

(2017) 12 DEL CK 0007

In the Delhi High Court

Case No : 11365 of 2010 In CS (OS) No 870 of 1986

Maharaja Jagat Singh

APPELLANT

Vs

Lt. Col. Sawai Bhawani Singh

RESPONDENT

Date of Decision : 05-12-2017

Acts Referred:

Companies Act, 1956, Section 10F - Appeals against the orders of the Company Law Board.
Hindu Succession Act, 1956, Section 14, Section 15 - Property

Citation : (2017) 12 DEL CK 0007

Hon'ble Judges : S. Ravindra Bhat

Bench : SINGLE BENCH

Advocate : Arun Kathpalia, Meera Mathur, Divya Harchandani, D.D. Singh, Manish Kumar, Yudhister Singh, Shyam Moorjani

Final Decision : Allowed

Judgement

1. The present judgment will dispose of a petition, which seeks review and recall of the order dated 19.10.2010 made by this Court, disposing of applications (I.A. Nos.13190/2009 and 13191/2009) to substitute the legal representatives of the deceased Gayatri Devi (who had been arrayed as second plaintiff in the suit, as originally presented before this Court). The review petitioners, her grandchildren, argue that they, to the exclusion of all other parties, are entitled to step into the shoes of the deceased Gayatri Devi and seek recall of the order which had in effect impleaded the legal representatives of the original defendants as well. 2. Late Jagat Singh (originally the only plaintiff, who died pendente lite and who was the father of the present applicant/review petitioners, i.e Devraj and Ms. Lalitya Kumari-hereafter collectively called "DL") had instituted the suit. The first defendant arrayed in the suit was late Lt. Col. Sawai Bhawani Singh. The plaintiff - Jagat Singh; the first defendant - Lt. Col. Bhawani Singh and the two other defendants (Jai Singh and Prithvi Raj Singh) were all brothers and sons of late Maharaj Sawai Man Singh, the former ruler of Jaipur. Sawai Man Singh died on

24.06.1970 leaving behind him his two widows, four sons, one daughter and grandchildren. It may be added that late Lt. Col. Bhawani Singh was Sawai Man Singh's son through his first wife, Marudhar Kunwar; Jai Singh and Prithvi Raj Singh were the sons through his second wife, Kishore Kumari and the plaintiff Jagat Singh, the son through late Gayatri Devi (who was added as second defendant, originally in the suit). 3. Jagat Singh filed the above suit for partition against his brothers arraying them as defendants and others in respect of plaint schedule properties. He also claimed a decree of accounts from Lt. Col. Bhawani Singh in respect of various properties, and further sought the cancellation of power of attorney dated 29.08.1985 executed by Lt. Col. Bhawani Singh in favour of his wife (arrayed as eighth defendant). The suit was filed on 24.05.1986. 4. The suit alleged that the scheduled properties originally belonged to the plaintiff's grandfather, Maharaj Madho Singh, who adopted Sawai Man Singh in 1921. After 1947, when India became independent, British paramountcy lapsed and Sawai Man Singh's rule ended. The State of Jaipur acceded to India by an instrument of accession and, subsequently, merged with the United State of Rajasthan on 30.03.1947; it also refers to a covenant executed by the Maharaj with the Government of India on 06.02.1949. The suit also states that the late Maharaj Sawai Man Singh, prior to accession, enjoyed properties as absolute owner. However, on merger, the properties of the Jaipur estate were divided into two categories: one, State properties and two, private properties. After merger, Maharaj Sawai Man Singh held private properties as HUF properties along with his two wives, four sons, a daughter and two grand children. On his demise, on 24.06.1970, Lt. Col. Bhawani Singh became the karta. The properties were assessed under the Income Tax and Wealth Tax statutes in the status of HUF properties for all intents and purposes. Even after the death of Maharaj Sawai Man Singh, Lt. Col. Bhawani Singh was in possession on behalf of the HUF and was showing the said properties to the Income Tax and Wealth Tax authorities as HUF properties. Lt. Col. Bhawani Singh also executed a power of attorney dated 29.08.1985 in favour of the eighth defendant, his wife. The suit alleged that Lt. Col. Bhawani Singh was mismanaging the properties, unauthorizedly entering into agreements of sale and not accounting for the income. 5. During the pendency of the suit, Lt. Col Bhawani Singh died; Jagat Singh, the plaintiff, too, died on 05.02.1997. His death was followed by substitution of legal heirs (the review petitioners). The intervening events do not have much relevance to the present controversy. The suit proceeded; various applications, such as for appointment of receiver, for other orders etc. were filed. Orders made in those applications became the subject matter of appellate proceedings. The net result, however, is that the suit has languished and not seen significant progress. 6. On 29.07.2009, the second defendant Gayatri Devi passed away. An application, I.A. No13191/2009 was filed by one of the sons of Sawai Man Singh - Prithvi Raj, claiming that he along with late Lt. Col. Bhawani Singh and Jai Singh were her legal heirs and that the right to sue survived against all other parties to the suit. The present review petitioners (i.e. DL) had filed I.A. No. 13190/2009, stating that they were the exclusive heirs of Gayatri Devi. They relied upon a Will of

