REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1543-1544 OF 2019

JOGI RAM **… Appellant**

Versus

SURESH KUMAR & ORS. **…Respondents**

J U D G M E N T

SANJAY KISHAN KAUL, J.

Background:

1. The consequences of a testamentary disposition by a Will dated 15.4.1968 by one Tulsi Ram, who passed away on 17.11.1969 is still pending resolution before us after half a century.

2. The Will aforesaid bequeathed the testator's estate to his son, the appellant herein, and his second wife Ram Devi (the first wife being deceased whose progeny is the appellant). Land measuring 175 kanals and 9 marla, a residential house and a Bara is Village Jundla, Haryana was bequeathed half and half to the appellant and Ram Devi. However, the nature of bequeath was different for the two. The appellant was

given absolute ownership rights to the extent of his share of land and property whereas Ram Devi was given a limited ownership for her enjoyment during her lifetime with respect to her share of the land with a specific provision that she could not alienate, transfer or create third party rights over the same. Thereafter the property was to vest absolutely in the appellant after her lifetime.

3. It appears that the properties were enjoyed as per the Will after the demise of Tulsi Ram in 1969 for quite a few years till the first round of litigation began – Bimla Devi, daughter of Ram Devi instituted a suit in the Court of Sub Judge 1st Class, Karnal for declaration against her mother, Ram Devi, claiming that she had become owner in possession of half share of the land willed to Ram Devi by Tulsi Ram, which resulted in a decree being passed on 15.1.1986. It may be stated at this stage itself that by very nature the suit was collusive. On the decree being passed Bimla Devi executed a lease deed in favour of one Amar Singh on 17.6.1986 in respect of land falling within Ram Devi's limited share. This prompted the appellant to file a Civil Suit No.94/1993 for declaration and permanent injunction before the Senior Sub Judge, Karnal impleading Ram Devi, Bimla Devi and Amar Singh. The

gravamen of the suit was that Ram Devi having only a limited life interest the decree of declaration by Bimla Devi had been obtained through collusion and the lease deed was a bogus document which would not have any effect upon the rights of the appellant to inherit the property after the demise of Ram Devi. The suit was, however, contested only by Ram Devi with the other two defendants being proceeded *ex parte*. The suit resulted in a judgment and decree dated 27.9.1995 to the effect that the appellant having proved the Will executed by Tulsi Ram, the case clearly fell under Section 14(2) of the Hindu Succession Act, 1956 (hereinafter referred to as the 'said Act') which was in the nature of an exception as it precluded the benefits of Section 14(1) of the said Act to accrue with respect of a property *inter alia* inherited under a Will with a restricted right in such a property. Thus, it was concluded that the limited estate of Ram Devi could not be expanded to an absolute estate and the decree of the Civil Court dated 15.1.1986 and the lease deed dated 17.6.1986 were consequently set aside.

4. It may be noted that even though the suit was pending in the interregnum period Ram Devi executed two sale deeds dated 29.4.1993 qua land measuring 38 kanals 14 marlas in favour of one Dharam Singh

and 11 kanals 3 marlas in favour of Kanta Devi. Another sale deed was subsequently executed on 8/9.6.1998 in favour of Baldeva for land measuring 40 kanals 8 marlas. All these were part of the suit land. The latter was during the pendency of the appeal by Ram Devi before the Additional District Judge, Karnal which appeal was also finally dismissed vide judgment dated 15.4.1999. Insofar as the appeal qua Baldeva was concerned, that was also dismissed due to inability of Ram Devi to serve notice on Baldeva despite sufficient opportunity. In the third round of the same litigation Ram Devi's second appeal under Section 41 of the Punjab Courts Act, 1918 (hereinafter referred to as the 'PC Act') also met the same fate vide judgment dated 23.10.2001 in RSA No.1700/1999. The whole matter ought to have received a quietus thereafter as the Special Leave Petition was also dismissed vide order dated 29.4.2002. It may be noticed that in the interregnum period Ram Devi also passed away on 26.8.1999. This is as far as the story of the first round of litigation.

5. The second round of litigation began when the appellant instituted a Civil Suit No.256/157 of 2008 before the Civil Judge, SD, Karnal for declaration and injunction challenging the sale deeds executed by Ram

Devi. This suit was also decreed vide judgment and decree dated 13.8.2009 in favour of the appellant.

