

PHOOL PATTI AND ANR.

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MARCH 31, 2009

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Registration Act, 1908: s.17(2)(vi) – Exception in s.17(2)(vi) – Interpretation of – Inconsistency between the decisions of Supreme Court regarding interpretation of exception in s.17(2)(vi) – Matter referred to larger Bench – Reference to larger Bench.

Appeal: First appellate court – Finding of first appellate court that consent decree in another suit was not collusive was a finding of fact – High Court rightly refused to interfere with the findings of fact.

Interpretation of statutes: Court cannot add words to the statute or change its language, particularly when on a plain reading the meaning is clear.

The appellants were daughters of one 'B'. They filed a suit No. 234 of 1982 challenging a consent decree dated 24.11.1980 in Civil Suit No.630 of 1980 on the ground that same was collusive. The trial court decreed the suit. However, first appellate court set aside the order of trial court. High Court dismissed the appeal. Hence the present appeal.

Referring the matter to larger Bench on interpretation of exception in clause (vi) of s.17(2) of Registration Act, the Court

HELD: 1. The finding of the First Appellate Court that the judgment and decree dated 24.11.1980 was not collusive is a finding of fact. 'B' who was the defendant

plea. The trial Court and the High Court have analysed this aspect in great detail. From the evidence of PWs 2, 4, 7 and 8 it is seen that the accused persons were absconding since the date of incident when the dead body of the deceased lay in her matrimonial home. PW-14 the Investigating Officer's evidence was to that effect. The High Court has rightly noted that the conduct of the accused appellants before it had a striking feature in the absence of any reasonable explanation and is an inculpatory circumstance against them. The injuries on the dead body were noticed by several witnesses e.g. PWs 1, 2, 4, 7 and 8. The autopsy examination on the dead body of the deceased revealed the following injuries:

1. Nail marks (illegible) in shape four in numbers over left side of the neck placed one below the other and extended laterally and other marks over the right side of the neck, aclynorsis over the front of the neck. On direction extravagation of the blood found in the muscles of the neck and fractures of the (illegible) cartilage found.

2. Multiple abrasion and aclynorsis of the varying sizes are seen over the back and different parts of the body both appear and lower (illegible).

16. According to the doctor the death was due to asphyxia resulting from throttling which was ante mortem and homicidal in nature.

17. Above being the position we find no merit in this appeal which is accordingly dismissed.

K.K.T.

Appeal dismissed.