10.05.2009 executed by the late Gayatri Devi and besides submitted that in any event, they were the children of the plaintiff who was the son of Gayatri Devi and were entitled in that capacity also to succeed to the estate and share of Gayatri Devi. DL resisted IA 13191/2009. 7. The two applications were disposed of by common order as it were on 19.08.2010. The order reads as follows: "I.A.Nos. 13190/2009 and 13191/2009 The applicants in I.A. Nos. 13190/2009 and 13191/2009 seek to be substituted and impleaded in respect of original plaintiff who died on 29.07.2009. The applications are opposed by the Defendant Nos. 1 and 6, contending that the same are not maintainable since the rule of primogeniture bars the applicants from succeeding. It is to be noticed that defence of applicability of the rule of primogeniture has been urged in the suit itself with the contention that action is barred. If the Court were to rule upon that at this interlocutory stage, the suit claim may be rendered infructuous. Obviously, adjudication of such issue at this stage would be not only imprudent but also inappropriate. It is not the defendants' case that but for the applicability of such rule, the claim has abated. In the circumstances, the Court is of the opinion that the applicants have to be impleaded as heirs of Smt. Gayatri Devi subject to just exceptions. All rights and contention of the parties are reserved. I.A. Nos. 13190/2009 and 13191/2009 are allowed in the above terms. CS(OS) 870/1986 The amended Memo of Parties is hereby taken on record. Learned counsel for the Receiver submits that copies of the compilation of the pending relevant applications with pleadings and relevant orders prepared for the convenience of the Court and to assist the other counsel shall be circulated to all counsel within two weeks. List on 16.09.2010, for further proceedings/hearing."

8. In these review proceedings, it is highlighted that upon the demise of Gayatri Devi, the review petitioners, to the exclusion of all others were entitled to succeed to her share as they were the children of late Jagat Singh, her predeceased son and were the only Class-I legal heirs under the Hindu Succession Act, 1956. Besides, it is stated that Gayatri Devi's estate devolved upon them, bequeathed by Will dated 10.05.2009. It is urged that the other application, i.e. I.A. No.13191/2009, could not have been allowed as the interest of those applicants (Prithvi Raj Singh and Jai Singh) were contrary to those of the plaintiff - late Jagat Singh. It is urged that besides, those applicants were the children of late Sawai Man Singh through another wife and could not be treated as Gayatri Devi's heirs. In this regard, besides relying upon Section 15 of the Hindu Succession Act, the review petitioners, i.e. DL rely upon the judgment of the Supreme Court quoted as Lachman Singh v. Kirpa Singh & Others 1987 (2) SCC 547. It is also urged besides that the only objection raised to the application by the review petitioners, i.e. DL was the rule of primogeniture, i.e. the rule of first born taking all the property, by late Lt. Col. Bhawani Singh. It was argued on behalf of the review petitioners that the fact that the applicants in I.A. No.13191/2009 were stepsons of Gayatri Devi, was overlooked. 9. The first defendant, Lt. Col. Bhawani Singh died during the pendency of the review petition; his LRs/heirs were brought on the record by an order of the Court, on 30.05.2012. On behalf of Lt. Col. Bhawani Singh, it is contended that he was the

