

MAHARANI DEEPINDER KAUR (SINCE DECEASED)
THROUGH LRS. & ORS.

A

v.

RAJKUMARI AMRIT KAUR AND ORS.

(Special Leave Petition (Civil) Nos. 9151-9153 of 2020)

B

SEPTEMBER 07, 2022

[UDAY UMESH LALIT, CJI, S. RAVINDRA BHAT AND
SUDHANSU DHULIA, JJ.]

Hindu Succession Act, 1956: s. 5 – Raja Faridkot Estate Act, 1948 – Succession to the Properties left behind by the Raja , former ruler of Faridkot State – In 1948, the Raja entered into a Covenant with the Govt. of India and executed Instrument of Accession, as a result area forming part of Faridkot State became part of the Indian Union – In 1948, “Raja Faridkot Estate Act, 1948” was enacted by the Raja, declaring that the Estate of said Ruler would devolve to his male successor – Succession to the properties of the Raja which were shown to be private properties in the Covenant – Raja had three daughters and a son, who predeceased his father without leaving any heir – After the accession was complete, the Raja executed the first Will in 1950, bequeathing the specified properties to all three daughters in equal shares – In 1952, he executed second Will in favour of his two daughters excluding his eldest daughter – Three years later, the Ruler executed a registered settlement, however, unlike the Second will, the Settlement did not disinherit the eldest daughter – All three documents were executed before Hindu Succession Act, 1956 – Ruler died in 1989 – Third Will allegedly executed by the Ruler in the year 1982, came into picture which declared that the entire property would be inherited by a Trust, trustees of which would be his two daughters excluding the elder daughter – Suit by the younger brother of the Ruler, claiming the estate left behind by the Ruler on the basis of Rule of Primogeniture – Eldest daughter also filed suit for declaration that the eldest daughter was owner to the extent of 1/3rd share in the properties left behind by the Ruler; and that the alleged Third Will executed by the Ruler was invalid, void and unenforceable – Trial court held that the Third Will was not genuine; that the claim of the younger brother of the Ruler was not accepted however, the claim made by

C

D

E

F

G

H

- A *eldest daughter was accepted – Appeal thereagainst were dismissed – Matter before the High Court wherein the High Court held that the Rule of Primogeniture had no application; that the Will executed by the mother of the Ruler was proved beyond doubt on which reliance was placed by the younger brother; that the succession to the properties left behind by the Ruler would be governed by the personal law of succession; and that the third Will was a fabricated document –On appeal, held: In view of the specific finding rendered by the courts below, including the High Court, no case was made out for the applicability of Rule of Primogeniture and succession based on said Rule – As regards, the Will executed by Mother of Ruler, once the Will was proved and found to have been validly executed, in terms of specific clauses in the Will, the share of mother of Ruler in the properties left behind by the Ruler would naturally be governed by the Will executed by the testatrix – Thus, findings by the High Court fully justified.*
- B *the properties left behind by the Ruler would be governed by the personal law of succession; and that the third Will was a fabricated document –On appeal, held: In view of the specific finding rendered by the courts below, including the High Court, no case was made out for the applicability of Rule of Primogeniture and succession based on said Rule – As regards, the Will executed by Mother of Ruler, once the Will was proved and found to have been validly executed, in terms of specific clauses in the Will, the share of mother of Ruler in the properties left behind by the Ruler would naturally be governed by the Will executed by the testatrix – Thus, findings by the High Court fully justified.*
- C *Ruler, once the Will was proved and found to have been validly executed, in terms of specific clauses in the Will, the share of mother of Ruler in the properties left behind by the Ruler would naturally be governed by the Will executed by the testatrix – Thus, findings by the High Court fully justified.*
- D CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) Nos.9151-9153 of 2020.

From the Judgment and Orders dated 01.06.2020 of the High Court of Punjab and Haryana at Chandigarh in R.S.A. NOs.2006/2018 (O&M), 1418/2018 (O&M) and 2176/2018 (O&M).

- E With
Special Leave Petition (Civil) Nos.10211-10213 And 11206-11208 of 2020
- F Krishnan Venugopal, Gurinder Singh Gill, V. Giri, Manjit Singh Khaira, Mukul Rohatgi, Rakesh Dwivedi, Dhruv Mehta, Sr. Advs., Vivek Bhandari, Amarjit Singh Bedi, Varun Chandiok, Riya Seth, Priya Kaushik, Ms. Deepanshi Ishar, Ms. Pallavi Srivastava, Krishnan Agarwal, Kaushik Mishra, Mahesh Kumar, Ms Aashna Gill, Ms. Devika Khanna, Mrs. V. D. Khanna, Vmz Chambers, Balbir Singh Sewak, Ripudaman Singh Sidhu, Amit Krishna, Ms. Hanima Grewal, Jaswinder Singh, Gagandeep Singh Mann, Tushar Bakshi, Yashraj Singh Deora, Arya Tripathi, Ms. Monika Dwivedi, Rajat Mathur, Jaiveer Shergill, Himanshu Bajaj, Kaushal Yadav, Shafik Ahmed Nandlal Kumar Mishra, Santosh Kumar, Ms. Yashoda Katiyar, Ms. Apeksha Rai, Ms. Akansha Rai, Ateev Mathur, Amol Sharma, Ms. Jagriti Ahuja, Tushar Sahu, Vikas Kumar, Advs. for the appearing parties.
- G
- H

