

SUPREME COURT OF INDIA

Dagani Ramadas

Vs.

P. Daveed

(K Ramaswamy and G Nanavati JJ.)

13.12.1996

ORDER

1. Leave granted.

2. This appeal by special leave arises from the judgment of the Andhra Pradesh High Court, made on 8-9-1996 in SA No. 873 of 1985. The appellant-defendant set up title to the property on the basis of a Will executed by Dagani Venkamma. She had already settled the property by a settlement deed dated 24-8-1965. Admittedly, she constructed a building on the land belonging to the Government. At the time of settlement, she was the owner of the superstructure of the building having a possessory title to the land belonging to the Government. In 1972, patta was granted by the Government in respect of the site. Therefore, the possessory right had by Venkamma stood ripened into full title by grant of patta by the Government. The question arises: whether such a settlement deed is valid in law? Though the trial court dismissed the suit, on appeal, it was decreed by the Subordinate Judge and in the second appeal the High Court, in our view quite rightly, upheld the finding that the respondent had possessory title and title to the superstructure. So she was entitled to settle the property under the settlement deed dated 24-8-1964 subject to the defect in the title of the land on which the building was constructed. Thereby, she was not entitled to execute any Will in favour of the appellant since she no longer remained to be the owner. The courts below, therefore, have rightly negated the right of the appellant. We do not find any substantial question of law warranting interference.

3. The appeal is accordingly dismissed. No costs.