sole heir of late Sawai Man Singh on account of the principle of primogeniture and that the question of conceding to anyone succeeding to the estate of Gayatri Devi would have to be decided only in the event the primary question, i.e. whether Lt. Col. Bhawani Singh was entitled to the estate of his father exclusively is decided. However, on the issue as to whether the applicants in I.A. No.13191/2009, can claim to represent the estate and interest of Gayatri Devi, no arguments were made on behalf of Lt. Col. Bhawani Singh. 10. As far as the applicants in I.A. No.13191/2009, i.e. Prithvi Raj Singh and Jai Singh are concerned, several objections to the grant of review were been made. It is urged firstly that the Will of late Gayatri Devi has been challenged. The basis of this challenge is a Will of late Jagat Singh dated 23.06.1996 whereby he bequeathed his entire estate to his mother, Gayatri Devi and entirely disinherited his children - the review petitioners/DL. Learned counsel relied upon the portions of the Will to say that the review petitioners could not claim to be heirs of Gayatri Devi in these circumstances. It is also urged that Gayatri Devi had filed an application claiming probate and letter of administration with respect to the said Will - Misc. Case 327/2006. During the pendency of that proceeding a settlement between her and the review petitioners, i.e. DL took place on 14.11.2006. It is submitted that notwithstanding that settlement, this settlement was arrived at contrary to the previous restraint order by the Rajasthan High Court on 20.08.2008. Learned counsel emphasized that the probate once filed cannot be disposed of on the basis of settlement and that consequently review petitioners cannot claim to represent the estate of Gayatri Devi because of the earlier disinheritance by their father. Learned counsel also relied upon *Raghubir Singh v. Budh Singh* AIR 1978 Del 86, to say that the intention of the late Jagat Singh was to exclude his writ petitioners from representing his estate. This intention in turn manifested as a bar in the hands of Gayatri Devi and acted as a restraint upon Gayatri Devi who could not bequeath or transfer that property to the review petitioners/DL. It is submitted that besides probate, a succession certificate was sought for in a case filed in 1998 and was granted on 19.02.2009. Prithvi Raj and Jai Singh, it is stated had filed a suit. It is stated that Prithvi Raj and Urvashi had filed a suit seeking cancellation of succession certificate [Suit 496/2010], pending before the District Judge, Jaipur. 11. It is lastly urged that Jagat Singh had been given away in adoption in 1952 to Bahadur Singh of Isarda, the elder brother of Sawai Man Singh, which was admitted by Gayatri Devi in her memoirs. In these circumstances, submits learned counsel the question of excluding Prithvi Raj and Jai Singh from the estate of Gayatri Devi would not arise. 12. It is apparent from the above discussion that when the suit was originally filed, the contest was between three branches of the family, i.e. the children of the three wives of late Sawai Man Singh. It appears that Lt. Col. Bhawani Singh, on the one hand claimed as exclusive heir, being the first born, premising his argument on the rule of primogeniture; Gayatri Devi was impleaded as second defendant; she was the mother of the plaintiff Jagat Singh. The sons of Sawai Man Singh through his second wife - Kishore Kumari, represented the third branch. Upon Jai Singh's death, the impleadment of his legal representatives took place on 16.09.1998.

