

In the present case the learned counsel for the appellants confined his arguments to the question of jurisdiction only and did not urge anything against the propriety of the order of the lower Court.

For the foregoing reasons, I would affirm the order of the lower Court and dismiss this appeal with costs.

ABDUL RASHID J.—I agree.

A. N. C.

Appeal dismissed.

APPELLATE CIVIL.

Before Addison and Beckett JJ.

THAKAR SINGH (PLAINTIFF) Appellant

versus

BUTA SINGH AND OTHERS (DEFENDANTS)

Respondents.

Civil Appeal No 2033 of 1928

Custom—Succession—Rule of Reversion of gifted property—when applicable.

The land in suit was the self-acquired property of N. who died and was succeeded by J. his widow. J. gifted the land to T. wife of the appellant and daughter of the brother of N., the next reversioner consenting to the gift. On the death of T. without issue, the land was mutated in favour of J. who also died and was succeeded by her husband's reversioners. T. S. the husband of T. brought the present suit on the grounds that the gift to her was an absolute one, that the property was self-acquired and did not revert on his wife's death without issue to the donor's family, but that he was entitled to succeed to it as his wife's heir.

Held, that the principle of reversion is, that in case of a gift made to one of the members of the donor's family such gift enures for the benefit of the donee and his issue, but the property reverts to the donor's heirs when there is a failure of such issue.

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ABDUL
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Nihala v. Rahmatullah (1), and *Mula Singh v. Amin Chand* (2), relied upon.

And, that the principle is limited to property over which the donor had not unrestricted power of disposition.

Jot Ram v. Hardawari (3), relied upon.

Held therefore, that as in the present case the donor was not the full owner herself but only his widow, who had no more power of disposition over her husband's self-acquired property than she had over his ancestral property, and as the donee belonged to the family of the donor, the land must therefore revert to the donor's husband's heirs on the death of the donee without issue.

First appeal from the decree of Lala Hardayal, Senior Subordinate Judge, Lyallpur, dated 9th June, 1928, dismissing the plaintiff's suit.

JAGAN NATH AGGARWAL. and JIWAN LAL KAPUR,
for Appellant.

MEHR CHAND MAHAJAN and ACHHRU RAM, for
Respondents.

The judgment of the Court was delivered by—

ADDISON J.

ADDISON J.—The land in suit was the self-acquired property of one Narain Singh who died in 1914, and was succeeded by his widow *Mussammat Jindo*. In 1916 she gifted the land in suit to *Mussammat Tej Kaur*, wife of the plaintiff-appellant Thakar Singh. *Mussammat Tej Kaur* was the daughter of the brother of Narain Singh and was thus not a stranger. Buta Singh the next reversioner consented to the gift. His son Wasawa Singh and certain others brought a suit for a declaration that the alienation would not affect their reversionary rights after the death of *Mussammat Jindo*. During the pendency of that suit *Mussammat Tej Kaur* died

(1) 137 P. R. 1908.

(2) (1921) I. L. R. 2 Lah. 284.

(3) 27 P. R. 1914

on 12th October, 1918, and her husband, Thakar Singh, was brought on the record as her representative. The declaratory suit was dismissed by this Court on appeal on 19th December, 1922, on the ground that Buta Singh had given his consent. Thereafter on the 5th of November, 1923, the land was mutated in favour of *Mussammât Jindo* as the donee had died without issue, male or female. *Mussammât Jindo* died on the 20th of January, 1926, and has been succeeded by her husband's reversioners. The present suit was brought by Thakar Singh, husband of *Mussammât Tej Kaur*, for possession of the land gifted to his wife on the ground that the gift to her was an absolute one and that the property did not revert, on her death without issue, to the donor's family. The plaintiff claimed to be the heir of his wife and thus entitled to the land. The trial Court has dismissed the suit and the plaintiff has appealed.

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The principle of reversion is well established. An important ruling dealing with this subject is *Nihala v. Rahmatullah* (1). The principle is that in case of a gift made to one of the members of the donor's family such a gift enures for the benefit of the donee and his issue but the property reverts to the donor's heirs when there is a failure of such issue. This, however, is not the case when the gift is to a stranger. See *Mula Singh v. Amin Chand* (2).

Further the learned Judges, who decided *Jot Ram v. Hardawari* (3), held that the principle of reversion to the heirs of the donor is limited to property over which he had not unrestricted power of disposition and that consequently the collaterals of the donor could not succeed to the gifted land on the donee's

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death without lineal descendants where such land was not ancestral. This means that there is no reversion at all when the donor has a complete power of disposition over the gifted property.

In the present case the property was self-acquired of Narain Singh but he was not the donor. His widow *Mussammatt Jindo* had no more power of disposition over his self-acquired property than she had over his ancestral property. She was in fact a life tenant, but, as the nearest collateral Buta Singh consented to the gift, the gift was a good one. As, however, the donor had not unrestricted power of disposition over the gifted property and the donee belonged to the family of the donor the land must revert to the donor's husband's heirs on the death of the donee without issue of any kind. *Mussammatt Tej Kaur* has left no issue and it follows that the property reverts to the original line and her husband does not succeed to it.

The suit was properly decided and the appeal must be dismissed with costs.

P. S.

Appeal dismissed.