Rasheeda Khatoon (D) Through Lrs vs Ashiq Ali (D) Through Lrs on 10 October, 2014

Equivalent citations: 2014 AIR SCW 6261, 2014 (10) SCC 459, 2015 (1) AIR BOM R 49, (2014) 4 KER LJ 322, (2015) 2 MAD LW 302, (2014) 2 MARRILJ 248, (2014) 4 RECCIVR 842, (2015) 1 WLC(SC)CVL 21, (2015) 1 CAL HN 124, (2014) 4 JLJR 512, (2015) 2 CURCC 86, (2015) 1 CIVILCOURTC 253, (2015) 2 MAH LJ 96, (2015) 1 PAT LJR 55, (2015) 126 REVDEC 237, (2015) 1 ICC 618, (2014) 11 SCALE 694, (2014) 3 ALL RENTCAS 691, (2015) 1 MPLJ 522, (2014) 6 ALLMR 900 (SC), AIR 2015 SC (CIV) 226, (2014) 6 ANDHLD 89, (2014) 107 ALL LR 359, (2015) 1 ALL WC 85, (2015) 1 CIVLJ 799, (2014) 4 JCR 330 (SC), (2014) 143 ALLINDCAS 1 (SC), (2014) 2 CLR 991 (SC), 2014 (4) KLT SN 92.1 (SC)

Author: Dipak Misra

Bench: Vikramajit Sen, Dipak Misra

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 603 OF 2009

Rasheeda Khatoon (D)
Through LRs. ...Appellants

Versus

Ashiq Ali s/o of Lt. Abu Mohd (D)
Through LRs. ..Respondents

WITH

Civil Appeal No. 564 of 2009

J U D G M E N T

Dipak Misra, J.

Rasheeda Khatoon, the predecessor-in-interest of present appellants, instituted regular suit No. 31 of 1975 in the Court of Civil Judge, Faizabad, seeking recovery of possession from the original defendants. The case of original plaintiff before the trial Court was that one Abdul Haq was the owner of the house No. 2868 situated in Mohalla Hayat Ganj in Tanda, District Faizabad. The only son of Abdul Haq had shifted to Pakistan at the time of Partition and there was no one to look after him. The father of Rasheeda Khatoon, Hazi Madari, was a close friend of Abdul Haq, and being a neighbour, she was looking after him for last 20 years till 24.01.1972 when he breathed his last at the ripe age of ninety. Regard being had to various aspects and fruther being pleased with her services, 7 years prior to the institution of the suit he made an oral gift of the suit house in her favour which was accepted by her and possession of the house was also handed over. Pursuant to the oral gift she lived in the premises in question and looked after him. The tenants who had been staying in the southern portion of the house, accepted her status and started paying rent to her. Prior to a year of his death being apprehensive that some others might disturb in her possession, he executed a deed of gift in writing evidencing the oral gift made earlier in favour of the plaintiff. As pleaded, within one month from the death of Abdul Haq, the defendants dishonestly moved an application under Section 145 CrPC before the SDM, Tanda with an intention to evict the plaintiff and in the said proceeding the property in question was attached, and all these circumstances constrained the plaintiff to file the civil suit for declaration that she was the owner in possession of the house in question. During the pendency of the suit, as alleged, the defendants took over possession in pursuance of the release order passed by the SDM on 12.4.1975 and thereafter the plaintiff amended the plaint and sought the relief of recovery of possession.

2. The defendants entered contest and took various pleas to the effect that the suit was under-valued and the court fee that was paid was not sufficient; that Abdul Haq was in possession of the house till his death and never parted possession; that there was no oral gift as asserted by the plaintiff; that Khairulnisha, Kamrulnisha alias Kumul and Janharulnisha were the daughters of Abdul Haq; that Khairulnisha died during the life time of Abdul Haq and her sons Mohd. Ayub, Moyuddin, Mohd. Yasin, Sagir Ahmad and Bashir Ahmad were alive; that the defendant No.1 is the son of Jauharulnisha; that Abdul Haq died leaving behind Kamarulnisha, Jauharulnisha and sons of Khairulnisha as his legal heirs and they had become the owners; that during life time Abdul Haq had given certain properties to the son of the defendant No.2; and that after the death of Abdul Haq defendant No.2 had constructed a shop with the permission of the defendant No.1 on the condition that the shop shall be let-out to him. It was also asseverated that Jauhirulnissa had executed a sale deed on 8.3.1972 and Usman and Rauf executed a sale deed on 31.3.1972 in respect of the suit house in favour of the defendant Nos. 2 and 3 and since then the defendants no.2 and 3 had become the owners in possession; that the proceeding initiated under Section 145, CrPC was eventually decided in favour of the defendants; and that the plaintiff had no right, title and interest over the suit house; and that the defendants are the owners in possession of the suit property.

