**SUPREME COURT OF INDIA**

Jupudy Pardha Sarathy

Vs.

Pentapati Rama Krishna & Ors.

C.A.No.375 of 2007

(M.Y.Eqbal and C.Nagappan,JJ.,)

06.11.2015

**JUDGMENT**

**M.Y.Eqbal,J.,**

1. This appeal by special leave is directed against order dated 21.9.2006 passed by learned Single Judge of the High Court of Andhra Pradesh, who allowed the appeal preferred by Defendant no. 1 and set aside the judgment and decree of the trial Court in the original suit preferred by the appellant.

2. The only question that needs consideration in this appeal is as to whether the High Court is correct in law in interpreting the provisions of Section 14 of the Hindu Succession Act, 1956 (for short 'the Act') in arriving at a conclusion that the widow of the deceased P. Venkata Subba Rao acquired an absolute interest in the property by the operation of Section 14 of the Act.

3. The undisputed facts are that the said suit property originally belonged to one P. Venkata Subba Rao, who had three wives. Only the second wife was blessed with two sons and one daughter, including defendant-Narasimha Rao. Veeraraghavamma was the third wife of the said P. Venkata Subba Rao but she did not have any issues. P. Venkata Subba Rao executed a Will in the year 1920(Exh.A2) in favour of his 3rd wife Veeraghavamma who in turn executed a Will dated 14.7.1971 (Exh.B1) in favour of defendant-Pentapati Subba Rao, and thereafter, she died in 1976. The case of the defendant is that the said P. Narasimha Rao has no right to transfer the suit properties in favour of the plaintiff.

4. The plaintiff's-appellant's case is that he purchased the suit property from one P. Narasimha Roa who was having a vested remainder in respect of the said suit property on the expiry of life estate of testator's wife Veeraghavamma. According to the plaintiff-appellant, during the life time of Veeraghavamma she enjoyed the properties and after her death the property devolved upon the vendors of the plaintiff.

5. The trial court noted the undisputed case of both the parties that Will (Exh.A2) was executed by late P. Venkata Subba Rao in favour of Veeraghavamma but she had limited interest to enjoy the property during her life time and thereafter the remainder vested with P. Narasimha Rao to enjoy the said property as absolute owner after the death of Veeraghavamma. However, the trial court held that life estate of Veeraghavamma under the Will did not become enlarged into absolute estate under Section 14(1) of the Act and the vested remainder in favour of P. Narasimha Rao did not get extinguished in respect of the scheduled properties. Accordingly, the suit was decreed.

6. Aggrieved by the decision of the trial court defendant no.1 - P. Subba Rao preferred an appeal before the High Court. The High Court allowed the appeal and set aside the judgment and decree of the trial court holding that Veeraghavamma became the absolute owner of the suit property by virtue of Section 14(1) and she had every right to bequeath the said property in favour of P. Subba Rao, the first defendant under Exhibits B1 and B2.

7. Hence, the present appeal by special leave by the plaintiff. During the pendency of the appeal before the High Court, first defendant died and his legal representatives were brought on record and are arrayed in the present appeal as respondent nos.1 to 3. Respondent no. 4 is defendant no.3, and Legal representatives of Respondent no.5, who was defendant no.4, were brought on record after his death during pendency of this appeal. Rest respondents were brought on record as legal representatives of second defendant, who died during pendency of the suit. Since respondent no.4 has vacated the suit shop and delivered possession to the plaintiff on 6.7.2006, appellant has moved before us an application for deletion of respondent no.4 from the array of parties. It is ordered accordingly.

8. Before we decide the question involved in this appeal we would like to reproduce the contents of the Will (Exh.Al) which is as under :-

> "I, Pularvathi Venkata Subba Rao, S/o late Pularvathy Venkamma Vysya, Business, R/o Rajahmundhry, have executed the Will dt. 24.08.1920 with good consciousness and wisdom. I am now approximately 53 years. Now I have less physical strength and consequently I may not survive for longer period, hence I have proposed to give all my properties both movable and immovable mentioned in the schedule below by way of this Will. My first wife died issueless. My second wife got two sons by name Manikyaro and Narasimha Rao and a daughter by name Nagarathnamma. My 2nd wife also died. Thereafter I married Veeraghavamma my third wife and she is alive. She has not begotten any children. I have house property bearing Municipal D.No.6/875, another house bearing D.No.6/876 and also 5 shop rooms abutting to them with vacant house site covered by D.No.6/870 in Innespeta, Rajahmundry Village, Rajahmundry Sub Registry, E.G. Dist.I have wet land of extent ac15.17 cents in Rustumbada village Naraspuram Sub Registry, Naraspuram Taluk. The said landed property was in the name of my 2nd wife and after her life time my two sons mentioned above got the same mutated it in their names. I have a policy bearing No. 23232 in Oriental Life Insurance Company and I have to receive monies from the said policy and also silver, gold, brass articles house hold utensils Beeruva, Furniture, iron

