

Girdharilal and Others

Vs

Jaikishan (Dead) By Lrs. and Others

Civil Appeal No. 122 of 1974

(A. P. Sen, V. B. Eradi JJ)

01.04.1987

ORDER

1. After hearing learned counsel for the appellants we find no reason to differ from the conclusion arrived at by the High Court. In the case in hand, Smt. Phulman had alienated the property by execution of a registered patta dated Jeth 15 Samvat 2002 (corresponding to the year 1946) and therefore she was not possessed of the property within the meaning of Section 14 on the Hindu Succession Act, 1956 when the Act came into force i.e. On June 15, 1956, either actual or constructive or in any form recognised by law by reason of the creation of occupancy rights in favour of Nauranga, the predecessor-in-title of the appellants. The creation of occupancy rights by Smt. Phulman was successfully impeached by a suit brought by Rambhu the daughter's son of Smt. Phulman as a reversioner and he obtained a declaratory decree that the alienation of the property was null and void, as against the reversioners and that decree undoubtedly survived. The object of the Act was to improve the legal status of the Hindu women enlarging their limited estate into an absolute one provided they were in possession of the property when the Act came into force and were therefore in a position to take advantage of its beneficial provisions. The Act was not intended to benefit alienees who with their eyes open purchased the property from the owners without justifying necessity before the Act came into force and at a time when the vendors had only a limited interest of Hindu widows. It therefore follows that the benefit of Section 14 of the Act could not be availed of by the purchaser i.e. Nauranga, the predecessor-in-title of the appellants, who is bound by the decree obtained by the reversioners. The appeal is accordingly dismissed.

CMP No. 6138 of 1987 -

2. Application for contempt is dismissed.

</html