3. On the basis of the aforesaid pleadings, the learned trial Judge framed the following issues:-

> "1. Whether plaintiff is owner of the disputed house as claimed in plaint?

2. Whether defendant Nos. 1 to 3 are the owners of the disputed house as claimed in their written statement?

3. Whether there has been an oral gift and subsequent writing evidencing this gift in favour of the plaintiff by Abdul Haq on 9.10.1970 as alleged in the plaint?

4. Whether suit is under-valued and deficient in suit fees?

5. Whether suit is not maintainable, as alleged in para no. 29 of the W.S.?

6. Whether suit is barred by Section 34 of Specific Relief Act?

7. To what relief, if any, is the plaintiff entitled in the case?"

4. The learned trial Judge on appreciation of the evidence brought on record came to hold that the plaintiff had proved the oral gift executed by Abdul Haq in her favour; that the gift deed did not require registration; that the deed of gift could not be ignored solely because it was not registered when it had demonstrably been established by the oral and documentary evidence that Abdul Haq had made a gift in favour of the plaintiff and had put her in possession; and that she was the owner of the suit premises and entitled to get back possession. Being of the said view, the trial court decreed the suit.

5. Being dissatisfied with the said judgment and decree, the defendants preferred Civil Appeal No. 435 of 1978 and the first appellate court concurring with the view of the trial court as regards the character and the nature of instrument, that it is an oral gift, based its conclusions on the premises that the contents of the document showed that the 'Hiba' had already been accepted by Rashida Kahtoon before the deed was executed; that the document was only an evidence of the oral gift which had been made earlier by Abdul Haq in favour of the plaintiff; that the stand of the defendants-appellants that the document could not be read in evidence because it was not registered was bereft of any substance in view of the language employed in Section 129 of the Transfer of Property Act (for brevity 'the Act') which lays down that Section 123 of the Act which mandates registration in case of a gift of an immovable property does not apply to any gift made under the Muhammadan Law and a Muhammadan could make an oral gift of immovable property and if a Muhammadan prepares a document relating to gift such deed of gift continues to be an evidence of gift. To arrive at the aforesaid conclusions the first appellate court placed reliance upon the authorities in Karam Ilahi v. Sharfuddin[1], Nasib Ali v. Wajid Ali[2], Bishwanath Gosain v. Dulhin Lalmani[3] and Boya Ganganna v. State of Andhra Pradesh[4].

6. The aforesaid Judgment and decree passed by the first appellate court was assailed in second appeal and the learned Single Judge taking note of the substantial question of law opined that the core issue was whether the document in question is a deed of gift or it evidences the oral gift. The learned Single Judge was of the view that if it was accepted as an evidence of the oral gift it did not require registration and if it is interpreted otherwise, it required registration. He referred to certain provisions of the Act and Section 17 of the Registration Act and, thereafter, scrutinized the contents

of the instrument in question and came to hold that the document in question makes it clear that up to the date of execution of gift deed no gift was made; that the executant of the deed was in possession of the house; that the deed transferred the property in favour of Rasheeda Khatoon in praesenti; and that it is clear from the language employed in the gift deed that the executant had not delivered possession to the donee. Being of this view, he came to hold that both the courts below had misread the deed dated 9.10.1970 executed by Abdul Haq and treated it to be an oral gift though it was a document under which transfer was made and, therefore, it was compulsorily registrable and accordingly, allowed the appeal. Hence, the present appeal by special leave.

7. We have heard Mr. Fakhruddin, learned senior counsel for the appellant and Mr. A. G. Chaudhary, learned senior counsel for the respondents.