safe etc., I have made the following dispositions which are to take place after my life time. My third wife Veeraghavamma shall enjoy for life the tiled house with site and compound wall and with half right in the well covered by municipal D.No.6/875, Rajahmundry and after life time of my wife my 2nd son Narasimha Rao shall have the property with absolute rights such as gift, sale etc. My second son Narasimha Rao shall have absolute rights such as gift and sale in respect of the tiled house bearing D/no.6/876 and the 5 shop rooms covered by D.No.6/870 and the sit abutting the above two properties with Chavidi and one Big latrine out of the two and that my wife Veeraraghavamma shall enjoy for life the small latrine covered by D.No.6/870 and after her life time my son Narasimha Rao shall have the property with absolute right. The said Veeraraghavamma is entitled to fetch water from the well situated in back yard of house bearing D.No.6/870. My eldest so Maniyarao shall have absolute rights such as gift and sale etc., in respect of ac 15.17 cents of Zeroyiti wet land of Rustumbada Village Narasapuram Taluk and my eldest son Maniyarao shall pay Rs.650/- which I am liable to pay to her and thus either Nagarathnamma or any one has got no right in the said property. The amount receivable from the Insurance Company referred above shall be recovered and my two sons, daughter and my wife, all the four shall share the same equally and that the ornaments lying with them shall take the same absolutely and that one shall not claim or demand for any oweties against another.

(Emphasis given)

This Will I have executed with full and good consciousness and the same shall come into force after my life time. The properties mentioned in this Will are all my self acquired properties and I did not get any ancestral properties. I reserve my right to change the contents of the Will during my life time. Signed Pularvati Venkata Subba Rao Attesting Witnesses Modali Subbarayudu Yendi Surayya Scribed by Pularvati Venkata Subba Rao With his own handwriting The contents of the said will shall come into force after my life time. Signed by Pularvati Venkata Subbarao"

9. The trial court although noticed the decision of this Court in the case of *V. Tulasamma and others vs. Sesha Reddy (dead) by Lrs*[1]. but held that in that case on the basis of compromise the Hindu widow was allotted immoveable properties expressly in lieu of her maintenance, and hence, Section 14(1) of the Act was readily applicable to that case. Whereas, the trial court held that the decision of this Court in the case of Mst Karmi vs. Amru & Ors., (AIR 1971 SC 745), is applicable because in that case the Hindu widow succeeded the properties of her husband on the strength of Will where under she was given life estate in the properties. For better appreciation paragraphs 25, 26 and 27 of the trial court's judgment are quoted thus:-

"25. The first defendant's counsel placed heavy reliance on the decision reported in Palchuri *Hanumayamma vs. Tadikamalla Kotilingam*[2] it is only in that decision it was held that it is not necessary that the will or other documents under which property is given to a Hindu female should expressly specify that the property is given to a Hindu female should expressly

specify that the property is a given in lieu of a pre-existing right or right of maintenance and that it is sufficient if only a right was in existence in favour of the Hindu female on the date when the document was executed. It is a judgment rendered by a single judge of the High Court. It is a case where the High Court was considering the bequest of property to a Hindu widow under a will as life estate.

26. In *Vaddeboyina Tulasamma vs. Vaddeboyina Sesha Reddi*[3] a Hindu widow obtained a decree for maintenance against the brothers of her deceased husband and was executing the said decree for maintenance. During that time, the Hindu Widow and the brothers of her deceased husband entered into a compromise where under the Hindu widow was allotted immovable properties to be enjoyed only as limited owner power of alienation. It was a case where the Hindu Widow was allotted properties expressly in lieu of her maintenance and satisfaction of her maintenance decree. Therefore, Sec. 14 (1) of the Act is readily applicable to that case. On the other hand, in the decision reported in *Mst Karmi vs. Amro*[4] a Hindu widow succeeded to the properties of her husband on the strength of a Will where under she was given life estate in the properties. In those circumstances the Supreme Court held that the Hindu widow having succeeded to the properties of her husband on the strength of that will cannot claim any rights in these properties over and above that given to her under that will and that the life estate given to her under the will cannot become an absolute estate under the provisions of the Hindu Succession Act. It was a decision rendered by three Judges of Supreme Court. This decision was not referred to in the subsequent decision of the year 1977 referred to above. The decision of the year 1977 was also rendered by three judges of the Supreme Court. When the latter decision of the Supreme Court is in all fours with the facts in the case on hand, the former decision of the Supreme Court of the year 1977 cannot be applied to the facts of the present case.

