**CASE ANALYSIS**

**BHAGAT RAM *v.* TEJA SINGH (2002 1 SCC 210)**

**Facts:**

One Kehar Singh was the owner of the land admeasuring 280 kanals and 18 marlas in Village Antowali (now in Pakistan). He died prior to partition of India. His widow, Smt Kirpo and two daughters Smt Santi and Smt Indro migrated to India. In lieu of the property owned by Kehar Singh in Pakistan, his widow, Kirpo was allotted some land in India. Kirpo died on 25-12-1951 leaving behind her two daughters, Smt Santi and Smt Indro. They inherited the property equally. Smt Santi died in 1960. The property left by her was thereafter mutated in the name of her surviving sister, Smt Indro. The original appellant, Bhagat Ram (deceased) who had entered into an agreement with Smt Indro on 12-3-1963, filed a suit for specific performance, which was decreed in his favour. The original respondent in the appeal, Shri Teja Singh (deceased) is the brother of Smt Santi‘s predeceased husband. He filed a suit alleging that, on the death of Smt Santi in 1960, the property in question devolved on him by virtue Section 15(1)(b)[[1]](#footnote-0) of the Hindu Succession Act, 1956. The trial court decreed the suit filed by Teja Singh. The appeal filed against the said decree was dismissed. Bhagat Ram (deceased) then preferred the second appeal before the High Court, which was also dismissed. The High Court held that the property held by Smt Santi on her death devolved to Teja Singh who was the brother of the predeceased husband of Smt Santi. However, on appeal, this Court by its judgment dated 31-3-1999 held that the property held by Smt Santi was the property inherited by her from her mother; therefore, Section 15(2)(a)[[2]](#footnote-1) is the relevant provision which governed the succession and Teja Singh had no right in the property left by Smt Santi and that it would only devolve on her sister Smt Indro.

The counsel for the respondent contended that Smt Santi acquired property from her mother Smt Kirpo who died on 25-12-1951 and at that time Smt Santi had only a limited right over this property, but by virtue of Section 14(1)[[3]](#footnote-2) of the Hindu Succession Act, she became the full owner of the property and, therefore, on her death, the property held by her would be inherited by her legal heirs as per the rule set out in Section 15(1) of the Act. He further added that prior to the Hindu Succession Act, Smt Santi had only a limited right but for Section 14(1) of the Act, it would have reverted to the reversioners and such a limited right became a full right and, therefore, the property is to be treated as her own property. He also contended that Section 15 of the Hindu Succession Act will have only prospective operation and, therefore, the words used in Section 15(2)(a) viz. ―any property inherited by a female Hindu‖ are to be construed as property inherited by a female Hindu after the commencement of the Act.

A question of similar nature was considered by this Court in ***Bajaya v. Gopikabai***[[4]](#footnote-3). In that case, the suit land originally belonged to G, son of D. G died before the settlement of 1918 and thereafter, his land was held by his son, P who died in 1936. On P‘s death, the holding devolved on P‘s widow, S. S died on 6-11-1956, and thereupon dispute about the inheritance to the land left behind by S arose between the parties. The plaintiff claimed that she being the daughter of T, a sister of the last male holder, P was an heir under Section 15 read with the Schedule referred to in Section 8[[5]](#footnote-4) of the Hindu Succession Act, 1956, whereas the defendants claimed as ―sapindas of the last male holder under Mitakshara law. Speaking for the Bench, Hon‘ble R.S. Sarkaria, J. held that the case would fall under clause Section 15(2)(b) because S died issueless and intestate and the interest in the suit property was inherited by her from her husband and the property would go to the heirs of the husband.

In ***State of Punjab v. Balwant Singh***[[6]](#footnote-5), also, a question of similar nature was considered. In that case, the female Hindu inherited the property from her husband prior to the Hindu Succession Act and she died after the Act. On being informed that there was no heir entitled to succeed to her property, the Revenue Authorities affected mutation in favour of the State. There was no heir from her husband‘s side entitled to succeed to the property. The plaintiff, who was the grandson of the brother of the female Hindu claimed right over the property of the deceased. The High Court held that the property inherited by the female Hindu from her husband became her absolute property in view of Section 14 and the property would devolve upon the heirs specified under Section 15(1). The above view was held to be faulty and this Court did not accept that. It was held that it is important to remember that a female Hindu being the full owner of the property becomes a fresh stock of descent. If she leaves behind any heir either under sub-section (1) or under sub-section (2) of Section 15, her property cannot be escheated.

