

(2006) 09 AP CK 0021

Andhra Pradesh High Court

Case No: AS No. 1774 of 1991

Pentapati Subba Rao (died) by
LRs.

APPELLANT

Vs

Jupudy Pardha Sarathy by LR.
and Others

RESPONDENT

Date of Decision: Sept. 21, 2006

Acts Referred:

- Hindu Succession Act, 1956 - Section 14, 14(1), 14(2), 4(2)

Citation: (2006) 6 ALD 693 : (2007) 1 ALT 278

Hon'ble Judges: V. Eswaraiah, J

Bench: Single Bench

Advocate: Dhanamjaya, for the Appellant; C. Subba Rao, for Respondent No. 1, C. Ramachandra Raju, for Respondent No. 3, T.V.S. Prabhakar Rao and T.S. Anand, for Respondent Nos. 5 to 13, for the Respondent

Final Decision: Allowed

Judgement

V. Eswaraiah, J.

This appeal is directed against the judgment and decree dated 16-7-1991 passed in O.S. No. 202 of 1980 by the Subordinate Judge, Rajahmundry.

2. The appellant is the first defendant. During the pendency of the appeal the appellant died and his legal representatives were brought on record as Appellants 2 to 4. The first respondent is the plaintiff and the second respondent is the second defendant in the suit. During the pendency of the suit O.S. No. 202 of 1980 filed by the first respondent herein, the second defendant died and his legal representatives were brought on record as Defendants 5 to 13, who are Respondents 5 to 13 herein. The Respondents 3 and 4 are the Defendants 3 and 4 in the suit.

3. The suit filed by the first respondent herein for declaration of title to the plaint "A" schedule properties comprising A1, A2, A3 and A4 schedules and for possession of

the same was decreed by judgment and decree dated 16-7-1991 declaring plaintiffs title to the plaint A schedule property and declaring that he is also entitled to an amount of Rs. 9,517/- deposited in O.S. No. 47 of 1976 on the file of the Subordinate Judge, Rajahmundry directing the first defendant to deliver possession of the plaint A4 schedule property and Defendants 2 to 4 to deliver plaint A1, A2 and A3 schedule properties respectively to the plaintiff symbolically by way of attornment, granting past damages of Rs. 366.66 ps. against the Second defendant, Rs. 866.66 ps. against the third defendant and Rs. 506.06 ps. against the fourth defendant, by way of arrears of rent, directing the Defendants 2 to 4 to continue to pay the rents at the respective rates for A1 to A3 schedule properties to the plaintiff from the date of filing of the suit and the first defendant was directed to pay the past profits of Rs. 2,700/- to the plaintiff and the future profits on plaint A4 schedule property payable to the plaintiff from the date of filing of the suit. Aggrieved by the said judgment and decree in O.S. No. 202 of 1980 dated 16-7-1991 the first defendant preferred this appeal.

4. The parties are hereinafter referred to as they were arrayed in the suit.

5. The Defendants 2 to 4 and the legal representatives of the second defendant i.e., the Defendants 5 to 13 are the tenants. The dispute with regard to the title is between the plaintiff and the first defendant alone.

6. It is the case of the plaintiff that he purchased plaint A schedule building bearing Door No. 18/316 corresponding to C.S. No. 7-30-11 New No. 7-30-34 situated at Rajahmundry under Ex.A1 sale deed dated 12-4-1976 and plaint A schedule property consists of four portions which are shown as plaint A1, A2, A3 and A4 schedule properties. The first defendant is in occupation of plaint A4 schedule portion of the building. The Defendants 2 to 4 are in occupation of A1 to A3 portions of the suit building as tenants. The plaint schedule properties were purchased for a valid consideration of Rs. 65,000/- under Ex.A1 sale deed from Pulavarthi Narasimha Rao. It is stated that the said Narasimha Rao was having a vested remainder in respect of the said property on the expiry of the life estate of testator's wife Veeraraghavamma. One P. Venkata Subbarao was the testator and he was the father of the plaintiffs vendor - P. Narasimha Rao. The said Veeraraghavamma filed Ex.A2 certified copy of the original Will dated 24-8-1920 executed by her husband in O.P. No. 43 of 1921. The said Veeraraghavamma was appointed as guardian of Narasimha Rao when he was minor and after he attained majority the guardianship was discharged under Ex.A6 dated 27-6-1932. It is stated that during the lifetime of Veeraraghavamma she enjoyed the properties by leasing out the said four portions to the Defendants 2 to 4. The second defendant was paying rent of Rs. 55/-, the third defendant was paying Rs. 130/- and the fourth defendant was paying Rs. 75/- in respect of the portions in their occupation. The first defendant was only collecting the rents on behalf of Veeraraghavamma and she died on 8-1-1976. After purchasing the said properties the plaintiff issued Exs.A7 and A8 notices to the

