

BHAGAT RAM V. TEJA SINGH
AIR 2002 SC 1

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TABLE OF ABBREVIATIONS

- AIR - All India Reporter
- AP - Andhra Pradesh
- Art. - Article
- Bom. - Bombay
- Cal. - Calcutta
- ed. – Edition
- IA – Indian Appeals
- Ker. - Kerala
- Ltd. - Limited.
- P. - page number
- Pat. - Patna
- SCC - Supreme Court Cases
- SCR - Supreme Court Reporter
- Sec. - Section
- Vol. - Volume
- v. - versus.
- IPC - Indian Penal Code
- SC - Supreme Court

TABLE OF STATUES

- Hindu Succession Act, 1956
- Hindu Marriage Act, 1955

1. INTRODUCTION

The magnitude and significance of the case at hand is best comprehended only when the researcher at the very outset expresses the fact that the judgment of *Bhagat ram v. Teja singh*¹ stands as a judicial decision, which apart from providing a correct interpretation to the meaning and usage of the Section 15(2)(a) of Hindu Succession Act, 1956, sets a masterful precedent highlighting the complexity of laws regarding devolution of property of females dying intestate. Under Section 15 (2)(b) of the Hindu Succession Act, 1956 on a petition presented by the plaintiff, the property belonging to the daughter which is inherited by her from her mother on her death reverts to the heirs of her mother not on the heirs of her deceased husband. Thus, the property should rightfully belong to the sister of the deceased not on the brother of the deceased husband.

The post judgment developments of the law will be dealt in detail at a later stage. It is said that an understanding of the legislation cannot be complete without doing research on the various cases which questioned the complexity of devolution of the property belonging to the women who dies intestate under Hindu Succession Act and by interpreting the very intention of the legislation. In this regard it has to be said that the Supreme Court of India as well as the other upper and lower Courts have given dissenting opinion regarding devolution of property of females dying intestate. Although the Supreme Court after this case has put an end to all the confusion that the genesis of the property of female lays not that it is in hands of the female but from where it originated and came into the hands of the female owner. There has been an attempt to analyse that what will be the operation of Section 15 of the aforesaid legislation when the property acquired by the female member is in a nature of self-acquired property. The recent judgments of the Supreme Court have been taken into consideration to diminish any ambiguity.

¹ AIR 2002 SC (1).

1. RESEARCH METHODOLOGY

The method of research adopted for this particular project and study is doctrinal in nature. As the project is a case comment on the case of *Bhagat Ram v. Teja Singh*,² an empirical approach will be futile, as a layman would not be aware of the mention and definition of 'property and succession of female Hindu dying intestate' in 'Hindu Succession Law'. Hence, the doctrinal method perceptibly proves to be more viable option than any other method which can be adopted. Both secondary as well as primary sources available at the library of NALSAR, University of law have been used.

2. RESEARCH PLAN

3.1 Aim and Objectives

The aim and objective of this project is to do a detailed study of the Succession laws of Hindus concerning devolution of the property of the female dying intestate taking into consideration all the rules and substantive law laid down in the Hindu Succession Act. The researcher attempts to do this with the case of *Bhagat Ram v. Teja Singh*³ as the backdrop of the entire concept, also an attempt has been made to make certain suggestions and recommendations on the issue.

3.2 Scope and Limitation

The researcher will deal with various rules and postulates which decides how the the property belonging to the female devolves when she dies intestate. Research is however limited to the resources available at the NALSAR Library. The researcher hopes to deal with the Introduction, Research Methodology, and Research Plan firstly to give a fair idea of his project. A further study of succession laws to the relevant subject with all the rules and interpretations so as to clarify the current position in the subsequent stages. The facts, issues, judgment and analysis of the judgement of *Bhagat Ram v. Teja Singh*⁴ are discussed thoroughly and lastly the post Judgment analysis and evaluation concludes the project.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