The Order of the Court was passed by

A

UDAY UMESH LALIT, CJI

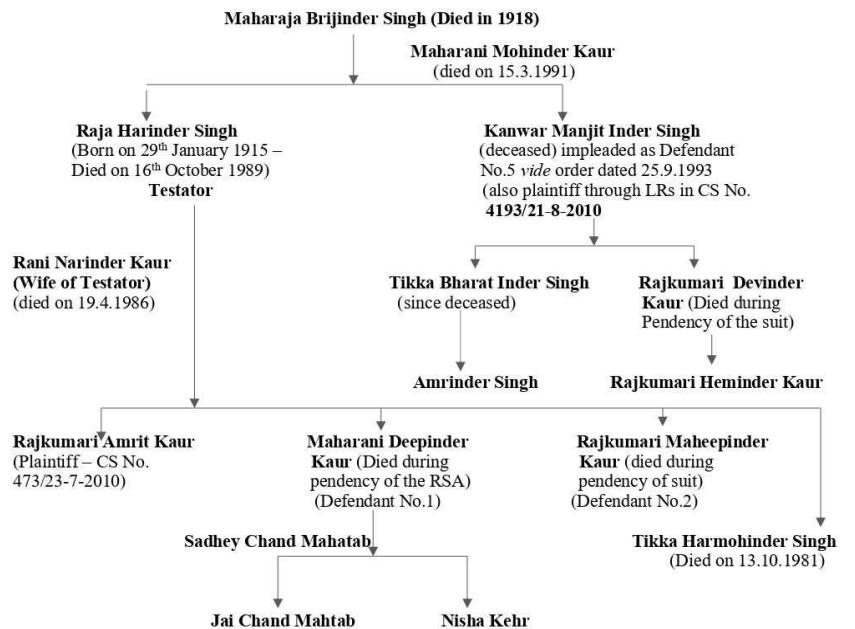
1. These Special Leave Petitions arise out of the common judgment and order dated 01.06.2020 passed by the High Court¹ in RSA No. 2006 of 2018 (O&M), RSA No. 1418 of 2018 (O&M) and RSA No. 2176 of 2018 (O&M).

B

2. The controversy in the instant matters concerns succession to the properties left behind by Raja Harinder Singh, former ruler of Faridkot State. The relationship between the parties having not been disputed, the genealogical chart may be extracted here for facility.

C

CHART SHOWING GENEALOGY



D

E

F

G

3. Raja Harinder Singh, as Ruler of Faridkot State, entered into a Covenant on 05.05.1948 with the Government of India and executed Instrument of Accession, as a result of which the area forming part of Faridkot State became part of the Indian Union. PEPSU Covenant (Exh. D-6) entered into by Rulers including said Raja Harinder Singh *inter alia* provided as under:-

¹High Court of Punjab & Haryana at Chandigarh.

H

A

“Article VI

- (1) The Ruler of each coveting State shall, as soon as may be practicable, and in any event not later than the 20th of August, 1948, make over the administration of his State to the Raj Pramukh and thereupon-

B

- (a) All rights, authority and jurisdiction belonging to the Ruler which appertain, or are incidental to the Government of the Covenanting State shall vest in the Union and shall hereafter be exercisable only as provided by this Covenant or by the Constitution to be framed thereunder.

C

- (b) All duties and obligations of the Rulers pertaining or incidental to the Government of the Covenanting State shall devolve on the Union and shall be discharged by it;

D

- (c) All the assets and liabilities of the Covenanting State shall be the assets and liabilities of the Union; and
(d) The military forces, if any, of the Covenanting State shall become the military forces of the Union.

E

...

Article XII

- (1) The Ruler of each Covenanting State shall be entitled to the full ownership, use and enjoyment of all private properties (as distinct from State properties) belonging to him on the date of his making over the administration of that State to the Raj Pramukh.

F

- (2) He shall furnish to the Raj Pramukh before the 20th day of September, 1948, and inventory of all the immovable properties, securities and cash balances held by him as such private property.