6. Once again the gravamen of the decision of the learned Civil Judge was the earlier judgment and decree dated 27.9.1995 opining that Ram Devi had only a limited ownership right and could not have alienated the suit property. There being no change in law, the previous decree in favour of the appellant was held binding among the parties and their successors-in-interest. The sale deeds executed, thus, found to be unsustainable being against the decree of the lower court. Once again, opinion was the same as to the construction of Sections14(1) and 14(2) of the said Act as any contrary interpretation would tantamount to proscribing the right of a Hindu to execute a Will as envisaged under Section 30 of the said Act. The court granted a decree of possession to the appellant being the rightful owner of the same. The court also noted that the title of the purchasers could not be better titled than Ram Devi possessed as they had acquired their rights from her and could not even be considered *bona fide* purchasers for value in view of the history of the litigation.

7. Kanta Devi, legal heirs of Baldev and Dharam Singh then

preferred an appeal against the said judgment dated 13.8.2009, which was dismissed vide judgment dated 7.10.2010 in Civil Appeal No.56/2009. That gave rise to the second appeal before the High Court, being RSA No.210/2011.

8. The respondents pleaded before the High Court by relying upon the judgment of this Court in ***V. Tulasamma & Ors. v. Sesha Reddy (Dead) by LRs.***[1] to contend that Ram Devi's right over the suit property granted under the Will had crystallised into an absolute ownership right making her competent to transfer the same. The subsequent judgment of this Court in ***Jupudy Pardha Sarathy v. Pentapati Rama Krishna & Ors.***[2] was also referred to in support of the said proposition. The decree in the first round of litigation was contended not to operate as *res judicata* in the second suit as the judgment in the earlier suit was contrary to the law prevailing at the time of their consideration (***Shakuntla Devi v. Kamla & Ors.***[3] which referred to ***Mathura Prasad Bajoo & Ors. v. Dossibai N.B. Jeejebhoy***[4]). Without prejudice to the same the respondents also claimed to be *bona fide* purchasers for value and, thus, were protected under Section 41 of the Transfer of Property Act, 1882

[1] (1977) 3 SCC 99
[2] (2016) 2 SCC 56
[3] (2005) 5 SCC 390
[4] (1970) 1 SCC 613

(hereinafter referred to as the 'TP Act').

9. On the other hand the appellant contended that the doctrine of *res judicata* would apply in view of the earlier adjudication as the matter of Ram Devi having a limited estate has been upheld right till the Supreme Court. The appellant had also taken possession of the suit property and execution of the judgments was under challenge before the High Court.

10. The fate of the respondents after the amendment turned favourable as they succeeded before the High Court in terms of the impugned judgment dated 22.2.2018. The discussion in the impugned judgment revolves around three aspects:

(a) Whether the first round of litigation operate as *res judicata* for the appeal.

(b) Whether Ram Devi's limited right over the suit property conferred through the Will had crystallised into an absolute right under Section 14(1) of the said Act.

(c) Whether the High Court was mandated to frame a substantial question of law in deciding the second appeal.

11. On the first aspect the High Court found that the factual scenario and legal principles enunciated in ***Shakuntla Devi***[5] case would be

[5] (supra)

squarely applicable to the facts of the present case. In the factual scenario of that case, one Uttamdasi was the successor of the suit property and had alienated the same through a sale deed and gift deed. The daughter of Uttamdasi, Takami, successfully challenged the alienation and the decree became final. Uttamdasi thereafter executed a Will with respect to the same suit property. Tikami instituted a suit for possession on the basis of a previous declaratory decree wherein she had been held to have ownership right of the property. This Court opined that the case would constitute as a principle of *res judicata*. The first declaratory decree in favour of Tikami was granted on the basis of a limited right held by Uttamdasi in the suit property. By the time the second decree was tried, the Supreme Court in ***V. Tulasamma & Ors.***[6] case had declared the law under Section 14 of the said Act to the extent that the beneficiary under a Will such as Uttamdasi with limited rights would become the absolute owner of the same. Since the law had been altered since the first declaratory decree, the same would not operate as *res judicata* in a decree for possession. The judgment in ***V. Tulasamma & Ors.***[7] case was not retrospective but a declaratory decree simpliciter

[6] (supra)
[7] (supra)

would not attain finality if it is used in a future decree of possession and it would be open for a defendant in a future suit for possession to establish that the earlier declaratory decree was not lawful. Thus, the respondents were held entitled to challenge the appellant's possession of the suit property.