8. The gravamen of the controversy as is demonstrable pertains to is the nature and character of the document executed by Abdul Haq in favour of Rasheeda Khatoon, the predecessor-in-interest of the appellants. Before we keenly scrutinize the document, we think it necessary to refer to certain authorities in the field that have dealt with the concept of oral gift in Muhammadan Law. In this context Sections 123 and 129 of the Transfer of Property Act have to be taken note of. Section 123 of the Act stipulates that for the purpose of making a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses. Section 129 provides for savings of donations mortis causa and the gifts made under the Muhammadan Law. It is clear from the said provision that the Chapter relating to gifts including registration would not effect any rule of Muhammadan Law.

9. In Karam Ilahi (supra) it has been held as follows:-

> "It is admitted that a Muhammadan may make an oral gift provided that possession follows. It seems to us quite clear that the provisions of Section 123 are inapplicable to gifts made by Muhammadans and valid according to their law. It is quite clear that the Legislature had in its mind the provisions of Section 123 when enacting Section 129. Section 123 is specifically referred to in Section 129. The deed of gift is admissible to prove that a gift was made."

10. In Nasib Ali (supra) Suhrawardy, J. referred to Kamarunnissa Bibi v. Hussaini Bibi[5] and Karam Ilahi (supra) and came to hold that the essentials of a gift under the Muhammadan Law are a declaration of 'hiba' by the donor, an acceptance, express or implied, of the gift by the donee, and delivery of possession of the property, the subject- matter of the gift, according to its nature. A simple gift can only be made by going through the above formalities and no written instrument is required. In fact no writing is necessary to validate a gift and if a gift is made by a written instrument without delivery of possession, it is invalid, in law. Thereafter, the learned judge stated thus:-

> "The position under the Mohammadan Law is this: that a gift in order to be valid must be made in accordance with the forms stated above; and even if it is evidenced by writing, unless all the essential forms are observed, it is not valid according to law.

> That being so, a deed of gift executed by a Mohammadan is not the instrument effecting, creating or making the gift but a mere piece of evidence. It may so happen after a lapse of time that the evidence of the observance of the above forms might not be forthcoming, so it is sometimes thought prudent to reduce the fact that a gift has been made into writing. Such writing is not a document of title but is a piece of evidence. "

11. In Mahboob Sahab v. Syed Ismail and Others[6] a two-Judge Bench referred to Section 147 of the Principles of Mahomedan Law by Mulla wherein the essentials of valid gift under the Muhammadan Law have been elucidated and proceeded to explicate the principle. We think the reproduction of the relevant passage would be seemly:-

> "Under Section 147 of the Principles of Mahomedan Law, by Mulla, 19th Edn., edited by Chief Justice M. Hidayatullah, envisages that writing is not essential to the [pic]validity of a gift either of moveable or of immovable property. Section 148 requires that it is essential to the validity of a gift that the donor should divest himself completely of all ownership and dominion over the subject of the gift. Under Section 149, three essentials to the validity of the gift should be, (i) a declaration of gift by the donor, (ii) acceptance of the gift, express or implied, by or on behalf of the donee, and (iii) delivery of possession of the subject of the gift by the donor to the donee as mentioned in Section 150. If these conditions are complied with, the gift is complete. Section 150 specifically mentions that for a valid gift there should be delivery of possession of the subject of the gift and taking of possession of the gift by the donee, actually or constructively. Then only the gift is complete. Section 152 envisages that where the donor is in possession, a gift of immovable property of which the donor is in actual possession is not complete unless the donor physically departs from the premises with all his goods and chattels, and the donee formally enters into possession. It would, thus, be clear that though gift by a Mohammedan is not required to be in writing and consequently need not be registered under the Registration Act; for a gift to be complete, there should be a declaration of the gift by the donor; acceptance of the gift, expressed or implied, by or on behalf of the donee, and delivery of possession of the property, the subject-matter of the gift by the donor to the donee. The donee should take delivery of the possession of that property either actually or constructively. On proof of these essential conditions, the gift becomes complete and valid. In case of immovable property in the possession of the donor, he should completely divest himself physically of the subject of the gift." [Emphasis supplied]

12. Recently in Hafeeza Bibi and Others v. Shaikh Farid (Dead) by LRS. and Others[7] a two-Judge Bench referred to the authority in Mohd. Abdul Ghani v. Fakhr Jahan Begam[8] wherein the Privy Council had made a reference to Muhammedan Law by Syed Ameer Ali and approved the statement as regards the essential three conditions for a valid gift. Thereafter, the learned Judges referred to Nasib Ali (supra), Assan Ravther v. Manahapara Charayil[9] and Javeda Khatun v. Moksed Ali[10] and stated the position of law thus:-

> "The position is well settled, which has been stated and restated time and again, that the three essentials of a gift under Mohammadan Law are: (1) declaration of the gift by the donor; (2) acceptance of the gift by the donee; and (3) delivery of possession. Though, the rules of Mohammadan Law do not make writing essential to the validity of a gift; an oral gift fulfilling all the three essentials makes the gift complete and irrevocable. However, the donor may record the transaction of gift in writing."