27. In *Smt. Culwant Kaur vs. Mohinder Singh*[5] the provisions of Section 14(1) of the Act were applied because it was a case where the Hindu female was put in possession of the property expressly in pursuance to and in recognition of the maintenance in her. Similarly, in the decision reported in *Gurdip Singh vs. Amar Singh*[6] the Supreme Court applied the provisions of Section 14(1) of the Act where the wife acquired property by way of gift from her husband explicitly in lieu of maintenance. In *Bai Vajia vs. Thakorbhai Chelabhai*[7] also the Hindu widow obtained possession of the property in default of payment of maintenance to her. So, the Supreme Court applied the provisions of Section 14(1) of the Act to that case."

10. On the basis of the ratio decided by this Court in the decision quoted hereinabove and also other decisions of the High Court, the trial court held that the life estate of Veeraghavamma under Exhibit A-2 will not become enlarge into absolute estate under Section 14(1) of the Hindu Succession Act and did not extinguish vested remainders interest of Narasimha Rao in the suit property.

11. In appeal, the High Court, after discussing the ratio decided by this Court in the decisions noted by the trial court and also other decisions of this Court, reversed the finding of the trial court and held that the case falls under Section 14(1) of the Act and Veeraghavamma became the absolute owner of the suit property and she had every right to bequeath the said property

in favour of the first defendant P. Subba Rao under Exhibits B-1 and B-2. The High Court held that:-

> "In view of the aforesaid authoritative judgment of Hon'ble Justice Jagannadha Rao following several judgments of the Apex Court, I am of the opinion that the reasoning given by the trial Court, that as there is no specific wording in the instrument Ex.A2 that life estate has been given in lieu of a pre-existing right or right of maintenance the same do not become enlarged into absolute estate, is not relevant and is quite contrary to the aforesaid judgment. Merely because Veeraraghavamma was appointed as the guardian of P. Narasimha Rao - vendor of the plaintiff it could not be said that Veeraraghavamma had no pre-existing right or right of maintenance in respect of the property in which a limited interest had been created in her favour. As the vendor of plaintiff was also having properties other than the property in question, after the death of his natural father, Veeraraghavamma was appointed as his guardian. Immediately after the vendor of the plaintiff attained majority the guardianship was discharged and he used to manage his own movable and immovable properties individually. It cannot be said that for the first time the life estate has been created under Ex.A2 Will in favour of Veeraraghavamma, as undoubtedly, she was having a pre-existing right to be maintained by her husband, therefore, it is the duty of her husband to maintain her during her lifetime. Though no specific words have been mentioned in Ex.A2 that in lieu of maintenance the life estate has been created, under Section 14(1) in whatever form a limited interest is created in favour of a Hindu female, who is having a pre-existing right of maintenance, it becomes absolute right after 1956 Act came into force.
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> As Veeraraghavamma became absolute owner by virtue of Section 14(1) of the Act she had right to bequeath the said property in favour of the first defendant under Exs.B1 and B2. Therefore, as the vested remainder of P. Narasimha Rao got nullified, he had no right or authority to sell the said property under Ex.A1 sale deed in favour of the plaintiff. As the limited interest of Veeraraghavamma blossomed into absolute right, bequeathing the said property in favour of the first defendant under Exs.B1 and B2 is legal and valid. In view of the aforesaid facts and circumstances of the case, I am of the opinion that the limited interest to enjoy the property during the lifetime of Veeraraghavamma blossomed into an absolute right in accordance with Section 14(1), after the Hindu Succession Act, 1956 came into force and the vested remainder created in favour of the vendor of the plaintiff is nullified."

12. Mr. K.V. Viswanathan, learned senior advocate appearing for the appellant, confined his argument to the question of law as to whether the High Court erred in law in holding that Section 14(1) of the Act will be attracted and the widow Veeraghavamma have acquired absolute interest in the properties. Learned counsel made the following submissions:-

> "(i) Section 14(1) cannot be interpreted to mean that each and every Will granting a limited/life interest in a property to a widow is deemed/assumed to be in lieu of her maintenance. If the testator in his Will specifically provides that he is granting only

life interest in the property to his widow, his right to limit his widow's right in the property is recognized by Section 14(2) of the Hindu Succession Act, 1956. Further, the testator's right to dispose off his property by will or other testamentary disposition is recognized by Section 30 of the Hindu Succession Act, 1956. Therefore, Section 14(1) of the Hindu Succession Act, 1956 cannot be interpreted in a manner that renders Section 14(2) and Section 30 of the same Act otiose.

(ii) In *Mst. Karmi vs. Amru & Ors*[8]. a 3-Judge Bench of this Court held to the effect that a widow who succeeded to the property of her deceased husband on the strength of his will cannot claim any rights in the property other than those conferred by the will.. "The life estate given to her under the Will cannot become an absolute estate under the provisions of the Hindu Succession Act"

(iii) In *V. Tulsamma vs. Sesha Reddy*[9] this Court clarified the difference between sub-section (1) and (2) of Section 14, thereby restricting the right of a testator to grant a limited life interest in a property to his wife. Learned counsel referred para 62 of the judgment in Tulsamma case.

