was only in the Probate proceedings filed by Daulalji in respect of the said Will, he had shown the suit property in the Schedule. It is true that the objections raised by Bhonri Devi against granting of Probate in favour of Daulalji were not accepted by the Probate Court, and the alleged Will executed by Harinarayanji in favour of Bhonri Devi was also not proved by her in the said proceedings. **Nonetheless, in view of her pre-existing right to maintenance from the estate of the HUF of her husband and in view of her exclusive settled possession of the suit property prior to and after the commencement of the Act of 1956, the only conclusion which could be drawn, would be that Bhonri Devi had acquired the suit property in lieu of her pre-existing right to maintenance, and that she had held the suit property as the full owner and not limited owner by virtue of Section 14(1) of the said Act of 1956.**

> **20.** As stated earlier, Hindu woman's right to maintenance is a tangible right against the property which flows from the spiritual relationship between the husband and the wife. Such right was recognized and enjoined under the Shastric Hindu Law, long before the passing of the 1937 and the 1946 Acts. Where a **Hindu widow is found to be in exclusive settled legal possession of the HUF property, that itself would create a presumption that such property was earmarked for realization of her pre-existing right of maintenance, more particularly when the surviving co-parcener did not earmark any alternative property for recognizing her pre-existing right of maintenance. The word "possessed by" and "acquired" used in Section 14(1) are of the widest amplitude and include the state of owning a property.** It is by virtue of Section 14(1) of the Act of 1956, that the Hindu widow's limited interest gets automatically enlarged into an absolute right, when such property is possessed by her whether acquired before or after the commencement of 1956 Act in lieu of her right to maintenance."
>
> (emphasis supplied)

20. Thus it is clear from the above observations and findings in the case of ***Munni Devi***(*supra*) that this Court after taking into consideration the pre-existing right of Bhonri Devi to maintenance from the estate of the HUF of her husband and her exclusive settled possession over the suit property concluded that she had acquired the suit property in lieu of her pre-existing right to maintenance and that she had held the suit property as the full owner and not limited owner by virtue of Section 14(1) of the Succession Act.

21. Thus, what we are required to adjudicate in the present case is as to whether in absence of even a semblance of possession either actual or legal over the suit property, plaintiff Kailash Chand

being the legal heir of Smt. Nandkanwarbai was entitled to institute a Revenue suit for partition of the suit property based on the succession rights of the widow on the joint Hindu family property. In this very context, we would like to gainfully refer to the judgments of this Court which were relied upon by Shri Puneet Jain, learned counsel for the appellant.

22. In the case of ***Ram Vishal****(supra)* this Court held as under: -

> "**16.** In our view, the authority in Raghubar Singh case [(1998) 6 SCC 314] can be of no assistance to the respondent. **As has been held by this Court, a pre-existing right is a sine qua non for conferment of a full ownership under Section 14 of the Hindu Succession Act. The Hindu female must not only be possessed of the property but she must have acquired the property. Such acquisition must be either by way of inheritance or devise, or at a partition or "in lieu of maintenance or arrears of maintenance" or by gift or by her own skill or exertion, or by purchase or by prescription**. In the present matter, it is nobody's case that Manki had got possession of the 1/4th share in lieu of maintenance or in arrears of maintenance. It was also not their case that there was a partition of the property and that in such partition, she had been given the property. A mere right of maintenance without actual acquisition in any manner is not sufficient to attract Section 14." (emphasis supplied)

23. Further, in the case of ***M. Sivadasan (Dead) through Lrs. and Others v. A. Soudamini (Dead) through Lrs. and Others***[4], this Court held as under: -

> **"4.** This argument of the plaintiff was rejected by the Trial Court and the same was upheld by the First Appellate Court as well as by the Second Appellate Court on the reasoning that after the death of Sami Vaidyar, his son Sukumaran succeeded in the property in year 1942 itself. Thereafter, Sukumaran and later the children succeeding Sukumaran had the right over the