tenants to vacate the premises and also to "pay rents to him for which reply notices under Exs.A9 and A10 were given and the tenants deposited the rents in inter-pleader suit O.S. No. 45 of 1976 up to 1-4-1980 amounting to Rs. 9,517/- and it is his case that he is entitled to the said amount. The plaintiff disputes Ex.B1 Will dated 14-7-1971 and Ex.B2 Codicil dated 14-12-1975 executed by the life estate owner Veeraraghavamma in favour of the first defendant. Therefore, the first defendant is not entitled to any right, title or possession of the said properties.

7. It is not in dispute that the Defendants 2 to 4 are the tenants and they have deposited the rents in O.S. No. 45 of 1976 till 1-4-1980 and thereafter the tenants have been depositing the rents to the credit of present suit O.S. No. 202 of 1980. The plaintiff has not filed a separate suit for recovery of rents against Defendants 3 and 4. The first defendant filed R.C.C. No. 49 of 1981 against the third defendant and R.C.C. No. 51 of 1981 against the fourth defendant before the Rent Controller seeking eviction. As there was dispute with regard to the title between the plaintiff and the first defendant, the tenants were depositing the rents; as such no orders have been passed evicting them.

8. The plaintiff further stated that he did not know whether his vendor performed the obsequies of Veeraraghavamma and he did not know whether the first defendant used to attend all the affairs of Veeraraghavamma and her needs and he did not know about the Will executed by Veeraraghavamma in favour of the first defendant but an attempt has been made to show that Veeraraghavamma was not keeping sound health prior to the execution of Ex.B1-Will and Ex.B2-Codicil and the plaintiff did not know whether life estate was given under Ex.A2 Will in favour of Veeraraghavamma. As per the Will it is stated that Veeraraghavamma is entitled to enjoy all the properties with limited interest and after the death of Veeraraghavamma the remainder interest vests with the vendor of the plaintiff.

9. P.W.2, the son of P. Narasimha Rao and grandson of P. Venkata Subba Rao, was examined only for the purpose of stating that his father sold the plaintiff A schedule properties under Ex.A1 to the plaintiff for a valid consideration and apart from plaintiff A schedule properties his father also sold some other properties. P.W.3 examined on behalf of the plaintiff stated that the said Veeraraghavamma is life estate owner of plaintiff A schedule properties but she enjoyed the said properties as her own and absolute properties.

10. It is the case of the first defendant that originally the said property belonged to one P. Venkata Subba Rao, who married thrice and his first and third wives did not beget any children only his second wife was blessed with two sons and one daughter viz., Manikyala Rao, Narasimha Rao and Nagaratnamma. Veeraraghavamma was his third wife and she was not having any issues and she is the junior maternal aunt of the first defendant. Venkataratnamma, who used to live along with Veeraraghavamma at Rajahmundry, took the first defendant in adoption. P. Venkata Subba Rao executed Ex.A2 Will in favour of Veeraraghavamma and

Veeraraghavamma executed Ex.B1 Will and Ex.B2 Codicil in favour of the first defendant and after executing the said Will she died in 1976 and the plaintiff schedule properties devolved on him. Therefore, the said P. Narasimha Rao has no right to transfer the said properties in favour of the plaintiff and the plaintiff is not entitled to any relief.

11. To prove Ex.B1 Will and Ex.B2 Codicil the first defendant examined D.W.2 and D.W.3.

12. It is the further case of the appellant/first defendant that the said Veeraraghavamma - a female Hindu having a limited interest in the suit schedule property becomes a full owner u/s 14(1) of the Hindu Succession Act, 1956 (for short "the Act") and therefore, Veeraraghavamma is having right, title and authority to execute Ex.B1 Will and Ex.B2 Codicil in his favour. Though the vendor of the plaintiff was given vested remainder but the same vanished and discontinued after the Act came into force in view of Section 14(1) of the Act. It is further stated that life estate of Veeraraghavamma became enlarged into absolute estate by virtue of Section 14 of the Act. u/s 14(1) of the Act any acquisition of the property by Hindu women under the Will enlarges into an absolute estate of the Hindu women where she was having a right to be maintained by her husband. Therefore, the husband of Veeraraghavamma created a life estate in her favour. It is thus contended that the judgment and decree of the trial Court in negating the contentions of the first defendant is illegal and unsustainable.