(iv) V. Tulsamma's case involved a compromise decree arising out of decree for maintenance obtained by the widow against her husband's brother in a case of intestate succession. It did not deal with situations of testamentary succession. Therefore, strictly on facts, it may not be applicable to cases of testamentary succession. However, in terms of law declared therein, a doubt may arise whether Section 14(1) may apply to every instance of a Will granting a limited/life interest in a property to the widow on the ground that the widow has a pre-existing right of maintenance.

(v) This doubt was resolved by the Supreme Court in *Sadhu Singh vs. Gurdwara Sahib Narike*[10], where it was held at paras 13 and 14 that the right under section 30 of the Hindu Succession Act, 1956 cannot be rendered otiose by a wide interpretation of Section 14(1) and that these two provisions have to be balanced.

(vi) The above view has been subsequently affirmed by this Court. In *Sharad Subramanayan vs. Soumi Mazumdar & Ors*[11]. (at para 20), this Court upheld the contention of the learned counsel for the respondents therein that there was no proposition of law that all dispositions of property made to a female Hindu were necessarily in recognition of her right to maintenance whether under the Shastric Hindu law or under the statutory law.

(vii) Learned counsel referred para 14 in the case of Shivdev Kaur vs. R.S. Grewal.

(viii) The position of law as recorded in Sadhu Singh's case and followed subsequently, therefore, appears to be that the question as to whether Section 14(1) applies to a Will granting life interest to a widow hinges on the finding by the Court that the grant was in lieu of maintenance. This leads to the second arguments."

13. Mr. Viswanathan, learned senior counsel. submitted the fact that the life interest in property granted to the widow by way of a Will was actually in lieu of her maintenance needs to be specifically pleaded, proved and decided by the Court based on examination of evidence and material on record.

14. Further, referring paragraph nos. 17, 22 and 24 of the decision in *G. Rama vs. TG Seshagiri Rao*[12], learned counsel submitted that issues are required to be framed and evidence has to be led to specifically show that the Will granted interest in property in lieu of maintenance.

15. It is well settled that under the Hindu Law, the husband has got a personal obligation to maintain his wife and if he is possessed of properties then his wife is entitled to a right to be maintained out of such properties. It is equally well settled that the claim of Hindu widow to be maintained is not a mere formality which is to be exercised as a matter of concession, grace or gratis but is a valuable, spiritual and moral right. From the judicial pronouncement, the right of a widow to be maintained, although does not create a charge on the property of her husband but certainly the widow can enforce her right by moving the Court and for passing a decree for maintenance by creating a charge.

16. The Hindu Married Women's Right to Separate, Maintenance and Residence Act, 1946 was enacted giving statutory recognition of such right and, therefore, there can be no doubt that the right to maintenance is a pre-existing right.

17. In *V. Tulsamma and others vs. Sesha Reddy*[13], three Judges Bench of this Court has elaborately considered the right of a Hindu woman to maintenance which is a pre-existing right. My Lord Justice Fazal Ali writing the judgment firstly observed:-

> "Thus on a careful consideration and detailed analysis of the authorities mentioned above and the Shastric Hindu law on the subject, the following propositions emerge with respect to the incidents and characteristics of a Hindu woman's right to maintenance:
>
> (1) that a Hindu woman's right to maintenance is a personal obligation so far as the husband is concerned, and it is his duty to maintain her even if he has no property. If the husband has property then the right of the widow to maintenance becomes an equitable charge on his property and any person who succeeds to the property carries with it the legal obligation to maintain the widow;
>
> (2) though the widow's right to maintenance is not a right, to property but it is undoubtedly a pre-existing right in property i.e. it is a jus ad rem not jus in rem and it can be enforced by the widow who can get a charge created for her maintenance on the property either by an agreement or by obtaining a decree from the civil court;

(3) that the right of maintenance is a matter of moment and is of such importance that even if the joint property is sold and the purchaser has notice of the widow's right to maintenance, the purchaser is legally bound to provide for her maintenance;

(4) that the right to maintenance is undoubtedly a pre-existing right which existed in the Hindu law long before the passing of the Act of 1937 or the Act of 1946, and is, therefore, a pre-existing right;

(5) that the right to maintenance flows from the social and temporal relationship between the husband and the wife by virtue of which the wife becomes a sort of co-owner in the property of her husband, though her co-ownership is of a subordinate nature; and

(6) that where a Hindu widow is in possession of the property of her husband, she is entitled to retain the possession in lieu of her maintenance unless the person who succeeds to the property or purchases the same is in a position to make due arrangements for her maintenance."

