

# SUPREME COURT OF INDIA

Gaddam Ramakrishnareddy

Vs.

Gaddam Rami Reddy

S.L.P. (C) Nos.30004-30005 of 2008

(Altamas Kabir J.)

14.09.2010

## JUDGEMENT

### **Altamas Kabir, J.**

1. The suit properties, along with certain other properties, formed the joint family properties of one G. Pullareddy and his two sons, G. Pitchireddy and Gaddam Ramireddy. The said properties were partitioned in 1947 into three equal shares and were separately enjoyed by the three co-sharers thereafter according to such partition.

2. On 21st December, 1952, G. Pullareddy executed and registered a Deed of Gift giving a limited right in his share of the properties to his wife, Gaddam Sheshamma. In terms of the Gift Deed Sheshamma was given a limited right of enjoyment of the properties during her lifetime, without right of alienation, and the remainder was vested in G. Ramireddy. It was stipulated that after Sheshamma's death, the properties would devolve on G. Ramireddy.

3. G. Pullareddy died in or about 1957. At about the same time, Sheshamma is said to have executed a Deed of Relinquishment in respect of 1.89 acres in R.S. Nos.93/2 and 1/1 and also executed two sale deeds in favour of one Mukkala Chennareddi and Vintha Ramakotireddy in respect of some of the aforesaid properties. On 17th February, 1972, Sheshamma also executed and registered a Will in favour of her grandchildren through G. Pitchireddy, bequeathing the properties which were received by her through the Gift Deed dated 21st December, 1952, to them.

4. Apparently, in view of all the aforesaid alienations by Sheshamma, G. Ramireddy filed O.S. No.17 of 1975 against Sheshamma, Mukkala Chennareddi and Vintha Ramakotireddy before the District Munsif, Tituvur, for a declaration that the sale deeds dated 31st January, 1967 and 16th July, 1974, executed by his mother, Sheshamma, in favour of Mukkala Chennareddi and Vintha Ramakotireddy, who were made Defendant Nos.5 and 6 in the suit, did not affect his rights in the properties. He also prayed for permanent injunction against the said Defendants from interfering with his possession in the said properties. The suit was

contested by Sheshamma and Mukkala Chennareddi and was ultimately decreed on 31st January, 1979, in favour of G. Ramireddy, the Respondent No.1 herein, holding that the sale deeds executed by Sheshamma in favour of the Defendant Nos.5 and 6 were invalid, inasmuch as, Sheshamma had no right of alienation as she did not get an absolute right in the properties. No appeal appears to have been preferred against the said judgment.

5. On 15th August, 1991, Sheshamma died and on 9th October, 1991, G. Ramireddy filed O.S. No.111 of 1991, which is the present suit, in the Court of Subordinate Judge, Nuzvid, for a direction upon the Defendants to put him in possession of the suit properties and also for payment of mesne profits.

“The Defendant No.2 duly filed his Written Statement and the same was adopted by Defendant Nos.1, 3 and 4, denying the claim of the Plaintiffs and asserting their independent right to the properties through their late father, G. Pitchireddy. It was also the case of the Defendant Nos.1 to 4 that they had perfected their rights in respect of Item Nos.4 and 5 of the plaint schedule by way of adverse possession and that Sheshamma had a pre-existing right of maintenance in the properties of G. Pullareddy and the life estate created under the Gift Deed dated 21st December, 1952, blossomed into an absolute estate under Section 14(1) of the Hindu Succession Act, 1956. Although, it was admitted that the rights in respect of the properties covered under Item No.6 of the plaint schedule had become final in O.S. No.17 of 1975, it was at the same time submitted that the same could not operate as res judicata in the present suit. The 5th Defendant contested the suit claiming that he was in possession of 0.07 acres of land forming part of Item No.6 of the plaint schedule properties and that he had purchased the same through sale deed dated 16th July, 1974, executed by Sheshamma for use as a passage to reach his own land and that he had remained in continuous possession even after the judgment in O.S. No.17 of 1975.”