G

- (3) If any dispute arises as to whether any item of property is the private property of the ruler or State property, it shall be referred to such person as the Government of India nominate in consultation with the Raj Pramukh and the decision of that person shall be final and binding on all parties concerned.

H

Provided that no such dispute shall be so referable after A
the 31st day of December, 1948.

...

Article XIV

- (1) The succession, according to law and custom, to the Gaddi of each Covenanting State, and to the personal rights, privileges, dignities and titles of the Ruler thereof is hereby guaranteed. B
- (2) Every question of disputed succession in regard to a Covenanting State which arises after the inauguration of the Union shall be decided by the Council of Rulers after referring it to a bench consisting of all the available Judges of the High Court of the Union and in accordance with the opinion given by such bench. C

No enquiry shall be made by or under the authority of the Union, and no proceedings shall lie in any Court in the Union against the Ruler of the Covenanting State, whether in a personal capacity or otherwise, in respect of anything done or omitted to be done by him or under his authority during the period of his administration of that State.” D

Schedule-I to the Covenant stipulated amounts of Privy Purses E
and the amount with regard to Faridkot was Rs.3,81,400/-.

4. Like other Covenants which were entered into around that time, the administration of the State and the rights, authority and jurisdiction of the then ruler pertaining to or incidental to the Government of the Covenanting State vested in the Union. The concerned ruler was entitled to the full ownership, use and enjoyment of private properties which were specified. The succession to the Gaddi of each Covenanting State and the personal rights, dignities and titles would, however, be according to law and custom; and Article XIV guaranteed such succession. F

5. Though, in terms of Article VI of the Covenant, the administration of the State was made over and all rights, authority and jurisdiction belonging to the Ruler stood vested in the Union of India. On 18.08.1948 “The Raja Faridkot Estate Act, 1948” was enacted by the Raja, declaring that the Estate of said Ruler would devolve to his male successor. G

H

- A 6. In the present matters, we are concerned with succession to the properties which were shown to be private properties in the Covenant. Raja Harinder Singh was blessed with three daughters and a son named Tikka Harmohinder Singh, who, unfortunately predeceased said Raja Harinder Singh without leaving any heir or representative.
- B 7. Raja Harinder Singh (hereinafter referred to as ‘the Ruler’) executed a Will, soon after the accession was complete. The Will was executed on 11.03.1950. This Will (hereinafter referred to as ‘the First Will’) specified certain bank accounts and amounts lying in those accounts as well as four flats at Rohtak Road, Delhi, and sought to bequeath said specified properties to all three daughters in equal shares.
- C 8. The Ruler then executed the Second Will on 22.05.1952 which again dealt with the properties which were specified in the First Will. It, however, stated that the testator did not wish to leave any property in favour of the eldest daughter Rajkumari Amrit Kaur. It specified certain properties and stated that the properties would devolve upon the other
- D two daughters namely Rajkumari Deepinder Kaur and Rajkumari Maheepinder Kaur in equal shares. It appears that the eldest daughter had married against the wishes of the father, which perhaps was the reason why said recitals found place in the Second Will.
- E 9. Three years thereafter, a registered Settlement was executed by the Ruler on 01.04.1955 in London which dealt with certain bank accounts held in Grindlays Bank Limited, London. This Settlement, however, stated that the eldest daughter Rajkumari Amrit Kaur would not be entitled to receive any part of the income until she attained the age of 25 years or judicially separated from her husband. Thus, unlike the Second Will, the Settlement dated 01.04.1955 had not disinherited the eldest daughter.
- F 10. Theaforestated three documents were executed before the enactment of the Hindu Succession Act, 1956,Section 5 of which Act is to the following effect:-
- G **“5. Act not to apply to certain properties.**
This Act shall not apply to—
(i) any property succession to which is regulated by the Indian Succession Act, 1925 (39 of 1925), by reason of the provisions contained in section 21 of the Special Marriage Act, 1954 (43 of 1954);

(ii) any estate which descends to a single heir by the terms of any covenant or agreement entered into by the Ruler of any Indian State with the Government of India or by the terms of any enactment passed before the commencement of this Act; A

(iii) the Valiamma Thampuran Kovilagam Estate and the Palace Fund administered by the Palace Administration Board by reason of the powers conferred by Proclamation (IX of 1124) dated 29th June, 1949, promulgated by the Maharaja of Cochin.” B