3. HINDU JOINT FAMILY

In Hindu law, the family is basically a joint family. There are two Schools namely Mitakshara (also having its sub-schools) and Dayabhaga which extensively discusses about Hindu law and its features regarding property in detail. Both these Schools differ in their interpretations of Shastric Hindu law. Mitakshara defines the concept of property in a socialistic manner whereas Dayabhaga perceives it in an individualistic manner. In *Raguaddha v. Brogo Kishoro*⁵ it has been held by the Apex Court that the Hindu family is not joint only in estate but also in food and worship. Mere fact that the members of the family are living away from each other does not mean that the family is not a joint family. The court in *Bhagwan Dayal v. Ms. Reoti Devi*,⁶ held that there is a general presumption that every Hindu family is a joint family unless contrary is proved. The contrary here refers to the general partition of the property.

4.1 SUCCESSION

Succession implies the act of succeeding or following, as of events, objects, places in series. In the eyes of law however, it holds a different and a particular meaning and implies the transmission or passing of rights from one to another. In every system of law provision has to be made for a readjustment of things or goods on the death of the human beings who owned and enjoyed them. Succession is a sense of partition or redistribution of property from a former owner to a new owner and in modern system of law; it is subject to many rules. This is because in all the cases the owner of the property is not able to express his wishes through a will and thus, dies intestate i.e. without making a will. In these cases, it becomes important that there should be some wide accepted rules and practices which help the society to determine the new owners and succession of the property. It is upon this basis that it is said “the law of inheritance comprises of rules which govern devolution of property, on the death of the person, upon other persons solely on account of their relationship with the former.”⁷

Black law’s dictionary defines inheritance “as receipt of property from an ancestor under the law of intestacy” i.e. “by bequest or by device”.⁸

5 1876 IA 153.

6 AIR 1962 SC 287.

7 S.A.Desai (rev), MullaDF, PRINCIPLES OF HINDU LAW (2), 19th edition (2006), pg. 277.

8 Bryan A. Garner (ed), BLACK LAW DICTIONARY, 7th edition, pg. 787.

4.2 HINDU SUCCESSION ACT 1956 AS AMENDED IN 2005

The presence of ancient Hindu law can be traced back for a long history. The joint family system comes first in this familiar historical order. This joint family system traces its origin to ancient patriarchal system and in its transition to the joint family system some of the features can still be traced. There was a need to codify the Hindu law of inheritance as both the Schools Mitakshara and Daybhaga have their own interpretation entirely contradictory to each other. It was thus, agreed that a uniform and comprehensive system of legislation recognising equitable distribution of inheritance between male and female heirs was the only remedy to remove the existing disparities. Thus, consequently Hindu succession act came into force in 1956. The intent before framing of the act was to lay down a uniform and comprehensive system of legislation which would cover the entire law of inheritance and would be applicable inter alia to all the persons governed by Mitakshara and Dayabahaga schools and also to those parts of India which had earlier been governed by different Schools of Hindu law. The main feature of the act as common to other legislations under the Hindu code is that it covers Buddhists, Jains and Sikhs and also other people who fall within the wide ambit of the term Hindu, as defined by various decisions from time to time and as finally settled in the landmark case of *Shastri v. Mooldas*.⁹ It is also to be noted that section 4 of the act gives overriding effect to the provisions of the act over any text, rule, custom and usage prevalent among the Hindus as dealing with the matters now covered under the provisions of the act.