6. The Trial Court by its judgment dated 30th July, 1997, decreed the suit and held that the properties were gifted to G. Ramireddy and not to Sheshamma, who had only been given a life estate therein without any link with her maintenance during or after Pullareddy's lifetime. It was also held that the judgment in O.S. No.17 of 1975, in which it was held that the limited estate under the Deed of Gift executed by G. Pitchireddy did not ripen into an absolute estate as far as Sheshamma was concerned, had become final and any claim through her would be void.

7. Aggrieved by the said judgment, the Defendant Nos.1, 2 and 4 and the heirs of Defendant No.3, Gaddam Madhavareddy, who had died in the meantime, preferred an appeal, being A.S. No.1010 of 1997, before the Andhra Pradesh High Court on the ground that the properties had been given to Sheshamma for life in lieu of her maintenance and that the same ripened into an absolute estate under Section 14(1) of the Hindu Succession Act, 1956. It was also submitted that Section 14(2) of the said Act had no application on account thereof and the Will executed by Sheshamma was legal and valid. It was further contended that the judgment and decree in O.S. No.17 of 1975 did not operate as res judicata since the

Defendants had not been made parties to the suit and that only Item No.6 of the plaint schedule properties was covered by the earlier suit.

8. The Appeal against the sixth Defendant, who was made the third respondent in the appeal, was dismissed for default on 18th October, 2001, and on the death of the third Defendant, who was the third Appellant, during the pendency of the appeal, his legal representatives were brought on record.

9. During the pendency of the appeal, the High Court, by its order dated 23rd October, 2003, stayed the execution of the decree and permitted determination of mesne profits from 15.08.1991.

“Pursuant thereto, on an application filed by the plaintiff/Respondent No.1, G. Ramireddy, the Trial Court appointed an Advocate Commissioner and on the basis of his report, the Trial Court determined the mesne profits, to which the Respondent No.1 was entitled, to be Rs.2,31,052/- for the period from 15.08.1991 to 15.06.1999. Since the matter was pending before the High Court, no interest was granted on the said amount. An appeal, being A.S.No.2869 of 2004, was filed by the Petitioners herein against the aforesaid order dated 23rd October, 2003. Both the appeals, i.e., A.S.No. 1010/97 and A.S.No.2869/04, were heard together and were disposed of by a common judgment dated 28th April, 2008. The High Court, while dismissing both the appeals on the ground of res judicata in view of the judgment passed earlier in O.S.No.17 of 1975, modified the cultivation expenses for the first 5 years from 1991.”

10. The focus of the submissions made on behalf of the Petitioners was on the question whether the limited estate given by G. Pullareddy to Sheshamma by the Deed of Gift dated 21st December, 1952, would be governed by the provisions of Sections 14(1) or 14(2) of the Hindu Succession Act, 1956. It was again sought to be re-emphasized that the life estate created in favour of Sheshamma by the Deed of Gift dated 21st December, 1952 executed by G. Pullareddy was in lieu of her maintenance and, accordingly, having regard to the views expressed by this Court in the case of *V. Tulasamma & Ors. vs. V. Shesha Reddy*<sup>1</sup>, the life estate given to Sheshamma blossomed into a right of full ownership in respect of the plaint schedule properties. Reference was also made to a subsequent decision of this Court in *Thota Sesharathamma & Anr. vs. Thota Manikyamma (Dead) by Lrs. & Ors.*<sup>2</sup>, where following the decision in Tulasamma's case, it was inter alia held that Sub- Section (2) of Section 14 of the Hindu Succession Act, 1956, would operate where there was no pre- existing right and a restricted estate in the property is conferred for the first time under any instrument.