18. Interpreting the provisions of Section 14 of the Hindu Succession Act, their Lordships observed: -

"In the light of the above decisions of this Court the following principles appear to be clear:
"(1) that the provisions of Section 14 of the 1956 Act must be liberally construed in order to advance the object of the Act which is to enlarge the limited interest possessed by a Hindu widow which was in consonance with the changing temper of the times;

(2) it is manifestly clear that sub-section (2) of Section 14 does not refer to any transfer which merely recognises a pre-existing right without creating or conferring a new title on the widow. This was clearly held by this Court in Badri Pershad case.

(3) that the Act of 1956 has made revolutionary and far-reaching changes in the Hindu society and every attempt should be made to carry out the spirit of the Act which has undoubtedly supplied a long felt need and tried to do away with the invidious distinction between a Hindu male and female in matters of intestate succession;

(4) that sub-section (2) of Section 14 is merely a proviso to sub-section (1) of Section 14 and has to be interpreted as a proviso and not in a manner so as to destroy the effect of the main provision."

19. Lastly, His Lordship after elaborate consideration of the law and different authorities came to the following conclusions:-

"We would now like to summarise the legal conclusions which we have reached after an exhaustive considerations of the authorities mentioned above on the question of law involved in this appeal as to the interpretation of Sections 14(1) and (2) of the Act of 1956. These conclusions may be stated thus:

"(1) The Hindu female's right to maintenance is not an empty formality or an illusory claim being conceded as a matter of grace and generosity, but is a tangible right against property which flows from the spiritual relationship between the husband and the wife and is recognised and enjoined by pure Shastric Hindu law and has been strongly stressed even by the earlier Hindu jurists starting from Yajnavalkya to Manu. Such a right may not be a right to property but it is a right against property and the husband has a personal obligation to maintain his wife and if he or the family has property, the female has the legal right to be maintained therefrom. If a charge is created for the maintenance of a female, the said right becomes a legally enforceable one. At any rate, even without a charge the claim for maintenance is doubtless a pre-existing right so that any transfer declaring or recognising such a right does not confer any new title but merely endorses or confirms the pre-existing rights.

(2) Section 14(1) and the Explanation thereto have been couched in the widest possible terms and must be liberally construed in favour of the females so as to advance the object of the 1956 Act and promote the socio-economic ends sought to be achieved by this long needed legislation.

(3) Sub-section (2) of Section 14 is in the nature of a proviso and has a field of its own without interfering with the operation of Section 14(1) materially. The proviso should not be construed in a manner so as to destroy the effect of the main provision or the protection granted by Section 14(1) or in a way so as to become totally inconsistent with the main provision.

(4) Sub-section (2) of Section 14 applies to instruments, decrees, awards, gifts, etc. which create independent and new titles in favour of the females for the first time and has no application where the instrument concerned merely seeks to confirm, endorse, declare or recognise pre-existing rights. In such cases a restricted estate in favour of a female is legally permissible and Section 14(1) will not operate in this sphere. Where, however, an instrument merely declares or recognises a pre-existing right, such as a claim to maintenance or partition or share to which the female is entitled, the sub-section has absolutely no application and the female's limited interest would automatically be enlarged into an absolute one by force of Section 14(1) and the restrictions placed, if any, under the document would have to be ignored. Thus where a property is allotted or transferred to a female in lieu of maintenance or a share at partition, the instrument is taken out of the ambit of sub-section (2) and would be governed by Section 14(1) despite any restrictions placed on the powers of the transferee.

(5) The use of express terms like 'property acquired by a female Hindu at a partition', 'or in lieu of maintenance', 'or arrears of maintenance', etc. in the Explanation to Section 14(1) clearly makes sub-section (2) inapplicable to these categories which have been expressly excepted from the operation of sub-section (2).

(6) The words 'possessed by' used by the Legislature in Section 14(1) are of the widest possible amplitude and include the state of owning a property even though the owner is not in actual or physical possession of the same. Thus, where a widow gets a share in the property under a preliminary decree before or at the time when the 1956 Act had been passed but had not been given actual possession under a final decree, the property would be deemed to be possessed by her and by force of Section 14(1) she would get absolute interest in the property. It is equally well settled that the possession of the widow, however, 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.

(7) That the words 'restricted estate' used in Section 14(2) are wider than limited interest as indicated in Section 14(1) and they include not only limited interest, but also any other kind of limitation that may be placed on the transferee."

20. Mr. Vishwanathan put heavy reliance on the decision of this Court in the case of *Mst. Karmi vs. Amru*[14] In our considered opinion, the ratio decided in that case will not apply in the facts of the present case. In Mst. Karmi case (Supra), one Jaimal, who was the owner of the property, had executed a Will directing that on his death, his entire estate would devolve upon his widow Nihali during her life and thereafter, the same would devolve upon his collaterals on the death of Jaimal. The properties were mutated in the name of Nihali who eventually died in 1960. On her death, the collaterals claimed the properties on the basis of Will, but the appellant claimed the properties as their sole legatee from Nihali under her Will of 1958. On these facts, it was held that Nihali having succeeded to the properties of Jaimal on the strength of Will cannot claim any right in those properties over and above that was given to her under the Will. The Court observed that the life estate given to her under the Will cannot become an absolute estate under the provisions of Hindu Succession Act, 1956.

