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C.A.No. 2666 OF 1999

ITEM No.25

Court No.10

SECTION XI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.2666/1999 (For prel. hearing)

SHANKAR (DEAD) BY LRS.

Appellant (s)

VERSUS

CHAMNO DEVI(DEAD) BY LRS

Respondent (s)

( With Appln(s). for directions )  
( With Office Report )

Date : 24/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Appellant (s)

Mr. Jitendra Mohan Sharma,Adv.

For Respondent (s)

Mr. S.K. Verma,Adv.

Mr. Jose P.Vergheese,adv.for  
Mrs Sarla Chandra,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.J  
.SP2

The appeal is dismissed. No costs.

.SP1

(Suman Wadhwa)  
Court Master

(S.Malkani)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 2666 OF 1999

Shankar (Dead) by Lrs.

& Appellants

Vs.

Chamno Devi (Dead) by Lrs.

& Respondents

O R D E R

We have heard learned counsel for the parties.

We have perused the judgment of the High Court which is under challenge.

The core question that arises for consideration in the case is whether under the Will executed by Raje, the last owner of the property, his widow- Smt.Ramkali, had the power to alienate the said property or she had only a right to enjoy the property in her life time without any power of alienation.

Shankar, the predecessor of the appellants purchased the suit property from widow of Raje. The alienation was challenged by the daughter of Raje- Smt. Chamno Devi the plaintiff in the suit, on the ground that Ramkali, who was given only the life interest under the Will had no right to alienate the property. The trial court decreed the suit. The first Appellate Court set aside the judgment and dismissed the suit holding, inter alia, that the widow of Raje had absolute rights in the property.

The High Court on interpretation of the Will set aside the judgment of the lower Appellate Court and confirmed that of the trial court.

We have perused the Will dated 16.6.1975 executed by Raje. We are of the view that the High Court was right in holding that on a fair reading of the Will the intention of the testator is clear that after his death his widow was to enjoy the property in her life time and after her death his daughter was to become the owner of the property. If it is held that the widow had absolute right, title and interest in the property, as contended by the appellant, the part of the Will to the effect that after death of the widow his daughter will become the owner of the property has to be ignored, which was not the intention of the testator.

We are not satisfied that there is any illegality in the judgment of the High Court. Accordingly, the appeal is dismissed. No costs.

& & & & & & .J.  
(D.P.Mohapatra)

& & & & & & .J.  
(Shivaraj V.Patil)

New Delhi  
24.8.2001