This included the review petitioners/DL; that order has not been reversed. In these circumstances, the question is whether this Court's acceptance of both applications, i.e. I.A. 13190/2009 (filed by the DL, the children of Jagat Singh) on the one hand and I.A. No.13191/2009, the application for substitution of Jagat Singh, claiming that his step brothers were his legal heirs could be granted. DL's objections are premised upon three broad grounds. Firstly, it urged that the claims of Prithvi Raj and Jai Singh are contrary to that of the late Jagat Singh. Consequently, it is urged that as step sons, they could not represent late Gayatri Devi as they were not her heirs and thirdly, that DL were the only surviving heirs of Gayatri Devi. 13. The review petitioners' submissions are countered by Prithvi Raj and Jai Singh who primarily rely upon the Will of late Jagat Singh, allegedly excluding them from succession to his properties. It is submitted that though the review petitioners might, in the normal circumstances have been the heirs of Gayatri Devi as children of the predeceased son, nevertheless, they have to be excluded as her successors because they were disinherited by their father. It is urged that the compromise arrived at between late Gayatri Devi and DL is of no consequence and that the probate proceedings had to culminate either in the grant of probate or its refusal. 14. The decision of a learned single judge of this court, in an appeal under Section 10F of the Companies Act, 1956, (which arose in the context of succession to the shares of late Jagat Singh, in a company which owns a hotel in Jaipur) considers the issue of his Will allegedly disinheriting his children (DL); in the course of the judgment *Raj Kumar Devraj & Anr v. Jaimahal Hotels Pvt Ltd & Ors* 2012 Del SCC Online 6193 held as follows: "I have considered the settlement dated 14.11.2008 between the parties and also the application. In the settlement 1st party is Rajmata Gayatri Devi and 2nd party are Maharaj Devraj and Rajkumari Lalitya. It has been settled between the parties that they are ready to divide the estate of late Maharaj Jagat Singh amongst themselves equally in 1/3rd share each and Rajmata Gayatri does not claim any relief/claim/probate of the disputed Will dated 23.06.1996. Keeping in view the settlement arrived between the parties it is ordered that on filing of by all three applicants in accordance to the rule judicial fee to extent of their 1/3-1/3 share in the estate mentioned in the petition succession certificate be issued in their favour to extent of 1/3-1/3 share each.." 16 This order was passed in the probate petition and the succession case in terms of the aforementioned settlement recorded between the parties in terms of which 1/3rd of the estate of Jagat Singh would devolve on each of the three parties i.e. Gayatri Devi, Devraj and Lalitya Kumari. The Court recorded the statement of Gayatri Devi to the effect that she does not claim any relief/claim/probate of the disputed Will of Jagat Singh dated 23.06.1996. On the same day i.e. on 19.02.2009 orders were passed both in the succession case as also in the probate petition; both of which were disposed on 19.02.2009. On the same day two succession certificates were issued in the name of the aforementioned three applicants. These certificates dated 08.05.2009 were in the joint names of Maharani Gayatri Devi, Dev Raj and Lalitya Kumari. 17 In terms of this settlement of 19.02.2009, Gayatri Devi on 27.04.2009 had further bequeathed