21. The facts in Karmi's case (supra) and that of the present case are fully distinguishable. In the instant case, the Will was executed in 1920 in which Subba Rao has mentioned that his first wife died, the second wife got two sons and one daughter. Thereafter, second wife also died. He, then, married to Veeraraghavamma as a third wife, who is alive. The executant of the Will have also mentioned the description of the properties owned by him. He, very specifically mentioned in the Will that his third wife Veeraraghavamma shall enjoy for life one tiled house situated in the compound wall. For that enjoyment, it was also mentioned in the Will that the widow Veeraraghavamma shall also be entitled to fetch water from the well situated in the backyard of a different house. In other words, the executant of the Will made arrangements for his third wife to maintain her enjoyment in the suit schedule property till her life. The intention of the executant is therefore clear that he gave the suit schedule property to his third wife Veeraraghavamma in order to hold and enjoy the suit property for

her maintenance during her lifetime. It is not a case like Karmi case that by executing a Will, the executant directed that his entire estate will devolve upon his widow Veeraraghavamma.

22. A three Judges Bench of this Court in the case of *R.B. S.S. Munnalal and Others vs. S.S. Rajkumar & Others*[15], while interpreting the provisions of Section 14(1) of the Act observed:-

> "16. By Section 14(1) the legislature sought to convert the interest of a Hindu female which under the Sastric Hindu law would have been regarded as a limited interest into an absolute interest and by the Explanation thereto gave to the expression "property" the widest connotation. The expression includes property acquired by a Hindu female by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever. By Section 14(1) manifestly it is intended to convert the interest which a Hindu female has in property however restricted the nature of that interest under the Sastric Hindu law may be into absolute estate. Pratapmull case undoubtedly laid down that till actual division of the share declared in her favour by a preliminary decree for partition of the joint family estate a Hindu wife or mother, was not recognised as owner, but that rule cannot in our judgment apply after the enactment of the Hindu Succession Act. The Act is a codifying enactment, and has made far reaching changes in the structure of the Hindu law of inheritance, and succession. The Act confers upon Hindu females full rights of inheritance, and sweeps away the traditional limitations on her powers of dispositions which were regarded under the Hindu law as inherent in her estate. She is under the Act regarded as a fresh stock of descent in respect of property possessed by her at the time of her death. It is true that under the Sastric Hindu law, the share given to a Hindu widow on partition between her sons or her grandsons was in lieu other right to maintenance. She was not entitled to claim partition. But the Legislature by enacting the Hindu Womens' Right to Property Act, 1937 made a significant departure in that branch of the law; the Act gave a Hindu widow the same interest in the property which her husband had at the time of his death, and if the estate was partitioned she became owner in severalty of her share, subject of course to the restrictions on disposition and the peculiar rule of extinction of the estate on death actual or civil. It cannot be assumed having regard to this development that in enacting Section 14 of the Hindu Succession Act, the legislature merely intended to declare the rule enunciated by the Privy Council in PratapmuIl case. Section 4 of the Act gives an overriding effect to the provisions of the Act."

23. Reference may also be made to a three Judges Bench decision of this Court in the case of *Nirmal Chand vs. Vidya Wanti*[16], In that case, by a registered document of partition, the related right was given to the widow - the user of the land with the condition that she will have no right to alienate in any manner. This Court holding that the case falls under Section 14(1) of the Act held as under:-

"6. If Subhrai Bai was entitled to a share in her husband's properties then the suit properties must be held to have been allotted to her in accordance with law. As the law then stood she had only a life interest in the properties taken by her. Therefore the recital in the deed in question that she would have only a life interest in the properties allotted to her share is merely recording the true legal position. Hence it is not possible to conclude that the properties in question were given to her subject to the condition of her enjoying it for a life time. Therefore the trial court as well as the first appellate court were right in holding that the facts of the case do not fall within Section 14(2) of the Hindu Succession Act, 1956. Consequently Subhrai Bai must be held to have had an absolute right in the suit properties, in view of Section 14(1) of the Hindu Succession Act."

24. In the case of *Thota Sesharathamma vs. Thota Manikyamma*[17], life estate was granted to a Hindu women by a Will as a limited owner and the grant was in recognition of pre-existing right. Following the ratio decided in Tulasamma's case, their Lordships held that the decision in Mst. Karmi cannot be considered as an authority on the ambit of Section 14(1) and (2) of the Act. The Court held:- "9. It was clearly held in the above case that Section 14(2) of the Act is in the nature of a proviso or an exception to Section 14(1) and comes into operation only if acquisition in any of the methods indicated therein is made for the first time without there being any pre-existing right in the female Hindu to the property. The Bench consisted of Hon. J.C. Shah, V. Ramaswamy and A.N. Grover, JJ.