11. The Ruler died on 16.10.1989 and during the Bhog Ceremony held on 26.10.1989, a Third Will dated 01.06.1982 allegedly executed by the Ruler was read out and a copy of the said Third Will was handed over to the eldest daughter Rajkumari Amrit Kaur. By the time the Third Will was allegedly executed, the only son of the Ruler had already expired on 13.10.1981. The Third Will purportedly declared that the entire property left behind by the Ruler would be inherited by a Trust known as “Maharwal Khewaji Trust” (‘the Trust’, for short), trustees of which would be RajkumariDeepinder Kaur and Rajkumari Maheepinder Kaur, serving members of Board of Administration of the personal estate of the Ruler known as “His Highness Personal Estates of Faridkot” and one member of Maharani Mohinder Kaur’s family etc. The document also dealt with the functioning of the Board of Trustees and stipulated some conditions. C

12. Kanwar Manjit Inder Singh, younger brother of the Ruler filed Civil Suit which was later renumbered as Civil Suit No. 4193/21-08-2010 claiming *inter alia* that by Rule of Primogeniture said Kanwar Manjit Inder Singh was entitled to the Estate left behind by the Ruler. E

Rajkumari Amrit Kaur, the eldest daughter, who, according to the Third Will dated 01.06.1982 was not given any interest or share in the property, also filed Civil Suit which was later renumbered as Civil Suit No.473/23-7-2010. The Suit, as initially filed, sought decree of declaration that the plaintiff-Rajkumari Amrit Kaur was owner to the extent of 1/3rd share in the properties left behind by the Ruler with a consequential relief of joint possession along with her two sisters. Apart from her two sisters, the Trust along with its Trustees were also parties to the Suit. By an application dated 18.11.1993 amendment to the Plaintiff was sought incorporating the relief regarding decree of declaration that the alleged Third Will dated 01.06.1982 executed by the Ruler was invalid, void and unenforceable. F

G

H

A A common written statement was filed on behalf of the Trust and two sisters of the plaintiff.

13. Both the Suits were taken-up together and the Trial Court framed following issues for consideration:-

- B 1. Whether the plaintiff is entitled to succeed to the extent of 1/3rd share of the suit property along with defendants no.1 and 2 being daughters of deceased under the provisions of Hindu Succession Act and the plaintiff thus is owner of 1/3rd share of the suit property? OPP
- C 2. Whether in the alternative, the plaintiff is entitled to succeed to the entire estate of her father being eldest surviving child? OPP
3. Whether in the alternative, the plaintiff is entitled to succeed as sole owner under Raja of Faridkot Estate Act, 1948 (Act No.5 of 1948) being senior most living child? OPP
- D 4. Whether the property mentioned in Annexure A1 is joint family and ancestral coparcenary property and late Raja Harinder Singh had no right to alienate in any manner? OPP
- E 5. Whether Raja Harinder Singh was governed by Hindu Succession Act which had abrogated custom and plaintiff and defendant No.1 and 2 inherited the property in dispute in equal share according to Hindu Succession Act and plaintiff has become owner of 1/3rd share of the suit property? OPP
- F 6. Whether the deceased late Raja Harinder Singh of Faridkot executed a valid Will dated 1-6-1982? If so, what is its effect? OPD
7. Whether the deceased Raja Harinder Singh executed a valid Trust known as Faridkot Ruling Family Housing Trust with the plaintiff and the defendant No.1 and deceased defendant no.2 being sole beneficiaries? If so, what is its effect? OPD
- G 8. Whether the defendants are liable to render accounts for the period they have been managing and receiving income from the properties left by the deceased late Raja Harinder Singh? OPD
- H

9. Whether the suit is bad for non-joinder or misjoinder of parties? If so, what is its effect? OPD A
10. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction? If so, what is its effect? OPD
11. Whether this Court has no territorial jurisdiction to try the suit? OPD B
12. Whether the Trust known as "Maharwal Khewaji Trust" is a valid legal entity? If so, what is its effect? OPD
13. Whether the family of Raja Harinder Singh and defendant no.6 Kanwar Manjit Inder Singh in matters of inheritance and succession is governed by Rule of Primogeniture and in the absence of male lineal child according to custom, brother succeeded to the estate? OPD-6. C
14. Whether Kanwar Manjit Inder Singh defendant no.6 inherited all the immovable and movable properties of Late Raja Harinder Singh under the law of Primogeniture? OPD-6. D
15. Whether according to Article 14 of the covenants of Pepsu to which late Raja Harinder Singh was signatory, succession was according to law and custom to the Gaddi of each Covenanting States was guaranteed and according to which plaintiff under custom is entitled to inheritance to the estate of Raja Harinder Singh under rule of Primogeniture and the female heirs have no right to succeed to the property of late Raja Harinder Singh according to custom and rule of Primogeniture? OPD-6. E F
16. Relief."
14. Both the Suits were disposed of by the Trial Court vide its judgment and order dated 25.07.2013. The principal question posed by the Trial Court was regarding the validity of the Third Will and after considering the entirety of the evidence, the Trial Court found said Third Will not to be a genuine document due to a large number of suspicious circumstances which were also individually dealt with by the Trial Court. The Trial Court then considered whether the Rule of Primogeniture was applicable to the properties left behind by the Ruler or whether the provisions of the Hindu Succession Act, 1956 would be applicable. The G H

