

K. A. Paul and Others

Vs

Taluk Land Board, Alathur and Others

Civil Appeal No. 3209 of 1984

(Dr. T.K. Thommen, V. Ramaswami-II, R.M. Sahai JJ)

15.12.1992

JUDGMENT

THOMMEN, J. –

1. The short question which arises for consideration in this appeal is whether a deed of gift executed after January 1, 1970 by person in favour of two sons of their husband by his first wife is attracted by the validating provision contained in sub-section (1-A) of Section 84 of the Kerala Land Reforms Act, 1963 (Act 1 of 1964). The facts are not in dispute. The only point for decision is whether the expression 'son or daughter' includes a stepson or a stepdaughter.

2. Appellants 1 and 2 are the donees and appellant 3, who is their stepmother, is the donor. The deed was executed between January 1, 1970 and November 5, 1974, which is the crucial period to attract the validating provision contained in sub-section (1-A).

3. Section 84 declares certain voluntary transfers to be null and void. However, the section was amended by Act 19 of 1979 inserting sub-section (1-A) which, insofar as it is material, reads :

"84. (1-A) Notwithstanding anything contained in sub-section (1), or in any judgment, decree or order of any court or other authority, any voluntary transfer effected by means of a gift deed executed during the period commencing on the January 1, 1970 and ending with the November 5, 1974, by a person owing or holding land in excess of the ceiling area in favour of his son or daughter or the daughter of his predeceased son or daughter shall not be deemed to be, or ever to have been, invalid -

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4. Does the expression 'son or daughter' include a stepson or a stepdaughter ? The learned Judge held :

"...What is validated by Section 84(1-A) of the act is only a gift 'by a person owing or holding land in excess of ceiling area in favour of his son or daughter of the son or daughter of his pre-deceased son or daughter'. The stress is on the word 'his' which qualifies the expression son or daughter. Unless the donee is the son or daughter of the donor, the gift will not attract the operation of Section 84(1-A) of the Act...."

5. We see no reason why sub-section (1-A) which was inserted with a view to validating certain

gifts, which would have been otherwise invalid, should be read so narrowly as to exclude a bona fide gift made by a stepmother in favour of the children born to her husband by his former wife. A stepson is as much a member of the family as a son is. Any construction to the contrary would be inconsistent with the legislative intent manifested in sub-section (1-A) of Section 84.

6. Accordingly we hold that, on the present facts, appellants 1 and 2 being the stepsons of the third appellant were entitled to the benefit of the provisions of sub-section (1-A) of Section 84. The judgment of the High Court to the contrary is accordingly set aside and the Land Board is directed to pass appropriate orders in the light of what is stated above in regard to the afore-mentioned claim of the appellants. The appeal is allowed on the above terms. However, we make no order as to costs.

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