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# Basanti Devi vs Rati Ram (2018) 16 SCC 608

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## ABSTRACT

*The property rights are one of the important rights that a person has and it can be acquired by two ways either by buying a property or by succession. When a property is acquired by succession there are different rights which are given to different person according to the mode of succession that person had. The process of succession has been difficult for women and there are limited amount of rights which are given to them in certain cases. These rights have been provided in Hindu succession Act, 1956. Although these rights have been evolved over the period of time but still there are more changes and need to provide more rights to women.*

*In this case sec 14 (1) of Hindu Succession Act, 1956 and 14 (2) of Hindu succession act, 1956 has been discussed with respect to the rights of a widow women over a property and whether that right will be considered as a absolute right over the property and the case also gives the reason in which circumstances the rights of the women will be converted into absolute right and the reason behind it and what are the rights a women has over the property with limited rights and to who will be the legal heir of that property.*

## I. INTRODUCTION

### (A) Facts

The suit was filed by plaintiff for possession of 1/6<sup>th</sup> share of agricultural land including wells and other things on it at Bherli Khurud, Tesli Rewari. It was said that HAR NARAIN was the ancestor of the plaintiff who had three brothers and all the three brother died and HAR NARAIN was the only owner of the property. He had four sons namely UDMI, BHORU, SHADI, MURLI and from this MURLI had two sons namely CHAJJU and CHIRANJI. One person named SHEO LAL son of ANTA and MAKHAN son of CHUNA got their name entered in the revenue record and said that they are son of HAR NARAIN and his heirs.

The suit was filed by the plaintiff against SHEO LAL and Makhan that they are not heirs and they do not have the share in land. the trial court dismissed the case, the plaintiff again filed an appeal against the said decree the given decree was aid aside by the judgement dated 21/07/1930. The defendant the filed an appeal against the given judgement which was accpeted by high court in part and send the case back to the District court for fresh disposal. On remand

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the parties came to compromise and a compromised decree was passed in which it was said that:

1. Sheo Lal has limited rights on the land and can use the land with no rights to mortgage or alienate the given property.
2. On death of Sheo Lal in absence of any male decedent his wife will acquire the given rights in the property which comprised of 1/6<sup>th</sup> of the total land of the Har Narain's property.
3. After the death of the widow if there is no male lineal the land will revert back to the Har Narain decedents and Makahn will have no right on the property.

On the death of Sheo Lal the property rights were passed to his widow as per the compromised decree and on death of his wife the plaintiff asked for the share of the property which was earlier with the Sheo Lal and his wife. The defendant filed the statement that after death of Sheo Lal his widow acquired the absolute ownership of the property by virtue of the SECTION 14(1) OF HINDU SUCCESSION ACT, 1956. The trial court held that the rights acquired by the widow of Sheo Lal was not absolute and can not be acquired by his heirs and the court also held that here section 14(1) of Hindu Succession Act, 1956 will not apply and by section 14(2) of Hindu Succession Act, 1956 the limited right of his widow can not be changed into absolute right. The First appellate court said aside this judgement and said that the rights are changed into absolute rights and the compromised decree can not be enforced against the heirs of Smt. Chimli and against her also. The case went to the High court and it upheld the Judgement of the trial court and set aside the judgement of the first appellate court as according to it the trial court judgement was rational. The case went to the Supreme court.

### **(B) Issues**

1. Whether the heirs of Sheo Lal will get the absolute ownership of the property?
2. Whether the case would be covered under Sec 14(1) or Sec 14(2) of Hindu Succession Act, 1956 ?

## **II. LEGAL INGREDIENTS**

Section 14 of Hindu Succession Act, 1956 :

Property of a female Hindu to be her absolute property:

- (1) Any property possessed by a female Hindu, whether 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.

### **III. ARGUMENTS**

#### **(A) Appellant**

In reference of the case V. TULLASAMMA AND ORS. VS SSHA REDDY BY LRS REPORTED IN 1977 (3) SCC 99 they said that Sheo Lal had subsisting interest in the land and therefore his wife had the right to property of her husband and even before the compromise the interest in the property was there for Sheo Lal and hence the High court statement to put the ownership of the widow under sec 14 (2) of the Hindu Succession Act, 1956 was not right.

#### **(B) Respondent**

They said that Chimli did not have any prior right in the property and she acquired the right through the compromised decree and hence section 14(2) of Hindu Succession Act will be used here.

### **IV. JUDGEMENT**

The appeal by defendant against the decision of high court failed and the Supreme Court upheld the decision of the high court and said that the appeal made against the decision of High court was not right and it was not according to the law.

### **V. RATIO DECENDENDI**

The court dismissed the plaint presented by the defendant and said that there is no proof that the property that came to Chimli was for maintenance and or on account of maintenance. The property came to her as successor of Sheo Lal and therefore she can get the rights only that was there with Sheo Lal and not more than that and Right of Sheo Lal was there because of the decree and same is there for his wife also and hence the property will not be changed into absolute ownership under sec 14 (1) of Hindu Succession Act, 1956 and the appeal of defendant was rejected because of this reason.

**VI. ANALYSIS**

In this case the court upheld the principal of sec 14 (2) of Hindu Succession Act, 1956 and said that as the transfer of property was not through any maintenance or any thing related to it. The transfer was because of the decree and hence it will not come under sec 14 (1) of the Hindu Succession Act, 1956 and rejected the appeal of the respondent. The decision taken by court was according to the law and has proper reasons for it.

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