12. On the second aspect the High Court has taken a view that ***V. Tulasamma & Ors.***[8] case had sufficiently resolved any uncertainty under Sections 14(1) & 14(2) of the said Act. A Hindu female has a right to maintenance on a property if a charge was created for her maintenance, the right would become legally enforceable irrespective, even without a charge, the claim for maintenance was a pre-existing right so that any transfer declaring such right would not confer a new title but merely confirm pre-existing rights and Section 14(2) of the said Act cannot be interpreted in a manner that would dilute Sections 14(1) and 14(2) of the said Act. Only in a scenario where the instrument created a new title in favour of the wife for the first time, would Section 14(2) would come into play and not where there was a pre-existing right. Ram Devi was held to have been conferred with a limited right which would translate into an absolute right over the suit property as it was only a confirmation

[8] (supra)

of the pre-existing right over the property.

13. On the last aspect it was held that in view of the decision of this Court in ***Pankajakshi (dead) through LRs & Ors. v. Chandrika & Ors.***[9], the High Court was not required to frame a substantial question of law while deciding the plea as Section 97(1) of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'said Code') would have no applicability to the PC Act.

14. On the appellant approaching this Court notice was issued in the SLP on 4.7.2018 with the direction to maintain status quo as on the date as the appellant had already taken over possession in the execution of the decree. Leave was granted on 4.2.2019 and the interim order made absolute.

15. In the conspectus of the aforesaid, the matter was heard by us.

The Arguments:

16. In order to appreciate the provisions of the said Act, it may be appropriate to reproduce Section 14 of the said Act as under:

> "**14. Property of a female Hindu to be her absolute property.—**
>
> (1) Any property possessed by a female Hindu, whether

[9] AIR 2016 SC 1213

> acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.
>
> Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu 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, and also any such property held by her as stridhana immediately before the commencement of this Act.
>
> (2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property."

17. There is no doubt that Section 14 of the said Act is the part of the said Act to give rights of a property to a Hindu female and was a progressive step. Sub-Section (1) of Section 14 of the said Act makes it clear that it applies to properties acquired before or after the commencement of the said Act. Any property so possessed was to be held by her as full owner thereof and not as a limited owner. The Explanation to sub-Section (1) of Section 14 of the said Act defines the meaning of "property" in this sub-section to include both movable and immovable property acquired by the female Hindu by inheritance or

devise or a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, or by her skill or exertion, or by purchase or by prescription or in any other manner whatsoever, including *stridhana*. The Explanation is quite expansive.

18. Sub-Section (2) of Section 14 of the said Act is in the nature of a proviso. It begins with a 'non-obstante clause'. Thus, it says that "nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court...." etc. where a restricted estate in such property is prescribed. In our view the objective of sub-Section (2) above is quite clear as enunciated repeatedly by this Court in various judicial pronouncements, i.e., there cannot be a fetter in a owner of a property to give a limited estate if he so chooses to do including to his wife but of course if the limited estate is to the wife for her maintenance that would mature in an absolute estate under Section 14(1) of the said Act.

19. Before considering the submissions it would be appropriate to turn to the Will itself. The Will while conferring a limited estate on Ram Devi, Tulsi Ram had clearly stated that she will earn income from the

property for her livelihood. The income, thus, generated from the property is what has been given for maintenance and not the property itself. The next clarification is that after the lifetime of Ram Devi, the appellant will get the ownership of the remaining half portion also. It is specified that in case Ram Devi pre-deceases Tulsi Ram, then all the properties would go absolutely to the appellant and that the other children will have no interest in the property. We may note that Tulsi Ram had six children. One son and four daughters are from the first wife and Bimla Devi was the daughter from the second wife. At the stage when the Will was executed one of the daughters was unmarried and the Will also provided that in case for performing the marriage Ram Devi needs money she will have the right to mortgage the property and earn money from the same and will further have the right to gain income even prior to the marriage.