11. Reference was also made to the decision of a three-Judge Bench of this Court in *C. Masilamani Mudaliar & Ors. vs. Idol of Sri Swaminathaswami Swaminathaswami Thirukoil & Ors.*<sup>3</sup>, where the earlier views expressed in Tulasamma's case (supra) and Thota Sesharathamma's (supra) were re-emphasized and it was also added that Section 14 should be construed harmoniously considering the constitutional goal of removing gender-based discrimination and effectuating economic empowerment of Hindu females vis-à-vis their

rights under the Constitution and the protection of human rights as embodied in the Vienna Declaration on the Elimination of all Forms of Discrimination against Women (CEDAW), as ratified by the United Nations on 18.12.1979 and by the Government of India on 19.06.1993. It was urged that all the transactions entered into by Sheshamma, including the registered Will in favour of the Petitioners, were accordingly valid and acted upon.

12. On the question of res judicata, it was urged that having regard to the decision in O.S.No.17 of 1975 and O.S.No. 367 of 1974, which was never challenged and attained finality, the High Court erred in holding that the subsequent suit filed by Respondent No.1, G. Ramireddy, was not barred by the principles of res judicata. It was submitted by Mr. Jayanth Muth Raj, learned Advocate, that the Trial Court, as well as the High Court, had erred in law in decreeing the suit filed by the Respondent No.1 and directing the Petitioners herein to put the said Respondent in possession of the plaint schedule properties.

13. On behalf of the Respondent No.1 it was submitted by Ms. T. Anamika, learned Advocate, that the judgment and order of the High Court affirming the judgment and decree of the Trial Court decreeing the suit in favour of the Respondent No.1/Plaintiff did not call for any interference on account of the provisions of Section 14(2) of the Hindu Succession Act, 1956, which squarely covered the facts of this case. It was contended that after Pullareddy acquired his 1/3rd share in the joint properties pursuant to the partition effected in 1947, it was his intention that his minor son, Ramireddy, the Respondent No.1 herein, should be the ultimate beneficiary of the Deed of Gift executed by him on 21.12.1952, and that his wife, Sheshamma, should act as caretaker of the property on behalf of the minor son while enjoying a life estate for herself. As would be quite apparent from the Deed of Gift executed by Pullareddy, there was no intention on his part that the income from the property was to be in lieu of maintenance for Sheshamma. On the other hand, it was crystal clear that Pullareddy intended to create for the first time a right in favour of Sheshamma to enjoy the properties during her life time and to take care of the same for the ultimate beneficiary of the Gift, namely, G. Ramireddy.

14. Referring to the decision of this Court in *Sadhu Singh vs. Gurdwara Sahib Narike & Ors.*<sup>4</sup>, Ms. Anamika submitted that this Court had held that giving only a life-estate to the wife and stipulating that during her life time she would not be entitled either to testamentarily dispose of the property or to mortgage or sell it to anyone and that after her death the property would devolve on her nephews in equal shares, made it very clear that the testator's widow had no pre-existing right in the self-acquired property of her husband. As a result, the life-estate given to the widow under the Will could not get enlarged into an absolute estate under Section 14(1) of the Hindu Succession Act, 1956. It was also held that the widow was not entitled to gift away the property and even if the gift was treated to be valid, the donee thereunder would be liable to be evicted by the legatees who acquired the title to the property after the cessation of life-estate of the widow on her death. It was categorically held that the title acquired by the legatee on the widow's death would not be affected by mutation made in favour of the widow who died after such mutation. This Court concluded that the essential ingredients for determining whether Section 14(1) of the above

Act would be attracted are: the antecedents of the property, the possession of the property as on the date of commencement of the Act and the existence of a right in the female over it, however limited it may be.

15. On the question of res judicata, reliance was placed on the decision of a three-Judge Bench of this Court in *Shakuntala Devi vs. Kamla & Ors.*<sup>5</sup>, wherein it was held that a declaratory decree would not operate as res judicata, unless it was protected by a special enactment.