4.3 SCHEME OF THE ACT

The entire Hindu Succession act can be divided into three parts. While the first part is can be called general part and contains definitions, scope and extent of applicability of the act. The second part is incumbent upon inheritance that takes place when a Hindu (Male or Female) dies intestate i.e. without a will. The third part, though having only one section, is related to testamentary disposition where any Hindu can dispose of his property by a will in accordance with the provisions of Indian succession act, 1925. The second part i.e. the one dealing with intestate succession is the most illustrative and detailed. It even consists of separate rules that apply for succession when a Hindu male or female dies. To be specific, the scheme of the act in matter of the succession of the property of a Hindu dying intestate (after coming into force of the

9 AIR 1966 SC 1119.

act) is to lay down set of general rules for succession to the property of male Hindu in Sections 8 to 13, including the rules for ascertainment of the shares and portions of the various heirs. The separate and general rules for the succession of the property of the female Hindu dying intestate are laid under Sections 15 and 16. Section 17 provides for certain modifications and changes in the general scheme of the succession to the property of male and female Hindus in relation to persons hitherto governed by Malabar and Aliyasantana law. Sections 18 to 28 of the act are headed 'general provisions relating to succession' and lay down rules which are supplementary to the provisions in Sections 5 to 17.

4. SUCCESSION OF FEMALES DYING INTESTATE

The provisions relating to the succession of property belonging to the female dying intestate has been laid down in Sections 15 and 16 of Hindu Succession Act 1956.

15. General rules of succession in the case of female Hindus.--(1) The property of a female hindu dying intestate shall devolve according to the rules set out in Section 16,--

- (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband
- (c) thirdly, upon the mother and father,
- (d) fourthly, upon the heirs of the father; and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-Section (1),--

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-Section (1) in the order specified therein but upon the heirs of the father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub- section(1), in the order specified therein, but upon the heirs of the husband.

The Section provides a definite and uniform scheme of succession in the property of a female Hindu dying intestate after the commencement of the act. The rules laid down under this section are to be read along with Section 16. The section groups the heirs of a female Hindu in five categories as lay down in subsection 1. However subsection (2), similar to the scheme of section 14, is in the nature of an exception to the general rule laid down in subsection (1). The two exceptions are, if a female dies without leaving any issue then,

- In respect of property inherited by her from her father or mother, that property will devolve not according to the order laid down as in subsection (1) but upon the heirs of her father and,
- In respect of the property inherited by her from her husband or father-in-law that property will not devolve according to the order lay down in subsection (1) but upon the heirs of her husband.

It is important to note that the two exceptions herein referred are confined only to the property inherited from her father, mother, husband, father-in-law of the female and does not affect the property acquired by her by gift or other by other device.

In *Seetha Ammal v. Muthu Venkataramana Iyengar*¹⁰ the Supreme Court held that in order to decide, who are the heirs of the female Hindu under Section 15(1) (b) one does not have to go back to the date of the death of the husband to ascertain who his heirs were at that time. The heirs have to be ascertained not at the time of the death of the husband but at the time of wife's death. This Section also makes very clear by using words like "Shall Devolve" that it has prospective operation. It applies only in the case when the death of the female intestate and devolution of her property takes place after the commencement of the Act.

5.1 ORDER OF SUCCESSION

The general order of succession laid down in Section 15 applies to all property of female dying intestate however acquired except in case of property inherited from her father, mother, husband or in-laws. In a recent case, *Om Prakash v. Radha Charan*¹¹ Supreme Court said that the Self acquired properties of Hindu female dying intestate shall devolve on legal heirs of her pre-deceased husband as per Section 15 (1) of the Hindu Succession Act, 1956 and not as per Section 15(2). Thus, settling all the controversy regarding the reversioners interest in the self acquired property of the female. However, if the female dies intestate leaving any issues behind or leaving behind any child of her predeceased son or daughter, all her property howsoever acquired devolve on those issues. If the husband is alive then he takes simultaneously with them. In these cases, Subsection (2) is not attracted. But when she dies without leaving any issues and if the husband is alive at that time, the husband takes all her property (except those which are inherited from her father or mother). The Section also provides that if neither the husband is

10 AIR 1998 SC 1692.

11 (2009)15 SCC 66.

alive nor the issue and the property inherited by her is from her husband or father-in-law then under these extra-ordinary circumstances the property will go to the heirs of the husband not in accordance with the general order of the succession laid down in Subsection (1). Similarly, if the source of the property can be traced back to her father or mother then the property will revert back to the heirs of her father as the case may be at the time of her death not to the heirs of her husband.