her 1/3rd shareholding in favour of her two grand-children Devraj and Lalitya Kumari and duly signed transfer deeds were executed by her; communication to this effect had been sent by Gayatri Devi to the Board of Directors of the companies. The intention of Gayatri Devi to settle all disputes with her grand children Devraj and Lalitya Kumari is further substantiated by her Will dated 10.05.2009 wherein she had bequeathed all her properties moveable and immoveable in favour of her two grand children Devraj and Lalitya Kumari. This Will is the subject matter of challenge by the respondent group (Jai Singh, Prithvi Raj and Urvashi Devi). Their locus standi to challenge this Will is questionable. Relevant would it be to state that in the application seeking impleadment (in W.P. (C) No. 7524/2008), the claim of the aforementioned respondents was only their prayer to be declared as the legal representatives of Gayatri Devi; it was never their case that they were the legal heirs of Gayatri Devi; their locus standi to challenge this proceeding would thus be excluded. That apart under Section 14 of the Hindu Succession Act, 1956, a female hindu inherits a full blown estate; it is not a life estate; Gayatri Devi had inherited the estate of Jagat Singh in terms of his Will dated 23.06.1996; she was fully competent to dispose it off in the manner that she chose. 18 Further submission that the settlement arrived at between Maharani Gayatri Devi and her grandchildren on 19.02.2009 was against the intent of the testator as he intended to disinherit his children is a mis-directed submission. The intent of Jagat Singh (original holder of the disputed shares) was clear and unequivocal; this has to be gathered from his desire which he had expressed in his Will dated 23.06.1996 which was in the form of a letter addressed to his mother. Intent of the testator has to be gathered from a wholesome reading of the document and the circumstances of the case. The concern of the testator was that his estranged wife Priya should not grab his property and should not be able to use their children Devraj and Lalitya Kumari as intermediaries to get hold of his property. At the time of execution of this Will, Devraj and Lalitya Kumari were only 17 years and 15 years of age respectively. Both of them were minors were under the influence of their mother which had been noted by the testator. This Will in fact reflects the anguished state of mind of the testator; he was not well and had an urgent need to address the reckonings which were going on in his mind; his desire being that his estranged wife (of more than 20 years) should not be in a position to grab his property through the device of his children. This intent was manifested in an in-direct way; his estranged wife not being permitted to obtain these properties through the medium of their children; it was this which had weighed in the mind of the testator at the time when he recorded his second paragraph in the letter; which had disinherited his children; intent gathered being to debar his wife from his inheritance; his grievance being directed against his wife Priya. 19 On 01.05.2010, a suit (bearing No. 496/2010/32/2010) for declaration was filed by the opposite group i.e. Prithvi Raj and Urvashi Devi challenging the order dated 19.02.2009 (by virtue of which the compromise/settlement had been arrived at between the Gayatri Devi and her two grand-children Devraj and Lalitya Kumari and succession certificates had been issued). This was a suit for partition,

declaration and permanent injunction. In the plaint after paragraph 2 up to paragraph 9 pages are missing for reasons best known to the respondent group (who had filed this plaint in their defence). Para 12 avers that Jagat Singh inspite of his adoption continued to have cordial relations with his birth giving mother Gayatri Devi whom he always address as "mammi"; Jagat Singh accordingly willed his properties both moveable and immoveable in favour of Gayatri Devi. Thereafter in the entire body of the plaint, there is no mention of the alleged adoption. In this case for the first time Jai Singh has set up a defence that Jagat Singh was adopted by Maharaj Bahadurji on. 02.12.1957 and as such his children (Dev Raj and Lalitya Kumari) are not entitled to inherit his estate as they are no longer in the line of dependency from Gayatri Devi. Relevant would it be to state that this was a defence set up by Jai Singh alone for the first time in the written statement filed by him in 2011; it was never the case of any person before this period that Jagat Singh had been adopted. This defence, whatever may be its probative value in the suit would have no bearing in this appeal. The interim application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure seeking a staying of the implementation of the order dated 19.02.2009.was pressed. This application was disposed of on 28.07.2011. The Court had refused to grant any interim injunction in favour of the plaintiffs/Prithvi Raj and Urvashi Devi; the Court had noted that pursuant to the Will of Jagat Singh (dated 23.06.1996), Gayatri Devi was the sole beneficiary; the plaintiffs/Prithvi Raj and Urvashi Devi were not the affected parties; they were not parties in the proceedings in the probate petition; they not being the unsuccessful parties, there was no provision available to them for challenging the order of the grant of a succession certificate; prima- facie relief sought against the order dated 19.02.2009 was thus declined. Their locus to challenge a settlement (amongst Maharani Gayatri Devi and her two grandchildren) to which they were even remotely not connected was rightly dis-allowed. 20 The next argument of the respondent is pitched on the order dated 20.08.2008 passed in W.P.(C) NO. 7254/2008. This order was passed at the asking of the petitioner (Gayatri Devi). It was an ex-parte order directing further proceedings in Succession Case No. 134/1998 pending in the Court of District Judge, Jaipur City, Jaipur to remain stayed till further orders. This writ petition was finally disposed of on 18.01.2011.At that time, Gayatri Devi was also no longer alive. The application filed by Jai Singh, Prithvi Raj and Urvashi Devi seeking impleadment and to be treated as the legal representatives of Gayatri Devi had been considered. While disposing of this writ petition, the Court had noted that in this application Jai Singh, Prithvi Raj and Urvashi Devi had not claimed themselves as legal heirs of Gayatri Devi but had only made a prayer to be taken on record as legal representatives. There being a clear distinction between a legal heir and a legal representative; a legal heir is a person who is entitled to the estate of the deceased whereas a legal representative is a representative only for the purpose of representation in legal proceedings. 21 This writ petition had accordingly been disposed of noting that it had become infructuous in view of the fact that two suits i.e. Succession Case No. 134/1998 and Letter of Administration No.

