

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).3198 OF 2008

KRISHNA KUMAR & ORS.

APPELLANT(S)

VERSUS

LALUSHAH & ORS.

RESPONDENT(S)

O R D E R

The appellants are aggrieved of by the decree passed against them declaring the sale deed dated 02.06.1978 by Umedibai in their favour to be void.

Umedibai was the widow of one Balchand. He executed will dated 16.04.1973 in her favour giving her life interest. She executed sale deed in favour of the appellants. The respondent - plaintiff claiming to be the revisioner, being a collateral of the deceased Balchand, filed a suit seeking declaration that the sale deed executed by Umedibai was without any authority of law as she did not have a transferable title in her favour.

Though the suit was dismissed by the trial Court, the lower Appellate Court reversed the judgment of the trial court and decreed the suit which has been affirmed by the High Court.

Learned counsel for appellant submits that Umedibai had absolute right in the property by virtue of Section 14 of the Hindu Succession Act, 1956. Even according to the plaintiff the property in question was

joint family property. Under the Hindu law, a widow had a pre-existing right of maintenance against the joint family property. It was also pointed out that the plaintiff was an attesting witness to the sale deed and, therefore, he was estopped from challenging the same.

Learned counsel for the appellants has placed reliance upon judgment of this Court in *C. Masilamani Mudaliar & Ors. Vs. Idol of Sri Swaminathaswami Thirukoi & Ors.*, 1996(8) SCC 525, holding that limited estate under the will in favour of a widow will become full ownership if the widow had pre-existing right of maintenance from the property.

In spite of service, none appears for the respondents.

We find merit in the contention raised by learned counsel for the appellants since the same is supported by the judgment of this Court in *Swaminathaswami Thirukoi & Ors.* (supra).

Accordingly, this appeal is allowed. The decree of the trial court is restored. The suit of the respondents is dismissed.

.....J.
[ADARSH KUMAR GOEL]

.....J.
[UDAY UMESH LALIT]

ITEM NO.105

COURT NO.11

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3198/2008

KRISHNA KUMAR & ORS.

Appellant(s)

VERSUS

LALUSHAH & ORS.

Respondent(s)

Date : 07-09-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALITFor Appellant(s) Mr. Harsh Parashar, Adv.
Ms. Gajendra Parashar, Adv.
Mr. Prashant Kumar, AOR

For Respondent(s) None.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending applications, if any, shall also stand disposed
of.(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)