

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 1517 OF 2018
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

KAMAL ANANT KHOPKAR

...PETITIONER

-VERSUS-

UNION OF INDIA & ORS.

...RESPONDENTS

OFFICE – REPORT

The matter above-mentioned was listed before the Hon'ble Court on 18.02.2019 with other connected matter, when the Court was pleased to pass the following Order:

"W.P.(C) No. 1517/2018

The Writ Petition under Article 32 of the Constitution has been instituted in order to challenge the constitutional validity of Section 15 of the Hindu Succession Act, 1956 on the ground that there is a discrimination in the devolution of the estate of a woman who dies intestate, in comparison with the rules for devolution where a male has died intestate. In the case of a male Hindu dying intestate, the provisions of Section 8 of the Hindu Succession Act, 1956 apply.

The contention of the petitioner is that where a female Hindu dies intestate, the property would devolve first upon the sons and daughters and the husband and then on the heirs of the husband and it is only thereafter that the mother and the father are recognized. Section 16 specifies that among the heirs referred to under sub-Section (1) of Section 15, those in one entry are to be preferred to those in any succeeding entry. On the other hand, in the case of a male Hindu dying intestate, Section 8 stipulates that the estate will first devolve upon the relatives specified in Class I of the Schedule.

The Writ Petition initially came up with a Special Leave Petition, which was filed by the petitioner against an order of the Bombay High Court rejecting her caveat on the ground that she did not have a caveatable interest in the property of her deceased-daughter, during the life time of the spouse of the deceased.

During the course of the hearing, the parties attempted to explore the possibility of a settlement. The dispute has been settled with the intervention of learned senior counsel. Hence, the Special Leave Petition has been disposed of by an order passed today.

However, the Writ Petition which has been instituted before this Court under Article 32 raises an important question of gender equality and, hence, we are inclined to issue notice.

Issue notice returnable in four weeks.

A copy of the Writ Petition be served on the office of the Learned Attorney General for India.

We have requested Ms. Meenakshi Arora, learned senior counsel to continue to assist this Court."

It is submitted that pursuant to afore-said order, notice was issued to both the respondents by registered A.D. As per tracking report of postal authorities, notice has been delivered to both the respondents. No one has entered appearance on their behalf so far.

It is further submitted that counsel for the petitioner has 20.02.2019 filed proof of service after serving copy of the petition upon the Office of the Ld. Attorney General for India.

Service of notice is complete.

The Writ Petition above-mentioned is listed before the Hon'ble Court with this Office Report.

Dated this the 14th day of March, 2019.

ASSISTANT REGISTRAR

Copy to:-

Mr. Manu T. Ramachandran, Advocate

ASSISTANT REGISTRAR