327/2006 which were pending in the trial Court (of which consolidation had been sought in this writ proceeding) already stood disposed of on 19.02.2009. 22 The submission of the learned counsel for the respondent that since an ex-parte order had been passed on 20.08.2008 prohibiting the court below to proceed further in Succession Case No. 134/1998 and as such the order passed on 19.02.2009 in the said proceedings is a nullity and void is a mis-judged submission. It was at the behest of the writ petitioner (Gayatri Devi herself) that the ex-parte order had been obtained by her in her own favour on 20.08.2008; she was the sole beneficiary of the said order. This ex-parte order was even otherwise not adversarial to any other person except the respondents i.e. Devraj and Lalitya Kumari. It was not as if any other person was affected by this order. The parties to the proceedings in W.P.(C) NO. 7524/2008 were Dev Raj and Lalitya Kumar alone; as also in the proceedings before the succession Court and the probate court where the settlement on 19.02.2009 was recorded. The respondents were not in any manner connected with any of these aforementioned proceedings. 23 In this factual scenario, the submission of the learned counsel for the respondents that the settlement dated 19.02.2009 is non-est and a nullity on this count is too far-fetched. At best it can be an irregularity which will not take away the jurisdiction of the Court which had passed this order. In facts in Mool Raj (Supra) the Supreme Court while dealing with a situation when an appellate Court has passed an order staying execution proceedings/transfer proceedings in the court below, had noted that the jurisdiction of the Court would not be ousted; it would always remain; the prohibitory order of the higher Court would only suspend the proceedings in the court below. The Court had considered the impact of action taken subsequent to the passing of an interim order in its dis-obedience; such a dis-obedience which was adverse to the applying party based on the principle that those who defy a prohibition ought not to be able to claim the fruits of their defiance; the party cannot be allowed to take an unfair advantage. That apart the judgment of Mool Raj and in fact all other judgments relied upon by the learned counsel for the respondents in this context relate to proceedings where the appellate court had stayed the proceedings and there was one party whose interest was prejudiced by the continuation of the proceedings in the Court below. In Manoharlal the appellant had not come to the court with clean hands and not disclosed to the Court that he had been allotted land in a commercial area by the GDA and the question that was answered was that the act of the statutory authority in contravention of the interim order of the Court could not be sustained. In Motiram, the trial Court had issued summons for a commission when it had knowledge of the stay order passed by the higher Court. The aggrieved party had approached the Court in revision. In all these cases, there was an aggrieved party who had brought this to the notice of the superior Court. In this case, there is no aggrieved party. It is but obvious that in these kinds of litigation one or the other party is prejudiced and it was in this context that the said ratio had been returned that in such an eventuality, a trial Court having knowledge of the stay order passed by the higher court when proceeded to pass an order would qualify as a non-est order.