[4] 2023 SCC OnLine SC 1078

property which undisputedly remained in their possession. Section 14 sub-Section (1) had no application in this case. **The essential ingredient of Section 14 sub-Section (1) is possession over the property. Admittedly the plaintiff was never in possession of the property. The possession was always that of the defendant and therefore Section 14 sub-Section (1) would not be applicable.** In Ram Vishal (dead) by lrs. v. Jagan Nath. reported in (2004) 9 SCC 302 the position of possession being a pre-requisite to sustain a claim under sub-section (1) of Section 14 of the 1956 Act was confirmed in Para 16 which is quoted below:

> '16. In our view, the authority in Raghubar Singh case [(1998) 6 SCC 314] can be of no assistance to the respondent. **As has been held by this Court, a pre-existing right is a sine qua non for conferment of a full ownership under Section 14 of the Hindu Succession Act. The Hindu female must not only be possessed of the property but she must have acquired the property**. Such acquisition must be either by way of inheritance or devise, or at a partition or "in lieu of maintenance or arrears of maintenance" or by gift or by her own skill or exertion, or by purchase or by prescription…'

5. As per the law as it existed at their relevant time the property which was an agricultural property would devolve upon the male child and daughters would get only a limited right to maintenance till, they were married and the widow would be entitled to maintenance from the income from the property till her death or remarriage. As per the family Settlement Deed dated 12.03.1938 which was relied upon by both the parties, the property in dispute was specifically allotted to Sami Vaidyar and his only son Sukumaran. Therefore, the widow of Sami Vaidyar i.e., Choyichi will not have any right over the property. The findings of all the courts below were that Choyichi was never in possession of the property and therefore she would not get the right, as claimed by her under Section 14(1) of the Hindu Succession Act, 1956."

(emphasis supplied)

24. Seen in the light of the ratio of the above judgments, it is clear that for establishing full ownership on the undivided joint family estate under Section 14(1) of the Succession Act the Hindu female

must not only be possessed of the property but she must have acquired the property and such acquisition must be either by way of inheritance or devise, or at a partition or "in lieu of maintenance or arrears of maintenance" or by gift or be her own skill or exertion, or by purchase or by prescription.

25. Even on going through the pleadings in the Revenue suit for partition filed by plaintiff Kailash Chand, it is clear that there is not even a whisper in the plaint that Smt. Nandkanwarbai or the plaintiff Kailash Chand himself were ever in possession of the suit property. As a matter of fact, the suit was filed by pleading that the suit property was a joint Hindu family property and defendant-Mukat Lal(appellant herein) had consented to give half share of the suit property to the plaintiff Kailash Chand on his demand. This assertion was denied by defendant-Mukat Lal.

26. In this context, when we consider the effect of the earlier civil suit instituted by Smt. Nadkanwarbai(deceased widow), it becomes clear that she was never in possession of the suit property because the civil suit was filed by her claiming the relief of title as well as possession and the same was dismissed. This finding of the civil Court was never challenged. Since, Smt. Nadkanwarbai was never in possession of the suit property, as a necessary corollary the

Revenue suit for partition claiming absolute ownership under Section 14(1) of the Hindu Succession Act could not be maintained by her adopted son, plaintiff Kailash Chand by virtue of inheritance.

27. On close scrutiny of the judgments rendered by the learned Single Judge and the learned Division Bench of the High Court, we find that there is no consideration in these judgments that the predecessor of the plaintiff Kailash Chand or the plaintiff himself were ever in possession of the suit property or had acquired the same in the manner as indicated in the judgment of ***M. Sivadasan****(supra).*

28. As a consequence of the above discussion, the impugned judgments do not stand to scrutiny and cannot be sustained.

29. Resultantly, the judgment dated 2nd November, 2017 rendered by learned Division Bench and the judgment dated 21st July, 2006 rendered by the learned Single Judge are hereby reversed and set aside.

30. Consequently, the Revenue Suit No. 37 of 1979 filed by the plaintiff is dismissed.

31. The appeal is allowed in these terms. No costs.

32. Decree be prepared accordingly.

33. Pending application(s), if any, shall stands disposed of.

.....J.
(B.R. GAVAI)

.....J.
(SANDEEP MEHTA)

New Delhi;
May 16, 2024