13. In view of the aforesaid pleadings of the plaintiff and the first defendant the question that arises for consideration is as to whether the limited interest created by the husband of the Veeraraghavamma under Ex.A2 Will enlarges into absolute ownership but not as limited owner by virtue of Section 14(1) of the Act. If the answer is in favour of Veeraraghavamma the plaintiff is not entitled to succeed in the suit, as his vendor Narasimha Rao will not be having any right, title or authority to transfer the said property in favour of the plaintiff. On the other hand the property will devolve on the first defendant pursuant to the Will executed by Veeraraghavamma.

14. The trial Court based on the oral and documentary evidence held that Ex.A2 Will is true and valid. Admittedly, insofar as Ex.A2 Will is concerned it is the case of both the parties that late Venkata Subba Rao executed the same in favour of Veeraraghavamma. The said Veeraraghavamma had limited interest to enjoy the property during her lifetime and thereafter the remainder vests with Narasimha Rao to enjoy the said property as absolute owner after the death of Veeraraghavamma. Therefore, there is no dispute insofar as Ex.A2 Will is concerned. Insofar as Ex.B1 Will and Ex.B2 Codicil are concerned the attestors and the scribe were examined and the trial Court held that the said documents are true, valid and genuine. The trial Court further held that the plaintiff failed to establish that Exs.B1 and B2 are not true and valid documents and that there are absolutely no suspicious circumstances

surrounding the execution of Exs.B1 and B2 by Veeraraghavamma.

15. Insofar as the issue as to whether the life estate of Veeraraghavamma under Ex.A2 Will became enlarged into absolute estate u/s 14(1) of the Act extinguishing the remainder interest vested in favour of the vendor of the plaintiff is concerned, the trial Court held that life estate of Veeraraghavamma under Ex.A2 Will did not become enlarged into absolute estate u/s 14(1) of the Act and the vested remainder in favour of P. Narasimha Rao did not extinguish in respect of plaintiff A schedule properties. The trial Court did not follow the decision of the Supreme Court in *Vaddeboyina Tulasamma v. Vaddeboyina Sesha Reddi* AIR 1977 SC 1944 , but followed the earlier decision of the Supreme Court in [Mst. Karmi Vs. Amru and Others](#) , and distinguished the two cases on the ground that unless a gift, Will or another limited interest is created in lieu of providing maintenance the limited interest acquired before or after the Hindu Succession Act came into force cannot be enlarged as a full owner. It is stated that there is no specific mention in Ex.A1 Will with regard to maintenance and in view of the words used in Ex.A2 she must use the property with limited right and therefore, it may have to be presumed that the entire property was given for maintenance and that the question of life estate ripening into absolute right does not arise at all.

16. A careful reading of Section 14(1) of the Act goes to show that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner thereof and not as a limited owner. As per explanation the property includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also such property held by her as stridhana immediately before the commencement of the Act. Explanation to Section 14(1) of the Act makes it clear that any property acquired by a female Hindu before the commencement of the Act shall be held by her as full owner and not as a limited owner. Therefore, any limited interest created in favour of a female Hindu either by way of Will or partition or gift or in lieu of arrears of maintenance whether by her husband or relative before or after the marriage or any property purchased with limited right, becomes absolute right of the Hindu female.

17. u/s 14(2) of the Act the property acquired by way of gift or under a Will or any other instrument or under a decree or order of a Civil Court or under an award where the terms of the gift, Will or other instrument or the decree, order or award prescribe a restricted estate in such property the restricted estate shall only apply notwithstanding anything contained in Sub-section (1) of Section 14 of the Act. Section 14(2) of the Act does not say anything with regard to the property acquired by a female Hindu but it only says that the property acquired by way of gift or under a Will or any other instrument or under a decree or order of a civil Court or under an

award where the terms and the gift, Will or other instrument or the decree, order or award prescribe a restricted estate in such property.