"10. The case of Mst Karmi v. Amru on which a reliance has now been placed by learned counsel for the appellant and petitioners was also decided by a bench of three Judges Hon. J.C. Shah, K.S. Hegde and A.N. Grover, JJ. It may be noted that two Hon'ble Judges, namely, J.C. Shah and A.N. Grover were common to both the cases. In Mst Karmi v. Amru, one Jaimal died in 1938 leaving his wife Nihali. His son Ditta pre-deceased him. Appellant in the above case was the daughter of Ditta and the respondents were collaterals of Jaimal. Jaimal first executed a will dated December 18, 1935 and by a subsequent will dated November 13, 1937 revoked the first will. By the second will a life estate was given to Nihali and thereafter the property was made to devolve on Bhagtu and Amru collaterals. On the death of Jaimal in 1938, properties were mutated in the name of Nihali. Nihali died in 1960/61. The appellant Mst Karmi claimed right on the basis of a will dated April 25, 1958 executed by Nihali in her favour. It was held that the life estate given to a widow under the will of her husband cannot become an absolute estate under the provisions of the Hindu Succession Act. Thereafter, the appellant cannot claim title to the properties on the basis of the will executed by the widow Nihali in her favour. It is a short judgment without adverting to any provisions of Section 14(1) or 14(2) of the Act. The judgment neither makes any mention of any argument raised in this regard nor there is any mention of the earlier decision in Badri Pershad v. Smt Kanso Devi. The decision in Mst Karmi cannot be considered as an authority on the ambit and scope of Section 14(1) and (2) of the Act."

25. Reference may also be made to the decision of three Judges Bench of this Court in the case of *Shakuntala Devi vs. Kamla and Others*[18], where a Hindu wife was bequeathed life interest for maintenance by Will with the condition that she would not have power to alienate the same in any manner. As per the Will, after death of the wife, the property was to revert back to his daughter as an absolute owner. On this fact their Lordships following the ratio decided in Tulasamma's case (supra) held that by virtue of Section 14(1) a limited right given to the wife under the Will got enlarged to an absolute right in the suit property.

26. Mr. K.Ramamurty, learned senior counsel appearing for the respondent, also relied upon the decision in the case of *Santosh and Others vs. Saraswathibai and Another, (Subhan Rao and Others vs. Parvathi Bai and Others*[20], *and Sri Ramakrishna Mutt vs. M. Maheswaran and Others*[21],

27. In Santosh's case (supra), this Court followed the decision given in Nazar Singh's case, (1996) 1 SCC 35, and held that the pre-existing right of wife was crystallized and her limited interest became an absolute interest in the property possessed by her in lieu of maintenance.

28. A similar question arose for consideration before this Court in Subhan Rao case (supra), where a portion of suit property was given to the plaintiff-wife for her maintenance subject to restriction that she will not alienate the land which was given to her maintenance. The question arose as to whether by virtue of Section 14(1) of the Act she became the owner of the suit property. Considering all the earlier decisions of this Court, their Lordships held that by virtue of Section 14(1) of the Act, the pre-existing right in lieu of her right to maintenance transformed into absolute estate.

29. In the case of *Nazar Singh and Others vs. Jagjit Kaur and Others*[22], this Court following the decision in Tulasamma's case held as under:-

> "9. Section 14 and the respective scope and ambit of sub-sections (1) and (2) has been the subject-matter of a number of decisions of this Court, the most important of which is the decision in V. Tulasamma v. Sesha Reddy. The principles enunciated in this decision have been reiterated in a number of decisions later but have never been departed from. According to this decision, sub-section (2) is confined to cases where property is acquired by a female Hindu for the first time as a grant without any pre-existing right under a gift, will, instrument, decree, order or award, the terms of which prescribe a restricted estate in the property. It has also been held that where the property is acquired by a Hindu female in lieu of right of maintenance inter alia, it is in virtue of a pre-existing right and such an acquisition would not be within the scope and ambit of sub-section (2) even if the instrument, decree, order or award allotting the property to her prescribes a restricted estate in the property. Applying this principle, it must be held that the suit lands, which were given to Harmel Kaur by Gurdial Singh in lieu of her maintenance, were held by Harmel Kaur as full owner thereof and not as a limited owner notwithstanding the several restrictive covenants accompany-ing the grant. [Also see the recent decision of this Court in Mangat Mal v. Punni Devi where a right to residence in a house property was held to attract sub-