- A case set-up by Kanwar Manjit Inder Singh was not accepted but the claim made by Rajkumari Amrit Kaur was accepted. The conclusion drawn by the Trial Court was as under:-
- “91. As an upshot of my above discussion on the above issues, suit of the plaintiff Raj Kumari Amrit Kaur is hereby partly dismissed and partly decreed with costs and the Will dated 1-6-1982 is hereby declared as null and void, not binding upon the rights of plaintiff Amrit Kaur. The plaintiff Amrit Kaur is entitled to joint possession to the extent of 1/2(half) share with defendant no.1 Maharani Deepinder Kaur qua the properties fully detailed and described in Annexure A1, except the properties which have been acquired by any State Government or Central Government. Trust which was constituted on the basis of the alleged Will is hereby declared as non-existent. The defendants are also restrained from alienating, mortgaging, transferring, leasing, encumbering or exchanging the suit property as fully detailed and described in Annexure A1. Annexure A1 be treated as part of decree. Suit being maintained by plaintiff Kanwar Manjit Inder Singh through his legal heir is hereby dismissed with no order as to costs. Separate decree sheets be prepared and copy of this judgment be placed in the consolidated suit. File be consigned to record room. Compliance be made.”
15. It must be stated that Rajkumari Maheepinder Kaur had expired on 26.07.2001, when the matter was still pending before the Trial Court. Said Rajkumari Maheepinder Kaur was unmarried and died without leaving any heir or successor apart from her two sisters who were already before the court.
16. Aggrieved by the decision of the Trial Court, Rajkumari Deepinder Kaur, the Trust and the other Trustees filed C.A.Nos.1046 of 2013 and 480 of 2017 while Bharat Inder Singh son of Kanwar Manjit Inder Singh preferred C.A.Nos.1054 of 2013 and 1062 of 2013 in the court of Additional District Judge, Chandigarh.
- Said appeals were heard together and disposed of by a common judgment dated 05.02.2018 by the Lower Appellate Court which did not find any ground to interfere with the findings recorded by the Trial Court. It, therefore, dismissed the appeals as well as cross-objections preferred by the concerned parties.

H

17. The parties being aggrieved, preferred RSA No.2006 of 2018 (O&M), RSA No.1418 of 2018 (O&M) and RSA No.2176 of 2018 (O&M) in the High Court which were dealt with by the High Court by its common judgment and order, which is presently under challenge. A

18. The High Court framed following points for deciding the appeals preferred before it. B

“35. Before deliberating upon the controversy involved in these appeals, I would like to consider the following points for deciding the appeals finally:-

(1) Whether The Raja of Faridkot’ Estate Act 1948 is a valid enactment and is applicable for succession to the Estate of Raja by the plaintiff (Rajkumari Amrit Kaur)? C

(2) Whether Law of Primogeniture is applicable in the succession of Estate of deceased Raja Harinder Singh?

(3) Whether Raja Harinder Singh executed a valid Will dated 01.06.1982 and Maharwal Khewaji Trust constituted thereunder is a legally constituted Trust? D

(4) Whether Civil Suit No.4193 dated 21.08.2010/04.04.1992 titled ‘Kanwar Manjit Inder Singh through LR vs. Maharani Deepinder Kaur and others’ is maintainable? E

(5). Whether Civil Suit No.437 dated 23.07.2010/15.10.1992 titled ‘Rajkumari Amrit Kaur vs. Maharani Deepinder Kaur and others is maintainable?’

19. The High Court held that the Raja of Faridkot’s Estate Act, 1948 was not a valid enactment and would not be applicable for succession to the estate of the Ruler. It was also held that the Rule of Primogeniture as pleaded by Kanwar Manjit Inder Singh had no application in the present case and that the succession to the properties left behind by the Ruler would be governed by the personal law of succession. On the question regarding validity of Third Will, the matter was considered extensively under eight different heads and it was concluded that the Third Will was a fabricated document which was shrouded with suspicious circumstances and that the succession to the properties left behind by the Ruler would, therefore, be by intestate succession. The issues concerning the maintainability of the Suit were also decided in favour of Rajkumari Amrit Kaur. F G H

A 20. On the issue of applicability of Rule of Primogeniture, the High Court observed:-