18. In the instant case, there is no dispute that late P. Venkata Subba Rao executed Ex.A2 Registered Will dated 24-8-1920 and as per its contents his first wife died issueless, the second wife got two sons viz., Manikyalarao and Narasimha Rao and daughter - Nagaratnamma and she also died and thereafter he married Veeraraghavamma and she was not having any issues. He was having Ac. 15.17 cents of land in Rustumbaba Village of Narsapuram Taluk, which was in the name of his second wife and after her death the said property was mutated in the name of his two sons. He was also having an insurance policy apart from having gold, silver, bronze and other movable properties. It is also stated that after his death the properties bearing Municipal No. 6/878 - a tiled house and open space shall be enjoyed by Veeraraghavamma during her lifetime and thereafter, his second son P. Narasimha Rao will have the vested remainder to enjoy the said property as full owner. His elder son Manikyala Rao shall give a sum of Rs. 65/- to his daughter - Nagaratnamma and the amount payable by the Insurance Company shall be distributed equally among his wife, two sons and his daughter. The movable properties shall also be distributed between his second son and his wife; the jewellery belonging to the respective parties shall be enjoyed by them only. He stated that the said property is his self-acquired property. A perusal of Ex.A2 Will goes to show that the life estate has been created in favour of Veeraraghavamma, as it is the duty of her husband to maintain her during her lifetime. Merely because specific words with regard to right to maintenance have not been used in Ex.A2 it cannot be said that limited estate has been created not keeping in view her right to be maintained.

19. The trial Court relied of the judgment of the Supreme Court in Karmi 's case (supra), wherein the Apex Court held that as per the Will the deceased - husband created a limited interest in favour of his wife and thereafter the vested interest in favour of others as collaterals and after her death the property was claimed by collaterals. The Apex Court held that the life estate given to her under the Will cannot become an absolute estate under the provisions of the Hindu Succession Act. However, no principle has been laid down and no reference has been made to Section 14(1) and (2) of the Act.

20. In Vaddeboyina Tulasamma's case (supra), the Apex Court while interpreting the provisions of Sections 14(1) and 14(2) of the Hindu Succession Act considered as to whether it is Sub-section (1) or (2) of Section 14 of the Act that applies where property is given to a Hindu female in lieu of maintenance under an instrument which in so many terms restricts the nature of the interest given to her in the property and held that Sub-section (1) of Section 14 is large in its amplitude and covers every kind of acquisition of property by a female Hindu including acquisition in lieu of maintenance and where such property was possessed by her at the date of

commencement of the Act or was subsequently acquired and possessed, she would become the full owner of the property. Sub-section (2) of Section 14 of the Act must be read in the context of Sub-section (1) so as to leave as large a scope for operation as possible to Sub-section (1) and so read, it must be confined to cases where property is acquired by a female Hindu for the first time as a grant without any pre-existing right, under a gift, Will, instrument, decree, order or award, the terms of which prescribe a restricted estate in the property. Sub-section (2) should be applicable only to cases where acquisition of property is made by a Hindu female for the first time without any pre-existing right - a kind of acquisition akin to one under gift or Will.

21. Admittedly, in the instant case the wife was having a pre-existing right to be maintained.

22. The Apex Court further held that Hindu women's right to maintenance is a personal obligation so far as the husband is concerned and it is his duty to maintain her even if he has no property. If the husband has property then the right of widow to maintenance becomes an equitable charge on his property and any person who succeeds to the property carries with it a legal obligation to maintain the widow. Though a widow's right to maintenance is not a right to property but it is undoubtedly, a pre-existing right in property i.e., it is a *jus ad rem* but not a *jus in rem*, and it can be enforced by the widow who can get a charge created for her maintenance on the property either by an agreement or by obtaining a decree from the civil Court. The right to maintenance is a pre-existing right. The right to maintenance flows from the social and temporal relationship between the husband and the wife by virtue of which the wife becomes a sort of co-owner in the property of her husband, though her co-ownership is of a subordinate nature. Where a Hindu widow is in possession of the property of her husband she is entitled to retain the possession in lieu of her maintenance unless the person who succeeds to the property or purchases the same makes sufficient provisions for her maintenance. The Apex Court laid down the following principles:

(1) The Hindu female's right to maintenance is not an empty formality or an illusory claim being conceded as a matter of grace and generosity, but is a tangible right against property which flows from the spiritual relationship between the husband and the wife and is recognized and enjoined by pure Shastric Hindu Law and has been strongly stressed even by the earlier Hindu jurists starting from Yajnavalkya to Manu. Such a right may not be a right to property but it is a right against property and the husband has a personal obligation to maintain his wife and if he or the family has property, the female has the legal right to be maintained therefrom. If a charge is created for the maintenance of a female, the said right becomes a legally enforceable one. At any rate, even without a charge the claim for maintenance is doubtless a pre-existing right so that any transfer declaring or recognizing such a right does not confer any new title but merely endorse or confirms the pre-existing

right.