13. After so stating the court referred to Asaf A.A.Fyzee in Outlines of Muhammadan Law[11] and Mulla, Principles of Mahomedan Law[12] and eventually ruled thus:-

> "In our opinion, merely because the gift is reduced to writing by a Mohammadan instead of it having been made orally, such writing does not become a formal document or instrument of gift. When a gift could be made by a Mohammadan orally, its nature and character is not changed because of it having been made by a written document. What is important for a valid gift under Mohammadan Law is that three essential requisites must be fulfilled. The form is immaterial. If all the three essential requisites are satisfied constituting a valid gift, the transaction of gift would not be rendered invalid because it has been written on a plain piece of paper. The distinction that if a written deed of gift recites the factum of prior gift then such deed is not required to be registered but when the writing is contemporaneous with the making of the gift, it must be registered, is inappropriate and does not seem to us to be in conformity with the rule of gifts in Mohammadan Law." [Emphasis added]

14. For a clear understanding of the conception of the valid gift under the Muhammadan Law we think it apposite to reproduce the passage from Mulla, Principles of Mahomedan Law that has been quoted and approved in Hafeeza Bibi (supra):-

> "Under the Mahomedan law the three essential requisites to make a gift valid are: (1) declaration of the gift by the donor, (2) acceptance of the gift by the donee expressly or impliedly, and (3) delivery of possession to and taking possession thereof by the donee actually or constructively. No written document is required in such a case. Section 129 of the Transfer of Property Act excludes the rule of Mahomedan Law from the purview of Section 123 which mandates that the gift of immovable property must be effected by a registered instrument as stated therein.

But it cannot be taken as a sine qua non in all cases that whenever there is a writing about a Mahomedan gift of immovable property there must be registration thereof. Whether the writing requires registration or not depends on the facts and circumstances of each case."

15. At this stage, it is condign to state that the two-Judge Bench ultimately has ruled that it is not the requirement in all cases where the gift deed is contemporaneous to the making of the gift then such deed must be registered under Section 17 of the Registration Act, and each case would depend on its own facts. Be it stated, the Court did not approve the view expressed in Govt. of Hyderbad (Deptt. of Revenue) v. Tayyaba Begum[13], Ghulam Ahmad Sofi v. Mohd. Sidiq Dareel[14], Chota Uddandu

Sahib v. Masthan Bi[15], Amirkhan v. Ghouse Khan[16] and Sunkesula Chinna Budde Saheb v. Raja Subbamma[17].

16. From the aforesaid discussion of the propositions of law it is discernible that a gift under the Muhammadan Law can be an oral gift and need not be registered; that a written instrument does not, under all circumstances require registration; that to be a valid gift under the Muhammadan Law three essential features namely, (i) declaration of the gift by the donor, (ii) acceptance of the gift by the donee expressly or impliedly, and (iii) delivery of possession either actually or constructively to the donee, are to be satisfied; that solely because the writing is contemporaneous of the making of the gift deed, it does not warrant registration under Section 17 of the Registration Act.

17. At this juncture, it is pertinent to refer to a three-Judge Bench decision in Valia Peedikakkandi Katheessa Umma and others v. Pathakkalan Narayanath Kunhamu (deceased) and after him his legal representatives and others[18] where the question arose whether a gift by a husband to his minor wife and accepted on her behalf by her mother is valid. Dealing with the concept of gift under Muhammadan Law the Court observed that:-