5.2 HUSBAND AND HEIRS OF THE HUSBAND

“The husband entitled to succeed under this entry must be a person who was lawfully married to the female intestate and whose marriage had not been annulled or dissolved by a decree of the court or dissolved by any valid custom governing the parties.”¹² Failing all heirs of the intestate female specified in entry (a), but not until then, all her property will devolve upon the heirs of the husband as heirs specified in the entry. However, a property which she might have inherited from her father or mother will not devolve upon them and would devolve on her father’s heir at the time of her death. ¹³

12 Section 29(2) Hindu Marriage Act 1955.

13 *Supra n. 6.*

5. BHAGAT RAM V. TEJA SINGH

6.1 FACTS

A (father) was the owner of certain land. He died and his widow 'B' became owner of that property. She had two daughters, 'D1' and 'D2'. 'B' the widowed mother died and her property was inherited by 'D1' and 'D2'. 'D1' died without any issues. The High Court held that property held by 'D1' on her death devolved on 'T' who was brother of predeceased husband of S 'D1'. The judgment was overruled by the Supreme Court and the court said that if property held by a female was inherited from her father or mother, in absence of any son or daughter of deceased including children of any pre-deceased son or daughter, it would only devolve upon heirs of the father at the time of her death.

6.2 HELD

Admittedly, D1 inherited the property in question from her mother. If property held by a female was inherited from her father or mother, in absence of any son or daughter of the deceased including children of any pre-deceased son or daughter, it would only devolve upon heirs of the father and, in this case, her sister, D2 was the only legal heir of her father. Deceased, D1, admittedly inherited the property in question from her mother. It is not necessary that such inheritance should have been after the commencement of the Act. The intent of the legislature is clear that the property, if originally belonged to the parents of the deceased female, should go to the legal heirs of the father. So also under clause (b) of sub-section (2) of section 15, the property inherited by a female Hindu from her husband or her father-in-law, shall also under similar circumstances, devolve upon the heirs of the husband. It is the source from which the property was inherited by the female, which is more important for the purpose of devolution of her property. Court does not think that the fact that a female Hindu originally had a limited right and later, acquired the full right, in any way, would alter the rules of succession given in sub-section (2) of section 15.

6.3 Issues

The main issues involved in this case are whether the property acquired by a female before the commencement of the Hindu Succession Act i.e. before 1956 which gives the female only limited share in the property but now due to the virtue of Section 14 of the Hindu Succession Act she holds the property in its entirety is subject to succession under Section 15 (1) or not. The other contention is that whether the property inherited by the female which originally belonged to her father should devolve on the heirs of her father on her death irrespective of section 14 or not.

6.4 JUDGMENT

This appeal was finally heard and allowed on 31.3.1999 by a Bench consisting of (Hon. U.C.Banerjee, J. and K.G. Balakrishna J.) and another learned Judge of this Court. The only respondent in the appeal was Teja Singh. He was served with the notice issued from this Court but he did not choose to appear and defend the appeal. Teja Singh died on 1.12.1986. But no steps were taken to plead the legal heirs of Teja Singh. The original appellant Bhagat Ram also died and his legal heirs/representatives were brought on record on 20.11.1985. When the appeal was heard by this Court on 31.3.1999, it was not brought to the notice of this Court that Teja Singh had already passed away on 1.12.1986. After the appeal was disposed of, the legal heirs of Teja Singh filed an application to get themselves pleaded in this appeal for an opportunity of hearing.

