KOTHI SATYANARAYANA

v.

GALLA SITHAYYA & OTHERS

NOVEMBER 21, 1986

[O. CHINNAPPA REDDY AND RANGANATH MISRA, JJ]

Hindu Succession Act 1956, s. 14—Life estate created in favour of widow by Settlement Deed—When can be transformed into full ownership.

Under a deed of settlement dated August 18, 1937, the respondent's father settled certain properties on the widow of his son with life interest and upon her death those properties were to revert to the Settlor or his heirs. After the widow's death, the respondent claimed the properties under the aforesaid deed of settlement. However, the appellant, brother of the widow set up title thereto under a Will executed by the widow on May 14, 1964.

The question that arose for consideration in the courts below was whether the life-estate created in favour of the widow under the Settlement Deed had been transformed into full ownership under section 14(1) of the Hindu Succession Act of 1956 and all the three courts held that the life-estate carved out under the 1937 Settlement did not get transformed into title in favour of the widow and she did not acquire any allienable interest in the properties to bequeath in favour of her brother.

Dismissing the appeal by the appellant,

HELD: 1. Sub-s.2 of s.14 of the Hindu Succession Act 1956 is an exception to sub-s.1 thereof and if the situation is covered by sub-s.2, the transformation provided for in sub-s.1 would not take place. [360F]

The settlement deed in the instant case, is an instrument contemplated under sub-s.2 and admittedly it created a restricted estate in favour of the widow. Therefore sub-s.1 of s.14 would not be attracted. [360G]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2726 of 1972

From the Judgment and Order dated 4.8.1971 of the Andhra Pradesh High Court in L.P.A. No. 48 of 1969

A.S. Nambiar, G.N. Rao and Attar Singh for the Appellant.

A G.S. Ramaiah, and B. Parthasarthi for the Respondents.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. This appeal by the defendant is by Special B Leave and challenge is to the decision of a division bench of the Andhra Pradesh High Court in a Letters Patent appeal.

Plaintiff asked for a decree for possession after eviction of the defendants and claimed mesne profits both past and future. Plaintiff and Veeraraju happened to be sons of Ramamurty. The two brothers had amicably C partitioned their properties in 1909. Veeraraju died in 1927 leaving behind his widow. As Ramamurty sold certain properties from Veeraraju's share in 1928, the widow raised dispute and mediators brought about a settlement leading to the execution of a Deed of Settlement dated August 18, 1937, whereunder Ramamurty settled certain properties on the widow with life interest and upon her death, those properties were to revert to Ramamurty or his heirs. After the D widow's death, the plaintiff who is son of Ramamurty claimed the properties but defendant No.1 who is the brother of the widow set up title thereto under a Will dated May 14, 1962 of the widow.

The main question that arose for consideration in the courts below was whether the life-estate created in favour of Veeraraju's widow under the E Settlement Deed had been transformed into full ownership under section 14(1) of the Hindu Succession Act of 1956. All the three courts have held that the life-estate carved out under the 1937 settlement did not get transformed into title in favour of the widow and she did not acquire any alienable interest in the properties to bequeath in favour of her brother.

F The only question which has been canvassed at the hearing is whether in the facts of the case, sub-section (1) or sub-section (2) of section 14 of the Act is applicable. It is not disputed that sub-section (2) of section 14 is an exception to sub-section (1) thereof and if the situation is covered by sub-section (2), the transformation provided for in sub-section (1) would not take place.

G The Settlement Deed is an instrument contemplated under sub-section (2) and admittedly it created a restricted estate in favour of the widow. Therefore, sub-section (1) of section 14 would not be attracted. The submission of the appellant's learned counsel that the Settlement deed brought the properties covered by it in exchange or in lieu of properties unauthorisedly alienated by Ramamurty and as the widow had full title in the alienated H

property, title must be held to have accrued in favour of the widow in the properties covered by the settlement cannot be accepted. A

The appeal fails and is dismissed.

Parties are directed to bear their own costs in this Court. B

M.L.A. Appeal dismissed.