The judgment of Kiran Singh had raised a question on the construction of Section 11 of the Suits Valuation Act; the question posed before the Apex Court being that a decree passed by an Appellate Court which had the jurisdiction to entertain it, only by reason of under valuation could be set aside on the ground that on a true valuation, the Court was not competent to entertain the appeal. Question of prejudice was gone into; no prejudice having been caused to the appellant, the appeal had been dismissed. Findings returned are inapplicable in the present scenario." 15. The above findings and conclusions were carried in appeal by special leave to the Supreme Court. The court, by its judgment reported as Jaimahal Hotels Pvt Ltd & Ors v. Raj Kumar Devraj & Anr 2016 (1) SCC 423, affirmed the decision of this court. The Supreme Court pertinently held as follows: "14. We have given due consideration to the rival submissions. The main question for consideration is whether there is any real dispute between the parties about the entitlement of DR Group to have the shares transferred in their favour and whether the exercise of jurisdiction by the High Court is beyond the scope of Section 111 of the Companies Act. 15. We are of the opinion that there is no real dispute between the parties as held by the High Court. DR Group has furnished the succession certificate as well as the transfer deed executed by GD in their favour. The same had to be acted upon. Moreover, the civil court in interim application moved by the UD Group held that the UD Group had no prima facie case. The said order was required to be acted upon subject to any further order that may be passed in any pending proceedings between the parties. There is no conflicting order of any court or authority. There is thus, no complicated question of title. Moreover, there is no bar to adjudication for purposes of transfer of shares unless the court finds otherwise. The stay order obtained by GD herself could not debar her from making a statement to settle the matter. The judgments relied upon by the appellants have no application to such a fact situation. ***** 21. The decisions in Mulraj, Manohar Lal, Ajudh Raj and Chiranjilal Shrilal Goenka (supra) are of no relevance to a situation where the beneficiary of the interim order itself opts to proceed with the matter in respect of which stay is granted by higher Court. In the present case, GD having settled the matter and having herself sought rectification, the interim order granted at her instance could be no bar against the DR Group. The decisions sought are thus, of no relevance to such a situation. 22. We sum up our conclusions as follows : (i) LMJS executed will in favour of his mother - GD which is not in dispute; (ii) GD and DR jointly obtained succession certificate; (iii) GD signed the transfer deeds and communicated the same to the Board of Directors; and (iv) The civil court vide order dated 28th July, 1991 declined to grant temporary injunction finding no prima facie case against the succession certificate. 23. In above circumstances, even in summary jurisdiction, the CLB had no justification to reject the claim of the DR Group. The High Court rightly reversed the said order. 24. In view of the above, we find no merit in these appeals. The same are dismissed with costs quantified at Rs. 5 lakhs in each of the appeals." 16. It is quite clear, therefore, that the objections to the present review petitioners' claim to succession to certain properties, since they

were succession certificate holders jointly with Gayatri Devi, were rejected almost conclusively. The Supreme Court's judgment means that the said issue has attained finality. Therefore, the question of invalidity of the will executed by Gayatri Devi, as the heir to her son Jagat Singh, does not arise. Furthermore, the observations of this court in its judgment (that the contents of Jagat Singh's Will, cannot be interpreted so as to exclude his children (DL) from succession to his estate), were affirmed by the Supreme Court. That issue, too, attained finality as far as the present parties are concerned. That the review petitioners Devraj and Lalitya Kumari are the grandchildren of late Gayatri Devi, and the children of her predeceased son, Jagat Singh, is not in dispute. Therefore, irrespective of the will by Jagat Singh, their rights as the intestate heirs of Gayatri Devi is also undeniable. 17. This Court is also of the opinion that the judgment in Lachman Singh (supra) is decisive on the question that step-children cannot be equated to children. Whether the term "son" in Section 15(1)(a) includes "step-son" was dealt with elaborately, in that regard. It was argued that under the Act, a son of a female by her first marriage will not succeed to the estate of her "second husband" on his dying intestate. The case draws a clear distinction between a child "from the womb" and a stepson. Under un-codified Hindu law as it existed prior to coming into force of the Act, a stepson, i.e. a son of the husband of a woman by another wife did not automatically succeed to the stridhana of the woman on her dying intestate. The son born out of her womb (natural born child) had clear precedence over a stepson. It was, therefore, held that Parliament would have made express provision in the Act if it intended that there should be such a radical departure from the past. A stepson can stake a claim only under the category of "heirs of the husband" referred to in clause (b) of Section 15(1). Therefore, the question of other individuals, claiming to succeed to Gayatri Devi's Will, cannot arise. 18. For the foregoing reasons, it is held that the review petition has to succeed. It is allowed. The order dated 19.10.2010, is therefore, set-aside. The present applicants - Devraj and Lalitya Kumari are to be treated as legal representatives of late Gayatri Devi.