Kehar Singh was the owner of the land admeasuring 280 kanals and 18 marlas in the village Antowali (now in Pakistan). He died prior to partition of India. His widow, Smt. Kirpo and two daughters Smt. Santi and Smt. Indro migrated to India. In lieu of the property owned by Kehar Singh in Pakistan, his widow, Kirpo was allotted some land in India. Kirpo died on 25.12.1951 leaving behind her two daughters Smt. Santi and Smt. Indro. They inherited the property equally. Smt. Santi died in 1960. The property left by her was thereafter mutated in the name of her surviving sister, Smt. Indro. The original appellant, Bhagat Ram (deceased) who had entered into an agreement with Smt. Indro on 12.3.1963, filed a suit for specific performance, which was decreed in his favour. The original respondent in the appeal, Shri Teja Singh (deceased) is the brother of Smt. Santi's pre-deceased husband. He filed a suit alleging that on the death of Smt. Santi in 1960, the property in question devolved on him by virtue of clause (b) of Sub-section (1) of Section 15 of the Hindu Succession Act, 1956. The Trial Court decreed the

suit filed by Teja Singh. The appeal filed against the said decree was dismissed. Bhagat Ram (deceased) then preferred the second appeal before the High Court, which was also dismissed. The High Court held that the property held by Smt. Santi on her death devolved on Teja Singh who was the brother of the pre-deceased husband of Smt. Santi. However, on appeal this Court by its Judgment dated 31.3.1999 held that the property held by Smt. Santi was the property inherited by her from her mother; therefore, clause (a) of sub-Section (2) of Section 15 is the relevant provision which governed the succession and Teja Singh had no right in the property left by Smt. Santi and that it would only devolve on her sister Smt. Indro.

The relevant Section in the Hindu Succession Act, 1956 reads as follows:-

15. General rules of succession in the case of female Hindus.--(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16,-

(a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband

(c) thirdly, upon the mother and father,

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-Section(1),

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-Section (1) in the order specified therein but upon the heirs of the father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub- section(1), in the order specified therein, but upon the heirs of the husband.

The Counsel for the respondents contended that Smt. Santi acquired property from her mother Smt. Kirpo who died on 25.12.1951 and at that time Smt. Santi had only a limited right over this property, but by virtue of Section 14(1) of the Hindu Succession Act, she became the full owner of the property and, therefore, on her death, the property held by her would be inherited by her legal heirs as per the rule set out in Section 15(1) of the Act. They further contended that prior to the Hindu Succession Act, Smt. Santi had only a limited right but for Section 14(1) of the Act, it would have reverted to the reversioners and such a limited right became a full right and therefore, the property is to be treated as her own property. He also contended that Section 15 of the Hindu Succession Act will have only prospective operation and, therefore the words used in Section 15(2)(a) viz. "any property inherited by a female Hindu" are to be construed as property inherited by a female Hindu after the commencement of the Act.

The court does not find any merit in the contention raised by the Counsel for the respondents. Admittedly, Smt. Santi inherited the property in question from her mother. If the property held by a female was inherited from her father or mother, in the absence of any son or daughter of the deceased including the children of any pre-deceased son or daughter, it would only devolve upon the heirs of the father's estate; in this case, her sister Smt. Indro was the only legal heir of her father. Deceased Smt. Santi admittedly inherited the property in question from her mother. It is not necessary that such inheritance should have been after the commencement of the Act. The intent of the Legislature is clear that the property, if originally belonged to the parents of the deceased female, should go to the legal heirs of the father. Similarly, under clause (b) of sub-Section 2 of Section 15, the property inherited by a female Hindu from her husband or her father-in-law, shall under similar circumstances, devolve upon the heirs of the husband. It is the source from which the property was inherited by the female, which is more important for the purpose of devolution of her property. Thus, the court do find any relevance in the fact that a female Hindu originally had a limited right and later, acquired the full right, in any way, would alter the rules of succession given in sub-section 2 of Section 15.

