

A KARTA HAS A RIGHT TO ALIENATE JOINT HINDU FAMILY PROPERTY FOR LEGAL NECESSITY AND IS BINDING ON OTHER COPARCENERS

INTRODUCTION:

The Apex Court in a recent decision in **Beereddy Dasaratharami Reddy Vs V. Manjunath and Another¹** observed that the right of a karta to execute an agreement to sell or sale deed of a joint hindu family property is settled and is beyond cavil.

FACTS:

On 8th December, 2006, K. Veluswamy ("Respondent No. 2") as a Karta of a joint hindu family, executed an agreement to sell certain agricultural lands ("the Suit Property") collectively for Rs. 29 lakhs ("said Agreement") and had received Rs. 4 lakhs as advances from one Beereddy Dasaratharami Reddy ("the Appellant").

On 26th November, 2007, the Appellant instituted a suit for specific performance of the said Agreement by impleading both, V. Manjunath, son of Respondent No. 2, ("Respondent No. 1") and the Respondent No. 2 (collectively referred to as "the Respondents").

On 22nd January, 2013, the Court of Senior Civil Judge, Hiriyur, decreed the suit by rejecting the defense that the said Agreement was camouflaged as a loan agreement, and that the Respondent No. 2 was in need of money for construction of a farm house. The Respondent No. 2 as a Karta of the joint hindu family property was entitled to execute an agreement to sell on account of legal necessity and that the said Agreement was valid.

The Respondent No. 1, preferred an appeal against the order dated 22nd January, 2013, before the High Court of Karnataka at Bengaluru.

Vide judgment dated 6th March, 2021, ("impugned judgment") it was observed that while the Respondent No. 2 did execute the said Agreement for sale of the Suit Property for Rs. 29 lakhs and had received Rs. 4 lakhs as advances, it was held that the said Agreement was unenforceable as the Suit Property belonged to the joint hindu family consisting of three persons, the Respondent No. 2, his wife V. Manimegala and the Respondent No. 1, and therefore, the said Agreement could not have been executed without the signature of the Respondent No. 1.

Being aggrieved by the impugned order, the Appellant approached the Apex Court.

ISSUES FOR CONSIDERATION:

The main issue for consideration *inter alia* before the Hon'ble Court was:

Whether a Karta has legal authority to execute an agreement to sell joint hindu family property?

¹ Civil Appeal No. 7037 of 2021

JUDGMENT:

The Apex Court observed that the said Agreement was an admitted document and was signed and executed by the Respondent No. 2 and his wife V. Manimegala. The receipt of Rs. 4 lakhs as advances, by the Respondent No. 2 was also not in dispute. The balance amount of Rs. 25 lakhs was to be paid within three months and the sale deed was to be executed and registered.

The Apex Court further observed that the said Agreement recorded that the Suit Property was a joint hindu family property and was enjoyed jointly. Further, that it was significant and important to note the avowal by the executants to the said Agreement that they were in need of funds to meet domestic necessities and, consequently, had agreed to sell the Suit Property.

The Apex Court observed that, although the said Agreement was also to be executed by the Respondent No. 1, and that it was in fact not signed or executed by the Respondent No. 1, this, would not nullify the rights and liabilities arising from the agreement to sell. It was further observed that the right of the Karta to execute the said Agreement or sale deed of a joint hindu family property is settled and is beyond cavil.

The Apex Court relied upon several judgments, one of them being ***Sri Narayan Bal and Others v. Sridhar Sutar and Others Others***², wherein it was held that a joint hindu family was capable of

acting through its Karta or an adult member of the family in management of the joint hindu family property. A coparcener who had a right to claim a share in the joint hindu family estate could not seek an injunction against the Karta, restraining him from dealing with or entering into a transaction for sale of the joint hindu family property, *albeit* post alienation had a right to challenge the alienation if the same was not for legal necessity or for betterment of the estate.

Sri Narayan Bal (*supra*) goes on to state that where a Karta alienated a joint hindu family property for value either for legal necessity or benefit of the estate it would bind the interest of all undivided members of the family even when they were minors or widows.

The Apex Court *inter alia* held that the signatures of the Respondent No. 1, were not required in the said Agreement.

The Apex Court further held that the Respondent No. 2, being the Karta was entitled to execute the said Agreement and alienate the Suit Property. The absence of signatures of the Respondent No. 1 would not have mattered and was inconsequential.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

² 2 (1996) 8 SCC 54