- “78. Now coming to the conclusion whether Law of Primogeniture is applicable in the succession of Estate of deceased *Raja Harinder Singh*, it can be seen that admittedly appellant in RSA No. 2176 of 2018 has claimed the property to be the ancestral property in order to attract the Rule of Primogeniture which according to him exists on presumptive notion in case of rulers. Ancestral nature of the property can be proved only by way of producing Excerpt (*Intekhab*)/pedigree table, as per requirement of Volume 1, Chapter 9, Rules 5 & 6 of High Court Rules and Orders, and as per para No. 232 of Mullah’s Law. The properties situated in village Kaimbwala, Mauli Jagran and Manimajra-fort known as Surajgarh Fort Manimajra and Hotel site No. 12 in Sector 17, Chandigarh are proved to be self acquired properties. No evidence has been led by the plaintiff/appellant to discharge the onus to show that the properties have descended from common ancestor and only by rule of descent and not otherwise. Appellant while appearing as PW-4 has not adduced any documentary evidence to show that the properties in question are ancestral properties. The succession to Gaddi of the Faridkot Estate was under the paramountcy of the British Crown. The successor was being recognized by the Britishers only and the same was not automatic, rather it was subject to the approval/recognition by the British Crown. Primogeniture is not codified law. The alleged custom *i.e.* rule of primogeniture has to be pleaded and proved by way of evidence. The person who relies upon the existence of custom/primogeniture has to discharge the onus of proving the same to the satisfaction of the Court in the most innocuous manner. The custom cannot be extended by analogy. Specific custom has to be pleaded with reference to necessary particulars in the pleadings and thereafter to be proved by the asserting party by way of cogent and admissible evidence.
- G 79. Prior to merger agreement, the property in question was held by the late Raja as sovereign and there was no distinction between the State and the private properties, as sovereign was owner of all the properties. After the merger agreement and accession to dominion of India, the properties were earmarked by late Raja as
- H

his personal properties for which he was competent to do so under the Covenant. After approval of the properties in the list submitted by the Raja as his personal properties, the same ceased to be State properties. Reference can be made to para nos. 61, 63, 64, 67 and 69 of *Revathinnal Balagopala Varma v. Padmanabha Dasa Bala Rama Varma* 1993 Supp 1 SCC 233.

80. On merger of Faridkot State with dominion of India, Rule of Primogeniture, if any, ceased to exist on account of Act of State. In the Covenant dated 05.05.1948, there is no clause/article which either recognizes or guarantees the continuance of alleged Rule of Primogeniture. The Covenant has been reproduced in the White Paper. As per Article XII of the Covenant, the Ruler of each Covenanting States was entitled to the full ownership, use and enjoyment of all the private properties as distinct from the State properties, belonging to him on the date of his making over the administration of the State to Rajpramukh. As per clause 2 of Article XII, the Ruler of each covenanting States was required to furnish an inventory of all the immovable properties, securities and cash balances to the Rajpramukh before 20.09.1948. This inventory is in the context of immovable properties, securities and cash balances held by the Ruler as private properties. On approval of list by Rajpramukh, the properties in the hands of the Ruler became his absolute properties and he was entitled to deal with his properties in the manner he liked. Once the properties have been retained by the Ruler as his personal properties after surrendering the sovereignty to Government of India, pursuant to Covenant, then the properties held by him are his private properties and other members of royal family had no claim. Reference can be made to para nos. 69 & 81 to 86 of *RevathinnalBalagopala Varma v. PadmanabhaDasabala Rama Varma* 1993 Supp 1 SCC 233.

81. After submission of list and approval of the same by Rajpramukh, the Raja treated the suit properties to be his private and individual properties, which is apparent from various Tax Returns submitted by him before the Tax Authorities, claiming the suit properties to be his individual properties in view of Ex. D3/22 to Ex. D3/36. The Covenant entered into by the Ruler is an Act of State between two sovereigns. No action in a Court of law can