20. We have set forth the terms and conditions of the Will to understand the intent of the testator. The testator is, at least, clear in terms that the income derived from the property is what is given to the second wife as maintenance while insofar as the properties are concerned, they are divided half and half with the appellant having an

absolute share and the wife having a limited estate which after her lifetime was to convert into an absolute estate of the appellant.

21. Now turning to the submissions of the learned counsel for the parties.

22. Learned counsel for the appellant contended that the life estate was not given to Ram Devi in lieu of recognition of any pre-existing right of Ram Devi or in lieu of maintenance and, thus, Section 14(2) of the said Act would apply and not Section 14(1) of the said Act. The plea of *res judicata* was again reiterated. It was urged that the High Court proceeded on an erroneous premise as if the law had changed from the first round of litigation while the fact was that the law was the same at both stages of time. The distinction which was sought to be made was that ***Shakuntla Devi***[10] case was wrongly relied upon as the Will in that case was dated 1.10.1935 and it was, thus, a pre-1956 Will and, thus, that judgment was not precedent for factual scenario in question. The suit property was a self-acquired property of Tulsi Ram and, thus, he was competent to execute the Will.

23. We may note that learned counsel for the appellant did seek to contend that since possession of the property was taken over by the

[10] (supra)

appellant and Ram Devi was not in possession thereof, she cannot claim the benefit of Section 14(1) of the said Act (***Sadhu Singh v. Gurudwara Sahib Narike & Ors.***[11] and ***Gaddam Ramakrishna Reddy & Ors. v. Gaddam Ramireddy & Ors.***[12]). We may, however, note that in our perspective that is not a material consideration as the possession is stated to have been taken over in pursuance of the decree of the trial court.

24. On behalf of the respondents it was, once again, emphasised that the factual scenario was similar to ***Shakuntla Devi***[13] case and the rights of a female Hindu post the said Act have been crystallised and enunciated in ***V. Tulasamma & Ors.***[14] case since she was an absolute owner she was entitled to sell the land and the respondents were *bona fide* buyers who were protected by Section 41 of the TP Act. Further no substantial question of law was required to be framed in view of the Constitution Bench judgment of the Supreme Court in ***Pankajakshi (dead) through LRs & Ors.***[15] case.

Our view:

25. We have extracted the relevant portions of the enactment, the

[11] (2006) 8 SCC 75
[12] (2010) 9 SCC 602
[13] (supra)
[14] (supra)
[15] (supra)

document in question being the Will and have already opined on the interpretation of the Will. The submissions of the learned counsel for the parties have, thus, to be appreciated in the conspectus of the same.

26. We do believe that there are only two real aspects to be examined in the present case as the issue of even framing a question of law stands settled. The two aspects, in our view are as under:

i. In the given factual scenario did Ram Devi become the absolute owner of the property in view of Section 14(1) of the said Act or in view of the Will the Explanation under Section 14(2) would apply.

ii. What is the effect of the first round of litigation which came up to this Court between the appellant and Ram Devi, the two beneficiaries of the Will.

27. We are of the view that both these questions have to be answered in favour of the appellant and for that reason the impugned judgment is unsustainable.

28. We would first like to turn to the seminal judgment in ***V. Tulasamma & Ors.***[16] case. In para 20 the propositions emerging in

[16] (supra)

respect of incidents and characteristics of a Hindu woman's right to maintenance have been crystallised as under:

> "20. 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 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 (I.L.R. 27 Mad. 45. (2) I.L.R. 18 Bom. 452) 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."

29. In the light of the aforesaid passage, Sections 14(1) & 14(2) of the said Act were entered by the Court. The word "possessed" was held to be used in a wide sense not requiring a Hindu woman to be an actual or physical possession of the property and it would suffice if she has a right in the property. The discussion in para 33 thereafter opines that the intention of the Parliament was to confine sub-section (2) of Section 14 of the said Act only to two transactions, viz., a gift and a will, which clearly would not include property received by a Hindu female in lieu of maintenance or at a partition. The intention of the Parliament in adding the other categories to sub-section (2) was merely to ensure that any transaction under which a Hindu female gets a new or independent title under any of the modes mentioned in Section 14(2) of the said Act. The conclusions were thereafter set forth in para 62 of the judgment as under:

"62. 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 s. 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 s. 14 is in the nature of a proviso and has a field of its own without interfering with the operation of s. 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 s. 14(1) or in a way so as to become totally inconsistent with the main provision.