> "... Muhammadan Law of gifts attaches great importance to possession or seisin of the property gifted (Kabz-ul-Kami) especially of immovable property. The Hedaya says that seisin in the case of gifts is expressly ordained and Baillie (Dig P.508) quoting from the Inayah refers to a Hadis of the Prophet-"a gift is not valid unless possessed." In the Hedaya it is stated – "Gifts are rendered valid by tender, acceptance and seisin" (p.482) and in the Vikayah "gifts are perfected by complete seisin" Macnaghten (202)." After so stating the Court proceeded to lay down that it is only actual or constructive possession that completes the gift and registration does not cure the defect nor is a bare declaration in the deed that possession was given to a minor of any avail without the intervention of the guardian of the property unless the minor has reached the years of discretion. It has been further opined therein that if the property is with the donor he must divest from it and the donee must enter upon possession. However, to that rule there are certain exceptions which the Court took note of, stating thus:-
>
> "Exceptions to these strict rules which are well recognized are gifts by the wife to the husband and by the father to his minor child (Macnaghten, page 51 principles 8 to 9). Later it was held that where the donor and donee reside together an overt act only is necessary and this rule applies between husband and wife. In Mahomed Sadiq Ali Khan v. Fakhr Jahan Begum, 59 Ind App 2 : (AIR 1932 PC 13) it was held that even mutation of names is not necessary if the deed declares that possession is delivered and the deed is handed to the wife." We have referred to this decision only to highlight the principle that either there has to be actual delivery of possession from the donor or the donee must be in constructive possession to make a gift valid under the Muhammadan Law.

18. Presently, we shall deal with the factual score. Mr. Fakhruddin, learned senior counsel would submit that when concurrent findings were returned that the plaintiff was in possession on the date of execution of the gift deed as the donee had started residing with the donor the High Court should not have dislodged the finding of possession solely on the ground that the gift deed was a contemporaneous document which required registration. Per contra, Mr. Chaudhary, learned senior counsel would submit that both the courts below had committed serious illegality by coming to hold that an oral gift was made in favour of the plaintiff seven years prior the date of execution of gift deed and factum of the said document only evidenced the oral gift, though there is no mention of it in the deed itself. It is urged by him that by no stretch of examination such a finding could have been recorded. As we notice, the trial court as well as the appellate court has returned a finding that there was an earlier oral gift by Abdul Haq in favour of the original plaintiff. The same is not reflectible from the document itself. That apart, there is nothing else on record to support the same. The finding of the learned trial Judge as well as the appellate Judge is based on unwarranted inferences which are not supported by the evidence brought on record. While not accepting the said finding of the courts below we are also unable to accept the conclusion of the High Court that the document being a contemporaneous document or document in praesenti required registration.

19. The real thrust of the matter, as we perceive, is whether the essential ingredients of the gift as is understood in the Muhammadan Law have been satisfied. To elaborate, a deed of gift solely because it is a written instrument does not require registration. It can always be treated as a piece of evidence evidencing the gift itself, but, a significant one, that gift must fulfill the three essential conditions so that it may be termed as a valid gift under the Muhammadan Law.

20. The aforesaid being the position, we are obliged to scrutinize the deed of gift and the material brought on record. It has become necessitous in the instant case as the original and the first appellate court have recorded findings which are contrary to material brought on record and the High Court has proceeded exclusively on the concept of a deed in praesenti. Be it stated, this Court in exercise of power under Article 136 of the Constitution can interfere with the concurrent findings of fact, if the conclusions recorded on certain factual aspects are manifestly perverse or unsupported by the evidence on record. It has been so held in Alamelu & Another v. State[19], Heinz India (P) Ltd. and Another v. State of U.P. and Others[20] and Vishwanath Agrawal s/o Sitaram Agrawal v. Sarla Vishwanath Agrawal.[21]

21. In this backdrop we proceed to scan the gift deed. On a perusal of the gift deed it is manifest that Abdul Haq had declared therein that he had always been the owner in possession and the entire house was in his exclusive ownership and possession and free from all encumbrances. Thus, the said recital belies the case of the plaintiff that there was an oral gift seven years prior to filing of the suit, that is, sometime in the year 1968. The learned trial Jude as well as the appellate court has brushed aside the said aspect by stating that it has not affected the stand of the plaintiff inasmuch as some witnesses have deposed about the gift having been made in 1968. As the deed would show the executant had stated that he had executed a Will earlier in favour of Rasheeda. That apart, such a fact, had it been true would have definitely formed a part of the written instrument. Omission of such a fact, in our view, defies common sense. The conclusion that the gift deed dated 9.10.1970 evidences such a gift, is absolutely unacceptable. Be that as it may, the issue is whether the