section (1) of Section 14 notwithstanding the fact that the grant expressly conferred only a limited estate upon her.] According to sub-section (1), where any property is given to a female Hindu in lieu of her maintenance before the commencement of the Hindu Succession Act, such property becomes the absolute property of such female Hindu on the commencement of the Act provided the said property was 'possessed' by her. Where, however, the property is given to a female Hindu towards her maintenance after the commencement of the Act, she becomes the absolute owner thereof the moment she is placed in possession of the said property (unless, of course, she is already in possession) notwithstanding the limitations and restrictions contained in the instrument, grant or award whereunder the property is given to her. This proposition follows from the words in sub-section (1), which insofar as is relevant read: "Any property possessed by a female Hindu ... after the commencement of this Act shall be held by her as full owner and not as a limited owner." In other words, though the instrument, grant, award or deed creates a limited estate or a restricted estate, as the case may be, it stands transformed into an absolute estate provided such property is given to a female Hindu in lieu of maintenance and is placed in her possession. So far as the expression 'possessed' is concerned, it too has been the subject-matter of interpretation by several decisions of this Court to which it is not necessary to refer for the purpose of this case."

30. In Sadhu Singh's case, (2006) 8 SCC 75, the facts of the case were quite different to that of the present case. In Sadhu Singh's case, this Court proceeded on the basis that the widow had no pre-existing right in the property, and therefore, the life estate given to her in the Will cannot get enlarged into absolute estate under Section 14(1) of the Act.

31. Mr. Vishwanathan, learned senior counsel for the appellant's last contention was that in the absence of any pleading and proof from the side of the appellant to substantiate the plea that Veeraraghavamma was occupying the property in lieu of maintenance, Section 14 will not be automatically attracted. We do not find any substance in the submission made by the learned counsel. Indisputably, Exhibit A-2 is a document which very categorically provided that the property in question was given to Veeraraghavamma to enjoy the same till her life. Neither the genuineness of the said Exhibit A-2 was disputed nor it was disputed that Veeraraghavamma was enjoying the property by way of maintenance. In our considered opinion, unless the factum of bequeathing the property in favour of the wife and her continuous possession are disputed, the question of pleading and proof does not arise. In other words, no one disputed the arrangement made in the Will and Veeraraghavamma continued to enjoy the said property in lieu of maintenance. Hence, the ratio decided in G. Rama's case (supra) does not apply.

32. Further, indisputably, Mr. P. Venkata Subba Rao, the original owner of the property, realized the fact that his wife Veeraraghavamma was issueless and she has a pre-existing right to be maintained out of his property. He further realized that physically he was weak and may not survive for long period. He therefore, decided to give his properties to his family members. For the maintenance of his third wife Veeraraghavamma, he gave the tiled house with site and compound wall with the stipulation that she shall enjoy the property for

life in lieu of maintenance. She will also be entitled to fetch water from the well and use other facilities. Admittedly, no one disputed the arrangements made in the Will and Veeraraghavamma continued to enjoy the said property. In view of the admitted position, we have no doubt to hold that by virtue of Section 14(1) of the Act, her limited right became absolute right to the suit property.

33. In the impugned judgment, the High Court has elaborately discussed the facts of the case and the law applicable thereto and came to the conclusion that the trial court committed serious error of law in holding that by virtue of Section 14(2) of the Act, her limited right has not become absolute.

34. Though no specific word has been mentioned in Exhibit A-2 that in lieu of maintenance life interest has been created in favour of Veeraraghavamma, in our opinion in whatever form a limited interest is created in her favour who was having a pre-existing right of maintenance, the same has become an absolute right by the operation of Section 14(1) of the Hindu Succession Act.

35. After giving our anxious consideration to the matter and the judicial pronouncements of this Court in a series of decisions, we hold that the impugned judgment of the High Court is perfectly in accordance with law and needs no interference by this Court.

36. For the reasons aforesaid, this appeal has no merit and dismissed. However, there shall be no order as to costs.

[1]*(AIR 1977 SC 1944*
[2]*(1986) 1 ALT.546*
[3]*(A.I.R. 1977 SC 1944*
[4]*AIR. 1971 SC 745*
[5]*AIR. 1987 SC 2251*
[6]*(1991) 1 L.W.15*
[7]*AIR 1979 SC 993*
[8]*(1972) 4 SCC 0086*
[9]*(1977) 3 SCC 0099*
[10]*(2006) 8 SCC 0091*
[12]*(2008) 12 SCC 0392*
[13]*AIR 1977 SC 1944*
[14]*(1972 Vol. 4 SCC 0086*
[15]*AIR 1962 SC 1493*
[16]*(1969) 3 SCC 628*
[17]*(1991) 4 SCC 312*
[18]*(2005) 5 SCC 390*
[19]*(2008) 1 SCC 465*
[20]*(2010) 10 SCC 235*
[21]*(2011) 1 SCC 0068*
[22]*(1996) 1 SCC 0035*