

Prasanna inherit is
invalid. the privy
council



**ASSIGN
BUSTER**

Prasanna Kumar was the owner of a huge property. He disposed of the ancestral as well as his self-acquired property through a will and made a provision for maintenance of his only son Ganendra Mohan Tagore in it.

The son was not to get anything except the amount of maintenance.

Prasanna Kumar vested the entire property in trustees and executed the will to this effect in the following terms:— (1) Yatindra Mohan to keep the property for lifetime under the will; (2) The eldest son of Yatindra Mohan born during the lifetime of the testator to get it and keep the same with him till he is alive; (3) The other sons of Yatindra to get it and keep the same with them till their life; (4) In case the above becomes infructuous, Surendra was to get the estate for his life. At the time of the death of the testator, there was no son to Yatindra and Surendra was alive.

The only son of the testator, Ganendra Mohan challenged the validity of the will on the following grounds: (1) The will with respect to ancestral property was invalid. (2) The will with regard to life estate is invalid. (3) Will in favour of unborn sons of Yatindra and thereafter in favour of any other person is invalid as they were not in existence. (4) To deprive the plaintiff of the right to inherit is invalid. The Privy Council after considering the above points laid down the following propositions:— (1) Under the Dayabhag law, a person has the power to dispose of the ancestral property in the same manner as he could do it with respect to his self-acquired property.

(2) Any Hindu male can give away his property to another person for his lifetime. (3) The system of transferring the life interest successively is not in consonance with Hindu law and hence infructuous in Dayabhag law. (4)

According to Hindu law the person in whose favour the gift is made or a will is executed must be in existence. In other words, the persons who are not in existence could not be a donee or beneficiary of a will. (5) To create life interests in favour of Surendra and the sons of Yatindra in the property which happened to unlawful is invalid.

(2) No condition in the Will should be prejudicial to the mentioned object of the will.

If by a will uncontrolled rights have been given to a person, i.

e., he has been given the absolute ownership over the property bequeathed, then any condition which imposes any restraint upon this right will be of no value e. g., restriction upon alienation or upon its use. Once an absolute ownership has come into existence no condition will have any meaning which are against it.

(3) Conditional transfer of property by will:

A conditional transfer of property can be made by a will. If any uncertain event happens or if a specified event does not happen then the property shall vest in some other person.

(4) Immoral and illegal conditions:

If any immoral or illegal condition has been imposed under a will then those conditions are void and the will still continues to be valid.