document and the concomitant factors establish factum of gift made by the donor. As stated earlier, if the essential features are met with no registration is necessary. On a perusal of the deed of gift and the evidence brought on record it is demonstrable that Abdul Haq remained in the premises in question. He did not part with physical possession. The case of the plaintiff is that she resided with Abdul Haq and, therefore, the principle of donor getting fully divested or handing over of physical possession is not attracted. Though, such a finding has been recorded, we find it wholly contrary to the evidence on record. The plaintiff was staying with her husband. The family register and voters list, Exhibit 122 to 124 C indicate that Rasheeda Khatoon was residing in her house with her husband. Though the gift deed mentions that she was entitled to get her name mutated in respect of the premises, yet it was not done. On the analysis of evidence in the backdrop of the deed, it is extremely difficult to hold that she was residing with Abdul Haq in the premises in question. The first two courts have based their conclusions on conjecture and inferences. The High Court, as we notice, has not dwelled upon this aspect and has only negatived the finding of the courts below that the document did not evidence an oral gift. Thus scrutinized there remains no shadow of doubt that she was not in actual physical possession.

22. We have already stated, actual physical possession may not be always necessary if there is constructive possession of the donee. In this context we may reproduce Section 152, sub-Section(3) of Mulla's Muhammadan Law:-

> "No physical departure or formal entry is necessary in the case of a gift of immovable property in which the donor and the donee are both residing at the time of the gift. In such a case the gift may be completed by some overt act by the donor indicating a clear intention on his part to transfer possession and to divert himself of all control over the subject of the gift."

23. Possession has been defined in Section 394 of the Muslim Law by Tyabji.

It is thus:-

> "A person is said to be in possession of a thing, or of immovable property, when he is so placed with reference to it that he can exercise exclusive control over it, for the purpose of deriving from it such benefit as it is capable of rendering, or as is usually derived from it."

24. From the aforesaid it is vivid that the possession can be shown not only by enjoyment of the land or premises in question but also by asserting who has the actual control over the property. Someone may be in apparent occupation of the premises, but the other would have control and gaining advantage of possession. In the case at hand plea of actual physical possession by Rasheeda Khatoon does not deserve acceptance. The existence of any overt act to show control requires to be scrutinised. A plea was advanced by the plaintiff that she had been collecting rent from the tenants inducted by the donor, but no rent receipts have been filed. On the contrary certain rent receipts issued by the donor after the execution of the deed of gift have been brought on record. There is no proof that the land was mutated in her favour by the revenue authorities. She was also not in

possession of the title deeds. Thus, the evidence on record, on a studied scrutiny, clearly reveal that Rasheeda Khatoon was not in constructive possession. Therefore, one of the elements of the valid gift has not been satisfied. That being the position there is no necessity to advert to the aspect whether the instrument in question required registration or not because there can be certain circumstances a deed in writing may require registration. In the case at hand, we conclusively hold that as the plaintiff could not prove either actual or constructive possession, the gift was not complete and hence, the issue of registration does not arise.

25. In view of the aforesaid premises, we, though for different reasons, affirm the judgment and decree of the High Court and dismiss the appeal as a consequence of which the suit of the plaintiff stands dismissed. There shall be no order as to costs.

26. In view of the dismissal of Civil Appeal No. 603 of 2009 the present appeal stands dismissed. There shall be no order as to costs.

.....J. [Dipak Misra] .....J. [Vikramajit Sen] New Delhi;

October 10, 2014

---

[1] AIR 1916 All 351 [2] AIR 1927 Cal 197 [3] AIR 1968 Pat 481 [4] AIR 1976 SC 1541 [5] (1880) 3 All 266 [6] (1995) 3 SCC 693 [7] (2011) 5 SCC 654 [8] (1921-22) 49 IA 195 : AIR 1932 PC 13 [9] AIR 1972 Ker 27 [10] AIR 1973 Gauhati 105 [11] 5th Edn. (edited and revised by Tahit Mahmood) at P. 182 [12] (19th Edn.) P.120 [13] AIR 1962 AP 199 [14] AIR 1974 J&K 59 [15] AIR 1975 AP 271 [16] (1985) 2 MLJ 136 [17] (1954) 2 MLJ 113 (AP) [18] AIR 1964 SC 275 [19] (2011) 2 SCC 385 [20] (2012) 5 SCC 443 [21] (2012) 7 SCC 288