While delivering the judgment the court referred to a similar case *Bajya v. Smt. Gopikabai*.¹⁴ In that case, the suit land originally belonged to G, son of D. G died before the settlement in 1918 and thereafter, his land was held by his son, P who died in the year 1936. On P's death the holding devolved on P's widow, S. S died on November 6, 1956, and thereupon

14 SCR 1978 (3) 561.

dispute about the inheritance to the land left behind by S arose between the parties. The plaintiff claimed that she being the daughter of 'T' who was the sister of the last male holder, P was an heir under Section 15 read with Section 2(II) (4) (iv) of the Schedule referred to in Section 8 of the Hindu Succession Act, 1956, whereas the defendants claimed as 'Sapindas' of the last male holder under Mitakshara Law. Speaking for the Bench, Hon. R.S. Sarkaria, J. held that the case would fall under clause (b) of sub-Section 2 of Section 15 because S died issueless and intestate and the interest in the suit property was inherited by her from her husband and the property would go to the heirs of the husband.

In *Smt. Amar Kaur v. Smt. Raman Kumari*¹⁵ a contra view was taken by High Court of Punjab and Haryana. In this case, a widow inherited property from her husband in 1956. She had two daughters and the widow gifted the entire property in favour of her two daughters. One of the daughters named Shankri died without leaving husband or descendent in 1972. Her property was mutated in favour of her other sister. At the time of death of Shankri her husband had died leaving behind another wife and a son. They claimed right over the property left by the deceased female Hindu. in paragraph 4 of the said judgment, it was held as under:

"Smt. Shankari succeeded to life estate, which stood enlarged in her full ownership under Section 14(1) of the Act. Since smaller estate merged into larger one, the lesser estate ceases to exist and a new estate of full ownership by fiction of law came to be held for the first time by Smt. Shankari. The estate, which she held under Section 14(1) of the Act, cannot be considered to be by virtue of inheritance from her mother or father. In law it would be deemed that she became full owner of this property by virtue of the Act. On these facts it is to be seen whether Section 15(1) of the Act will apply or Section 15(2) of the Act will apply. Section 15(2) of the Act will apply only when inheritance is to the estate left by father or mother, in the absence of which Section 15(1) of the Act would apply."

The Apex Court said that the law laid down by the learned Single Judge in the above said decision is not correct. Even if the female Hindu who is having a limited ownership becomes full owner by virtue of Section 14(1) of the Act, the rules of succession given under sub-Section 2 of Section 15 can be applied. In fact, the Hindu Succession Bill 1954 as originally introduced in the Rajya Sabha did not contain any clause corresponding to sub-Section (2) of Section 15. It came to be incorporated on the recommendations of the Joint Committee of the

15 AIR 1985 P&H 86.

two Houses of Parliament. The reasons given by the Joint Committee is found in Clause 17 of the Bill, which reads as follows:

"While revising the order of succession among the heirs to a Hindu female, the Joint Committee have provided that properties inherited by her from her father reverts to the family of the father in the absence of issue and similarly property inherited from her husband or father-in-law reverts to the heirs of the husband in the absence of issue. In the opinion of the Joint Committee such a provision would prevent properties passing into the hands of persons to whom justice would demand they should not pass.

The source from which she inherits the property is always important and that would govern the situation. Otherwise persons who are not even remotely related to the person who originally held the property would acquire rights to inherit that property. That would defeat the intent and purpose of sub-Section 2 of Section 15, which gives a special pattern of succession. . The Court in its Judgment dated 31.3.1999 held that clause (a) of sub-section (2) of Section 15 is the appropriate rule to be applied for succession of the property left by the deceased Smt. Santi and we find no reasons to take a different view.

7. EVALUATION

The judgment given in *Bhagat Ram v. Teja singh*¹⁶ is a significant one, it has successfully removed confusion regarding the succession of the property of a female Hindu dying intestate. The essence of Section 15 of the Hindu Succession Act, 1956, lies in the origin of the property, i.e., from where does the property came into the hands of the female holder. It specifically states that if the property came into the hands of the female through her paternal side, i.e., her father then after her demise, her children, children of her predeceased children will have first right over the property. In case, if she dies without any issues then the property reverts back to the heirs of her father not of her husband. The Court in this case gave a very flawed and incorrect judgment when it failed to properly interpret the Section. The High Court, gave the wrong judgment in giving the property to the brother of the husband when the concerned person obtained the property through her mother. The Supreme Court later corrected the error by rightly interpreting sub-section (2) clause (a) of Section 15 of Hindu Succession Act, 1956 and reverted back the property to the sister of the deceased.