A

B

C

D

E

F

G

H

- A be founded by any citizen of a new State. In the new set up, the residents do not carry with them the rights which they possessed as subjects of the ex-sovereign and that as subjects of new sovereign, they have only such rights as are guaranteed or recognized by him. Reference can be made to para nos. 11, 13 and 14 of *Dalmiya Dadri Cement Limited vs. Commissioner of Income Tax, AIR 1958 SC 816*.
- B 82. The imitable estate of Hindu Undivided Family, if any, existed prior to Covenant entered by the Ruler disappeared on account of an Act of the State. The territories of former State of Patiala have merged into the territories of India and all the joint Hindu family property/imitable estate, which existed prior to the accession have ceased to exist on account of Act of the State. The grant of private properties to the Ruler was an Act of State and such properties cannot maintain the earlier character which was prior to entering into Covenant by the Ruler with Government of India. Impropriety of Estate ceased to exist on account of merger into the dominion of India and, therefore, Rule of Primogeniture, if any, ceased to exist on account of merger of Faridkot State with dominion of India. The guarantee under the Covenant was only in respect of succession to *Gaddi* and not to the private properties. The right to private properties of the Ex-Ruler depends upon the personal law of succession to such private properties.
- C 83. Article XIV of the Covenant only recognized the succession to "Gaddi" and not to the private properties, as approved in Article XII of the Covenant. *Gaddi* and private properties are two distinct connotations and it cannot be said that *Gaddi* included private properties in any manner. Clause I of Article XIV of the Covenant prescribed that the succession, according to law and custom, to the *Gaddi* of each covenanting State and to the personal rights, privileges, dignities and titles of the Ruler thereof is hereby guaranteed. Article XIV does not extend the assurance and guarantee to private properties in any manner. The guarantee with regard to succession, according to law and custom is given to the *Gaddi* of each covenanting State and to the personal rights, privileges, dignities and title to the Ex-Rulers thereof. There is no guarantee with regard to succession according to law and custom qua the private properties. The Government never guaranteed
- D
- E
- F
- G
- H

succession according to law and custom to the private property of the Ruler which he kept after submission of the list to the Rajpramukh. Reference can be made to White Paper on India States published by Government of India, Ministry of States issued on 05.07.1948. Part XI of the Indian States under the new Constitution under the head “Guarantees Regarding Rights and Privileges” and part VII “Settlement of Rulers Private properties” would show that the nomenclature has been reflected in the White Paper, wherein it has been mentioned that prior to the Covenant, there was no distinction between private and State property of the Ruler. In the White Paper, it has been mentioned that upon integration of States, Ruler was required to furnish list of immovable properties, securities and cash balances etc. claimed by him as private property and upon approval of the same, the Ruler was entitled to full ownership and enjoyment of private properties as distinct from State properties. The personal privileges of the Ex.-Ruler and those privileges have nothing to do with the personal property of the Ruler. The guarantee or assurance are in respect of personal rights, privileges and dignities of the Ruler. It does not extend to personal property which is different from personal rights, privileges and dignities of the Ruler. In this context reference can be made to the ratio of *Sudhansu Shekhar Singh Deo v. The State of Orissa*, AIR 1961 SC 196(Five Judges Bench) and *State of Bihar v. Sir Kameshwar Singh*, AIR 1952 SC 252 (Five Judges Bench).^A

21. It must be stated here that Kanwar Manjit Inder Singh, in support of his claim, had also relied upon registered Will dated 29.03.1990 (Ex. D-10) executed by Maharani Mohinder Kaur, mother of the Ruler. After having dealt with certain specific properties, following clauses find place in said Will.^F

“The testator further wishes that half of the amount of British Government shall devolve on the Bharat Inder Singh son of Kanwar Manjit Inder Singh.^G

Any residue left out of the aforesaid total estates belonging to the testator shall devolve on Rajkumari Devinder Kaur.

.....The testator further ordains that other than the property and estates mentioned above, any property or estate come her

^H

- A way after execution of this Will she inherits or otherwise, those part properties or assets only are to be divided equally between (i) Kanwar Manjit Inder Singh, (ii) Rajkumari Devinder Kaur and (iii) Kanwar Bharat Inder Singh. In the event of demise of testator son namely Kanwar Manjit Inder Singh his estate is to be divided equally between Rajkumari Devinder Kaur and Kanwar Bharat Singh. The testator expressly wishes that in the event of demise of Rajkumari Devinder Kaur her shall devolve on minor daughter of Rajkumari Devinder Kaur namely Harvinder Kaur Alexandra Farinakis.”
- C 22. Having found that the Will executed by Maharani Mohinder Kaur was proved beyond any doubt and having concluded that the succession to the properties left behind the Ruler would be by principles of intestate succession, the High Court observed:-
- D “237.....The claim with regard to succession to the estate and private properties of deceased Raja Harinder Singh on the basis of Law of Primogeniture is dismissed, however the appellant would succeed to proportionate share of late Maharani Mohinder Kaur on the basis of registered Will dated 29.03.1990 executed by her. Maharani Mohinder Kaur (mother of Raja) was alive at the time of death of Raja on 16.10.1989 and she being one of the first class heirs of Raja would have succeeded share in the estate/ properties of late Raja. Therefore, on the basis of deemed succession/inheritance by Maharani Mohinder Kaur on 16.10.1989 and thereafter to the extent of share conferred by late Maharani Mohinder Kaur upon the appellant by virtue of aforesaid Will dated 29.03.1990 (Ex-D-10), the appellant would succeed to the said proportionate share in the estate of Raja in accordance with law.”
- E 23. While issuing notice in these Special Leave Petitions, by its order dated 13.08.2020 this Court directed:-
- G “Pending further consideration, all the parties shall maintain status quo with regard to the properties involved in the present proceedings. It is further directed that MaharwalKhewaji Trust shall file the statement of accounts for the last five years before the next date of hearing.”
- H 24. Thereafter, while dealing with IA No.99377 of 2020 moved by the Trust seeking permission to operate its bankaccounts for payment

of salaries,taxes; towards utilitiesand maintenance of Trust properties and towards expenses of the Charitable Hospital run by the Trust. After setting out details about such accounts and the purposes set out in the application, by its order dated 16.10.2020, this Court directed: - A