In ***Amar Kaur v. Raman Kumari***[[7]](#footnote-6), a contra-view was taken by the High Court of Punjab and Haryana. In this case, a widow inherited property from her husband in 1956. She had two daughters and the widow gifted the entire property in favour of her two daughters. One of the daughters named Shankari died without leaving a husband or descendant in 1972. Her property was mutated in favour of her other sister. At the time of Shankari's death, her husband had already died leaving behind another wife and a son. They claimed right over the property left by the deceased female Hindu. The learned Judge laid down in this case that Smt Shankari succeeded to life estate, which stood enlarged in her full ownership under Section 14(1) of the Act. Since smaller estates merged into larger one, the lesser estate ceased to exist and a new estate of full ownership by fiction of law came to be held for the first time by Smt Shankari. The estate, which she held under Section 14(1) of the Act, cannot be considered to be by virtue of inheritance from her mother or father. In law it would be deemed that she became full owner of this property by virtue of the Act. On these facts it is to be seen whether Section 15(1) of the Act will apply or Section 15(2) of the Act will apply. Section 15(2) of the Act will apply only when inheritance is to the estate left by father or mother, in the absence of which, Section 15(1) of the Act would apply.

This view held by the single Judge was held incorrect in the opinion of the court and they were of the view that even if the female Hindu who is having a limited ownership becomes full owner by virtue of Section 14(1) of the Act, the rules of succession given under sub-section (2) of Section 15 can be applied. In fact, the Hindu Succession Bill, 1954 as originally introduced in the Rajya Sabha did not contain any clause corresponding to sub-section (2) of Section 15. It came to be incorporated on the recommendations of the Joint Committee of the two Houses of Parliament. The reason given by the Joint Committee is found in clause 17[[8]](#footnote-7) of the Bill.

**ISSUES:**

1. Can a property which is inherited by a female Hindu from her mother, devolve on the female’s death, on the heir of her husband?

**JUDGMENT:**

The court held that the property held by Smt. Santi was property inherited by her mother so clause (a) of Section 15(2) applied and Teja Singh who was the brother of Smt. Santi’s husband had no right in the property left by Smt. Santi. Her property would dissolve in the absence of any issue left by her, only on her sister, according to the court.

It held: “The source from which the female inherits the property is always important and that would govern the situation. Otherwise persons who are not even remotely related to the persons who originally held the property would acquire the right to inherit the property. That would defeat the intent and purpose of Section 15(2) which gives a special pattern of succession”

Bhagat Singh’s appeal was accordingly allowed, according to the court, the property devolved on the surviving sister Smt. Indro as the heir of the mother and not on the heirs of the pre-deceased husband of the deceased sister.

1. General rules of succession in the case of female Hindus. - (1) The property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16, - firstly, upon the sons and daughters (including the children of any predeceased son or daughter) and the husband; secondly, upon the heirs of the husband;... [↑](#footnote-ref-0)
2. any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any predeceased son or daughter), not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father [↑](#footnote-ref-1)
3. Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. [↑](#footnote-ref-2)
4. AIR 1978 SC 793 [↑](#footnote-ref-3)
5. The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter: — (a) firstly, upon the heirs, being the relatives specified in class I of the Schedule; (b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule; (c) thirdly, if them is no heir of any of the two classes, then upon the agnates of the deceased; and (fi) lastly, if there is no agnate, then upon the cognates of the deceased. [↑](#footnote-ref-4)
6. AIR 1991 SC 2301 [↑](#footnote-ref-5)
7. AIR 1985 P & H 86 [↑](#footnote-ref-6)
8. While revising the order of succession among the heirs to a Hindu female, the Joint Committee have provided that, properties inherited by her from her father reverts to the family of the father in the absence of issue and similarly property inherited from her husband or father-in-law reverts to the heirs of the husband in the absence of issue. In the opinion of the Joint Committee such a provision would prevent properties passing into the hands of persons to whom justice would demand they should not pass. [↑](#footnote-ref-7)