16. Despite the elaborate submissions made on behalf of the respective parties, the scope of the Special Leave Petition is confined to the question as to whether the life-estate created by Pullareddy in favour of his wife, Sheshamma, by the Deed of Gift dated 21.12.1952 could be said to be an interest in lieu of maintenance which subsequently became enlarged into a full-fledged right of ownership under Section 14(1) of the Hindu Succession Act, 1956, or whether the same amounted only to a life estate for the purpose of managing the properties and enjoying the fruits thereof till G. Ramireddy, the second son of Pullareddy, who was then a minor, attained majority. The law in this regard has been crystallized in V. Tulasamma's case (supra) and the same has been consistently followed over the years. The ratio of the said decision in simple terms is that if a Hindu woman had any existing interest in a property, howsoever small, prior to the enactment of the Hindu Succession Act, 1956, the same would blossom into a full-fledged right by virtue of the operation of Section 14(1) thereof. On the other hand, if such a right was so acquired for the first time under an instrument, after the Act came into force, the provisions of Section 14(2) of the above Act would be attracted and would not convert such a right into a full-fledged right of ownership of the property.

17. In the instant case, Pullareddy created a life interest in favour of his wife, Sheshamma, in respect of the plaint schedule property, but also gifted the property in question to the Respondent No.1 herein, G. Ramireddy, who was then a minor.

“The principal object of the Deed of Gift executed by Pullareddy was that the property should ultimately go to G. Ramireddy, the Respondent No.1 herein. The question which we have to consider in this case is whether in view of the intervention of the Hindu Succession Act in 1956, after the execution of the Deed of Gift, it can be said that the gift intended in favour of G. Ramireddy stood extinguished by operation of Section 14(1) of the Act.”

18. The consistent view which has been taken by this Court since the decision in V. Tulasamma's case (supra) is that the provisions of Section 14(1) of the Hindu Succession Act, 1956, would be attracted if any of the conditions contained in the Explanation stood fulfilled. If, however, a right is created in a Hindu female for the first time in respect of any property under any instrument or under a decree or order of a Civil Court or under an award, where a restricted estate in such property is prescribed, the provisions of sub-section (1) of Section 14 would have no application by virtue of sub-section (2) thereof.

19. At this stage it would be worthwhile to set out the relevant portion of the Deed of Gift executed by Pullareddy, marked Exhibit A-11 in the suit and extracted in the judgment of the Trial Court. The same reads as follows:

“As I have great affection towards my wife and my minor son Rami Reddy and believed that they will look after me with all comforts, I hereby make an arrangement that here after my wife Sheshamma shall enjoy as she likes, the income from the lands which stand in my name, in Patta No.8 situated at Maddula Parva Village and in Patta No.354 situated at Muchanapalli village shown in the Schedule below, without any right to alienate the said land to any one or to give the said land on long lease and after the death of my wife, my minor son Rami Reddy shall get possession of my land along with his share of land and enjoy the same with an absolute right thereon.”

The aforesaid provision has been considered by both the Courts below which have concurrently held that the life-estate created by Pullareddy in favour of Sheshamma was not in lieu of her maintenance as she was already managing the properties in question and in no uncertain terms it was the Donee's desire that the said properties should ultimately go to his son Ramireddy, the Respondent No.1 herein.

Once that is established, apart from other surrounding circumstances, the immediate fallout is that Sheshamma's rights in the properties came to be governed by sub-section (2) of Section 14 of the Hindu Succession Act, 1956, and her right does not blossom into an absolute estate as contemplated under sub-section (1).”

20. Both the Courts below have correctly decided that Sheshamma did not acquire any right beyond a life-estate in the suit properties and on her death, the said properties devolved on the Respondent No.1 in terms of the Deed of gift executed by Pullareddy on 21.12.1952.

21. Even on the question of res judicata, we are in agreement with the views expressed by the High Court.

22. The Special Leave Petitions, therefore, fail and are dismissed. The parties will bear their own costs of these proceedings.

<sup>1</sup>(1977) 3 SCC 99

<sup>2</sup>(1991) 4 SCC 312

<sup>3</sup>(1996) 8 SCC 525

<sup>4</sup>(2006) 8 SCC 75

<sup>5</sup>(2005) 5 SCC 390