“Since the activities undertaken by the Trust are in the nature of running of a Hospital and other philanthropic causes, at this stage, we permit the applicant trust to operate the accounts mentioned in paragraph 12 of the application strictly for the purposes enumerated at Serial Nos.2 to 7 in paragraph 8 of the application. B

The details of all the expenses so incurred as well as the credits received shall be placed on record periodically; the First Report shall be filed on or before 30.10.2020; and the Second Report shall thereafter be submitted on or before 30.11.2020. C

The Registry is directed to send a copy of this order to the Banks mentioned in paragraph 12. D

The concerned Bank Managers are also directed to send the Statement of Accounts regarding respective Accounts for the period 01.06.2020 to 30.10.2020. The details shall be furnished to this Court on or before 10.11.2020. The details in respect of the month of November 2020 shall be furnished on or before 05.12.2020.” E

25. In Special Leave Petition (C)Nos. 9151-9153 of 2020, we have heard Mr. Mukul Rohatgi and Mr. Rakesh Dwivedi, learned Senior Advocates on behalf of Rajkumari Deepinder Kaur, the Trust and its Trustees. Mr. Rohatgi concentrated on issues concerning frame of Suit and limitation. In his submission, the Suit as amended, was hit by provisions of Section 34 of the Specific Relief Act, 1963 and the claim was completely time barred. Mr. Dwivedi concentrated on matters concerning the validity and reliability of the Third Will and took us through the evidence on record. F

Since the submissions advanced on behalf of the appellants were dealt with by all three Courts below extensively, we do not find any reason to upset the concurrent view taken by the Courts below. The Special Leave Petition (C)Nos. 9151-9153 of 2020 are, therefore, dismissed without any order as to costs. G

H

- A 26. In Special Leave Petition (C)Nos. 11206-11208 of 2020 preferred by Bharat InderSingh son of Kanwar Manjit Inder Singh, Mr. Krishnan Venugopal, learned Senior Advocate appearing for the petitioners has submitted that by Rule of Primogeniture the properties left behind by the Ruler must come in the hands of the male successor
B namely Kunwar Manjit Inder Singh, followed by his son Bharat Inder Singh. In view of the specific finding rendered by the courts below, including the High Court, in our view, no case was made out for the applicability of Rule of Primogeniture and succession based on said Rule. We, therefore, see no reason to entertain any challenge in that behalf. Special Leave Petition (C)Nos. 11206-11208 of 2020, thus being devoid
C of any substance, are dismissed without any order as to costs.

27. We now turn to Special Leave Petition (Civil)Nos. 10211-10213 of 2020 preferred by Rajkumari Amrit Kaur. Mr. V. Giri, learned Senior Advocate appeared in support of the petition has sought to assail the findings with regard to the effect of the Will executed by Maharani D Mohinder Kaur and the conclusions drawn by the High Court in that behalf. Once the will was proved and found to have been validly executed, in terms of specific clauses in the Will, the share of Maharani Mohinder Kaur in the properties left behind by the Ruler would naturally be governed by the Will executed by the testatrix. The findings rendered by the High Court were, therefore, fully justified and there is no reason to entertain any challenge in that behalf. Special Leave Petition (Civil)Nos. 10211-10213 of 2020 are, therefore, dismissed without any order as to costs.

28. Having dealt with the challenges raised in the petition, we direct as under:-
F a) All reports statements of accounts and other documents, lodged with this Court, pursuant to interim directions issued by this Court, shall immediately be sent by the Registry of this Court to the Trial Court.
G b) The Trust shall be entitled to run the Charitable Hospital only upto 30.09.2022, whereafter all the aspects of management, finance and other control including the need for appointment of a Receiver shall be subject to such orders as may be passed by the Court executing the decree in the instant matters.
H

- c) Rest of the properties in the hands of the Trust and/or any other persons shall be maintained in the same form by all the concerned, till appropriate orders are passed by the Court executing the decree passed in the instant matters. A
- d) With these observations, the Special Leave Petitions are disposed of. B

Nidhi Jain

Petitions disposed of.

(Assisted by : Tamana, LCRA)