(2) Section 14(1) of the Explanation thereto have been couched in the widest possible terms and must be liberally construed in favour of the females so as to advance the object of the 1956 Act and promote the socio-economic ends sought to be achieved by this long needed legislation.

(3) Sub-section (2) of Section 14 is in the nature of a proviso and has a field of its own without interfering with the operation of Section 14(1) materially. The proviso should not be construed in a manner so as to destroy the effect of the main provision or the protection granted by Section 14(1) or in a way so as to become totally inconsistent with the main provision.

(4) Sub-section (2) of Section 14 applies to instruments, decrees, awards, gifts etc., which create independent and new titles in favour of the females for the first time and has no application where the instrument concerned merely seeks to confirm, endorse, declare or recognize pre-existing rights. In such cases a restricted estate in favour of a female is legally permissible and Section 14(1) will not operate in this sphere. Where, however, an instrument merely declares or recognizes a pre-existing right, such as a claim to maintenance or partition or share to which the female is entitled, the sub-section has absolutely no application and the female's limited would automatically be enlarged into an absolute one by force of Section 14(1) and the restrictions placed, if any, under the document would have to be ignored. Thus where a property is allotted or transferred to a female in lieu of maintenance or a share at partition, the instrument is taken out of the ambit of Sub-section (2) and would be governed by Section 14(1) despite any restrictions placed on the powers of the transferee.

(5) The use of express terms like "property acquired by a female Hindu at a partition", "or in lieu of maintenance" "or arrears of maintenance" etc., in the Explanation to Section 14(1) clearly makes Sub-section (2) inapplicable to these categories which have been expressly excepted from the operation of Sub-section (2).

(6) The words "possessed by" used by the Legislature in Section 14(1) are of the widest possible amplitude and include the state of owning a property even though the owner is not in actual or physical possession of the same. Thus, where a widow gets a share in the property under a preliminary decree before or at the time when the 1956 Act had been passed but had not been given actual possession under a final decree, the property would be deemed to be possessed by her and by force of Section 14(1) she would get absolute interest in the property. It is equally well settled that the possession of the widow, however, must be under some vestige of a claim, right or title, because the section does not contemplate the possession of any rank trespasser without any right or title.

(7) That the words "restricted estate" used in Section 14(2) are wider than limited interest as indicated in Section 14(1) and they include not only limited interest, but also any other kind of limitation that may be placed on the transferee.

23. In view of the aforesaid principles, I am of the opinion that the life estate was created in favour of Veeraraghavamma as it was the duty of the husband to maintain her and Veeraraghavamma was having a pre-existing right and therefore, Section 14(2) of the Act is not applicable to the instant case but Section 14(1) read with explanation applies. If that be so, the limited interest in favour of Veeraraghavamma enlarges into absolute right after 1956 Act. The said judgment has been followed in subsequent judgments of Apex Court. All the judgments delivered by the Apex Court with regard to the same issue in 1971, 1977 and 1996 comprise of three learned Judges.

24. The facts in [C. Masilamani Mudaliar and Others Vs. The Idol of Sri Swaminathaswami Swaminathaswami Thirukoli and Others](#), are that the legatee having a limited interest under Ex.A3 Will dated 16-7-1950 sold the property and the said alienations were questioned holding that the legatee was not having right to alienate. The trial Court decreed the suit and the Division Bench of the High Court held that the legatee has not succeeded the restricted estate under Sub-section (2) of Section 14 and therefore, the rights of the legatee have not been blossomed into absolute estate. Against the said judgment appeal has been preferred before the Supreme Court. The Supreme Court held that explanation to Section 14(1) gives wide amplitude to the acquisition of property in the widest terms, which is merely illustrative and not exhaustive. The only condition precedent is whether Hindu female has a pre-existing right under the personal law or any other law to hold the property or the right to property. Any instrument, document or devise etc., under which the Hindu female came to possess the property movable or immovable in recognition of her pre-existing right, though such instrument, document or devise is worded with a restrictive estate possession by a Hindu female, the operation of Sub-section (1) Section 14 read with Explanation I, remove the fetters and the limited right blossoms into absolute right.

