

A

K.A. PAUL AND ORS.

v.

TALUK LAND BOARD, ALATHUR AND ORS.

DECEMBER 15, 1992

B

[DR. T.K. THOMMEN, V. RAMASWAMI AND R.M. SAHAI, JJ.]

Kerala Land Reforms Act, 1963: Section 84(1A)—'His son or daughter'
—Connotation of—Whether includes donor's stepson or step daughter.

C

Section 84 of the Kerala Land Reforms Act, 1963 declared certain voluntary transfers to be null and void. However, the section was amended by Act No. 19 of 1979, inserting sub-section (1A) to provide that any voluntary transfer effected by means of a gift deed executed during the period commencing on the 1st day of January, 1970 and ending with the 5th day of November, 1974, by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or the son or daughter of his predeceased son or daughter shall be not deemed to be, or ever to have been, invalid.

D

E

In the appeal to this Court on the question : Whether a deed of gift executed after 1.1.1970 by a person in favour of two sons of her husband by his first wife is attracted by the validating provision contained in sub-section (1A) of Section 84 of the Kerala Land Reforms Act, 1963.

Allowing the appeal, and setting aside the judgment of the High Court, the Court

F

HELD: 1. There is no reason why sub-section (1A) which was inserted with a view to validating certain gifts, which would have been otherwise invalid, should be read so narrowly as to exclude a *bona fide* gift made by a stepmother in favour of the children born to her husband by his former wife. A stepson is as much a member of the family as a son is.

G

Any construction to the contrary would be inconsistent with the legislative intent manifested in sub-section (1A) of section 84. [558-C, D]

2. Appellants 1 and 2 being the stepsons of the third appellant were entitled to the benefit of the provisions of sub-section (1A) of Section 84.

H

[558-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3209 of 1984. A

From the Judgment and Order dated 24.11.81 of the Kerala High Court in C.R.P. No. 1960 of 1980-a.

G.Vishwanatha Iyer, S. Bala Krishnan, G. Srinivasan and S. Prasad for the Appellants. B

M.T. George for the Respondents.

The Judgment of the Court was delivered by

DR. THOMMEN, J. The short question which arises for consideration in this appeal is whether a deed of gift executed after 1.1.1970 by a person in favour of two sons of her husband by his first wife is attracted by the validating provision contained in sub-section (1A) of Section 84 of the Kerala Land Reforms Act, 1963 (Act 1 of 1964). The facts are not in dispute. The only point for decision is whether the expression 'son or daughter' includes a stepson or a stepdaughter. D

Appellants 1 and 2 are the donees and appellant 3, who is their stepmother, is the donor. The deed was executed between 1.1.1970 and 5.11.1974, which is the crucial period to attract the validating provision contained in sub-section (1A). E

Section 84 declares certain voluntary transfers to be null and void. However, the Section was amended by Act 19 of 1979 inserting sub-section (1A) which, insofar as it is material, reads:- F

"S. 84(1A) Notwithstanding anything contained in sub-section (1), or in any judgment, decree or order of any court or other authority, any voluntary transfer effected by means of a gift deed executed during the period commencing on the 1st day of January, 1970 and ending with the 5th day of November, 1974, by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or the son or daughter of his predeceased son or daughter shall be not deemed to be, or ever to have been, invalid-

....."

H

A Does the expression 'son or daughter' include a stepson or a step-daughter? The learned Judge held:-

".....What is validated by Sec. 84(1A) of the Act is only a gift 'by a person owning or holding land in excess of ceiling area in favour of *his* son or daughter or the son or daughter of *his* pre-deceased son or daughter. The stress is on the word '*his*' which qualifies the expressions son or daughter. Unless the donee is the son or daughter of the donor, the gift will not attract the operation of Sec. 84(1A) of the Act.....".

B

C We see no reason why sub-section (1A) which was inserted with a view to validating certain gifts, which would have been otherwise invalid, should be read so narrowly as to exclude a *bona fide* gift made by a stepmother in favour of the children born to her husband by his former wife. A stepson is as much a member of the family as a son is. Any

D construction to the contrary would be inconsistent with the legislative intent manifested in sub-section (1A) of Section 84.

E Accordingly we hold that, on the present facts, appellants 1 and 2 being the stepsons of the third appellant were entitled to the benefit of the provisions of sub-section (1A) of Section 84. The judgment of the High Court to the contrary is accordingly set aside and the Land Board is directed to pass appropriate orders in the light of what is stated above in regard to the afore-mentioned claim of the appellants. The appeal is allowed in the above terms. However, we make no order as to costs.

J.B.

Appeal allowed.