(4) Sub-section (2) of s. 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 s. 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 s. 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- s. (2) and would be governed by s. 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 s. 14(1) clearly makes sub-s. (2) inapplicable to these categories which have been expressly excepted from the operation of sub-s.
(2).

(6) The words "possessed by" used by the Legislature in s. 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 s. 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 s. 4(2) are wider than limited interest as indicated in s.14(1) and they include not only limited interest, but also any other kind of limitation that may be placed on the transferee."

30. In our view the relevant aspect of the aforesaid conclusion is para 4 which opines where sub-section (2) of Section 14 of the said Act would apply and this does *inter alia* applies to a Will which may create independent and new title in favour of females for the first time and is not a recognition of a pre-existing right. In such cases of a restricted estate in favour of a female is legally permissible and Section 14(1) of the said Act will not operate in that sphere.

31. We may add here that the objective of Section 14(1) is to create an absolute interest in case of a limited interest of the wife where such limited estate owes its origin to law as it stood then. The objective cannot be that a Hindu male who owned self-acquired property is unable to execute a Will giving a limited estate to a wife if all other aspects including maintenance are taken care of. If we were to hold so it would imply that if the wife is disinherited under the Will it would be

sustainable but if a limited estate is given it would mature into an absolute interest irrespective of the intent of the testator. That cannot be the objective, in our view.

32. The testator in the present case, Tulsi Ram, had taken all care for the needs of maintenance of his wife by ensuring that the revenue generated from the estate would go to her alone. He, however, wished to give only a limited lift interest to her as the second wife with the son inheriting the complete estate after her lifetime. We are, thus, of the view that it would be the provisions of Section 14(2) of the said Act which would come into play in such a scenario and Ram Devi only had a life interest in her favour. The natural sequittur is that the respondents cannot inherit a better title than what the vendor had and, thus, the view taken by the trial court and the first appellate court is the correct view and the sale deeds in favour of the respondents cannot be sustained.

33. On consideration of the second aspect, we must begin by stating that the sequence of litigations can hardly be said to classify the respondents as *bona fide* purchasers. The first endeavour was by the daughter of Ram Devi by seeking what is undoubtedly a collusive decree when she had no interest in the property. She then sought to create lease

interest in the property. Both these aspects were held against Ram Devi and her daughter right till the Supreme Court in the first round of litigation clearly opining that Ram Devi had only a limited estate in the property. Despite having lost right till the Supreme Court, the sale deeds were intervening factors even during the pendency of the litigation which went against the vendor Ram Devi.

34. We may also notice that the reliance on ***Shakuntla Devi***[17] case by the High Court is misplaced as the factual scenario cannot be said to be identical. In fact the most crucial aspect was that the Will in question was dated 1.10.1935, a pre-1956 Will which is the distinguishing factor. The same factual scenario prevailed in ***Jupudy Pardha Sarathy***[18] case. We must also notice that the High Court wrongly proceeded on the basis that the first round of litigation would not create any binding precedents because there was change in law after the first round of litigation. There is, in fact, no change in law as all the judgments were much prior in time. We have already stated that the rights of the respondents are derived only from Ram Devi and once the judgment is binding on Ram Devi it cannot be said that she can create rights contrary to the judgment in favour of

[17] (supra)
[18] (supra)

third parties and that too was done during the pendency of the litigation. We believe from the facts on record that the transactions in question are not only not *bona fide* but dubious in character to somehow deny the appellant rights conferred under the Will respondents being third parties. The repeated endeavour of Ram Devi and her daughter did not succeed earlier and cannot be permitted to succeed qua the purchasers from Ram Devi.

Conclusion:

35. The result of the aforesaid is that the appeals are allowed and the impugned judgment of the learned single Judge of the High Court is set aside and the decree of the trial court dated 13.8.2009 as affirmed by the appellate court dated 7.10.2010 is reaffirmed. The parties are left to bear their own costs.

....……J.
[Sanjay Kishan Kaul]

....……J.
[M.M. Sundresh]

New Delhi.
February 01, 2022.