There has been a controversy regarding the devolution of self acquired property of the female intestate. Previously, there has been mixed opinions and section 15 of Hindu Succession act in its strict interpretation is silent about the issue when the nature of the property is the self acquired property of the female. One has to bear in mind, that the self acquired property of the female intestate cannot be traced back to paternal or in-laws family. Thus, Supreme Court taking this view rightly in *Om Prakash v. Radhacharan*¹⁷ has said that “Self acquired properties of Hindu female dying intestate shall devolve on legal heirs of her pre-deceased husband as per Section 15 (1) of the Act and not as per Section 15(2).” This makes the position very clear that the exceptions contained in Section 15 of Hindu Succession Act,1956 only applies in those cases where the property is inherited by the female either through her father (including mother) or through her husband (including father-in-law). The scheme of the Section is the property should revert back to the family of origin on the demise of the female intestate.

¹⁶ *Supra n.1.*

¹⁷ *Supra n. 10.*

Thus, in *Bhagat Ram v. Teja Singh*¹⁸ the property which devolved on the daughters on the demise of their mother has its origin in their paternal family. On the death of the deceased Santi the inherited property should rightly go to her sister who was alive at that time not to her deceased husband's heir (in this case husband's brother). Both the Trial Court and High Court committed grave mistake in giving their judgment. The Supreme Court clarified the concept and meaning of Section 15 and gave a judgment which will be appreciated all over the legal world and would operate as master precedent.

The biggest backdrop in the entire case is not of the flawed judgment, which is inevitable in judiciary and it is bound to happen but it is of the duration of the case. The case lasted for nearly 40 years, which is a shame for Indian judiciary, it is evident that both original appellants and respondents were dead when the judgement came up and were represented by their legal representatives. Judiciary has to keep in mind that essence of any judicial system lies in its ability to quickly rectify itself and give correct judgments as soon as it is possible. The Indian Judiciary is facing a momentous backlog of cases and the case discussed here is another example of it.

¹⁸ *Supra n. 1.*

BIBLIOGRAPHY

Books referred:

K.B. Asthana, et al., (rev.), Hari Singh Gaur, "THE HINDU CODE", Vol.I, 8th ed. 2002, Law publishers (India) pvt. Ltd. Allahabad.

Kusum, "FAMILY LAW LECTURES –II", 1st ed. 2003, Lexis Nexis Butterworths, New Delhi.

Paras Diwan, "MODERN HINDU LAW", 6th ed. 2001, Allahabad Law Agency, Allahabad

Ranbir Singh and Vijender Kumar, (eds.), "MATERIALS AND CASES ON FAMILY LAW-II", 1st ed. 2006, (unpublished), NALSAR Law University, Hyderabad.

S.A. Desai, (rev.), Mulla, "PRINCIPLES OF HINDU LAW", 19th ed. Vol. I Lexis Nexis Butterworths, New Delhi.

T.V. Subba Rao, and Vijender Kumar, (rev.), "G.C.V. Subba Rao", "FAMILY LAW IN INDIA ", 9th ed., 1st rep., S. Gogia and Co., Hyderabad.

Vijender Kumar and Ranganath Mishra, (rev.), Mayne, "HINDU LAW AND USAGE", 19th ed. 2008, Bharat Law House, New Delhi.

Werner Manski, "HINDU LAW, BEYOND TRADITION AND MODERNITY", 1st ed. 2003, Published by Manzas Khan at oxford University Press in Delhi

Websites Referred:

Indian Code: www.indiacode.nic.in

Manupatra: <http://www.manupatra.com>