25. The aforesaid judgment was followed in the recent judgment of the Apex Court in [Sharad Subramanyan Vs. Soumi Mazumdar and Others](#), wherein a similar argument was advanced contending that there was no material to indicate that the property was given to the legatee in lieu of her right of maintenance. In the said case the Will was executed in favour of the wife and admittedly the said wife was entitled to maintenance. The view of the High Court that the limited right under the Will viz., life estate in the property blossoms into absolute right was confirmed. However, the matter arose out of an interlocutory matter and there was no adjudication in the suit as to whether the legatee was having limited interest in the property and whether that limited interest was given in lieu of her maintenance or not. Therefore, the question that the legatee was given a limited interest in lieu of

her maintenance and whether the legatee was having a pre-existing right to be maintained was not at all decided.

26. The Apex Court in *Shakuntala Devi v. Kamla and Ors.* 2005 (3) ALD 118 (SC), held that on coming into force the Hindu Succession Act by virtue of Section 14(1) a limited right got by the legatee under the Will got enlarged to an absolute right in the suit property. Thus, she became absolute owner of the property; therefore, the suit filed by the reversioner under the Will is not maintainable.

27. This Court in *Hanumayamma v. Kotilingam* 1986 (1) ALT 546, held that where the property is given under the Will to a female in lieu of pre-existing right including the right of maintenance the life estate would become an absolute estate thereby nullifying the vested remainder and to that extent there is an abrogation of the relevant provisions of the Indian Succession Act, 1925 and this is the effect of the provisions of Section 4(2) of the Hindu Succession Act, 1956. If on the date of execution of the document there was in existence a right in the female for maintenance or similar right, the bequest or gift should be deemed to have been given in lieu of that right even if the reason for the bequest is not specified in the document. In other words it is the existence of the right of a female that is relevant but not the specification or the enumeration thereof in the document that is relevant. Accordingly, this Court held that the provisions of Section 14(1) are attracted to the cases governed by the Wills and that if the property is given to the female in lieu of a pre-existing right the widow becomes an absolute owner of the property and the vested remainder is accordingly nullified and the provisions of the Indian Succession Act, 1925 will not, in such cases, apply. It was further held that that it is not necessary that the Will or other document under which property is given to a female should expressly specify that the property is given in lieu of a pre-existing right or a right of maintenance. It is sufficient if such a right was in existence in favour of the female on the date when the document is executed.

28. In view of the aforesaid authoritative judgment of Hon"ble Justice Jagannadha Rao following several judgments of the Apex Court, I am of the opinion that the reasoning given by the trial Court, that as there is no specific wording in the instrument Ex.A2 that life estate has been given in lieu of a pre-existing right or right of maintenance the same do not become enlarged into absolute estate, is not relevant and is quite contrary to the aforesaid judgment.

29. Merely because Veeraraghavamma was appointed as the guardian of P. Narasimha Rao - vendor of the plaintiff it could not be said that Veeraraghavamma had no pre-existing right or right of maintenance in respect of the property in which a limited interest had been created in her favour. As the vendor of plaintiff was also having properties other than the property in question, after the death of his natural father, Veeraraghavamma was appointed as his guardian. Immediately after the vendor of the plaintiff attained majority the guardianship was discharged and he used to manage his own movable and immovable properties individually. It cannot

be said that for the first time the life estate has been created under Ex.A2 Will in favour of Veeraraghavamma, as undoubtedly, she was having a pre-existing right to be maintained by her husband, therefore, it is the duty of her husband to maintain her during her lifetime. Though no specific words have been mentioned in Ex.A2 that in lieu of maintenance the life estate has been created, u/s 14(1) in whatever form a limited interest is created in favour of a Hindu female, who is having a preexisting right of maintenance, it becomes absolute right after 1956 Act came into force.

30. As Veeraraghavamma became absolute owner by virtue of Section 14(1) of the Act she had right to bequeath the said property in favour of the first defendant under Exs.A1 and B2. Therefore, as the vested remainder of P. Narasimha Rao got nullified, he had no right or authority to sell the said property under Ex.A1 sale deed in favour of the plaintiff. As the limited interest of Veeraraghavamma blossomed into absolute right, bequeathing the said property in favour of the first defendant under Exs.B 1 and B2 is legal and valid. In view of the aforesaid facts and circumstances of the case, I am of the opinion that the limited interest to enjoy the property during the lifetime of Veeraraghavamma blossomed into an absolute right in accordance with Section 14(1), after the Hindu Succession Act, 1956 came into force and the vested remainder created in favour of the vendor of the plaintiff is nullified.

31. For the aforesaid reasons, the judgment and decree of the trial Court is set aside and the appeal is accordingly allowed. However, it is open for the appellant/first defendant to work out his remedies for recovery of the rents from the tenants and seek appropriate action in accordance with law against the tenants. There shall be no order as to costs.