

RSA No. 375 of 2016-C

21.09.2016 Present: Mr. Janesh Gupta, Advocate, for the appellants/applicants.

Mr. Sandeep Chauhan, Advocate, for the respondents/non-applicants.

Heard. The present appeal is admitted on the following substantial question of law:-

Whether the Lower Appellate Court has misread and misunderstood the difference between Section 14(1) and Section 14(2) of Hindi Succession Act, 1956 and committed grave error of law and jurisdiction in reversing the well-reasoned findings of the trial Court dismissing the suit without appreciating that a widow who had a pre-existing right of maintenance over husband's property shall become absolute owner thereof? Has not the Lower Appellate Court taken an essentially wrong approach in the matter in ignoring such vital aspect of the matter thereby vitiating the impugned judgment and decree, and the findings are perverse?

CMP No. 6949 of 2016.

The present application is maintained by the appellants/applicants under Order 41 Rule 5 and Order 39 Rules 1 & 2, read with Section 151 of the Code of Civil Procedure for interim order. As per applicant, after the judgment and decree passed by learned Lower Appellate Court, respondents/non-applicants are likely to sell, transfer, alienate and encumber the suit property. Appellants/applicants are in exclusive possession over the suit property and respondents/non-applicants have no right to interfere in their exclusive possession. The application is duly supported with an affidavit. No reply to the application has been filed nor intended to be filed.

Heard. Taking into consideration the fact that, as the appeal is pending adjudication, in the interest of justice, the parties are directed to maintain status quo, qua nature,

possession and alienation of the suit property and the execution/operation of the impugned judgment and decree passed by learned Lower Appellate Court shall also remain stayed till final disposal of the appeal. Accordingly, the application stands disposed of.

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List in due course.

(Chander Bhusan Barowalia)
Judge

21st September, 2016
(raman)

