

**Precedents on Coparcenary Property**

**Coparcenary.-Distinction with Joint Hindu Family.** A Hindu joint family consists of all persons lineally descended from a common ancestor, and includes their wives and unmarried daughters. A Hindu coparcenary is a much narrower body than the Hindu joint family; it includes only those persons who acquire by birth an interest in the joint or coparcenary property, these being the sons, grandsons and great-grandsons of the holders of the joint property for the time being. *N.V. Narendranath v. Commissioner of Wealth Tax, Andhra Pradesh*, AIR 1970 SC 14: 1969 (2) Andh WR (SC) 99: 1969 (2) MLJ (SC) 99: 1969(3) SCR 882: 1969(1) SCC 748

**Coparcenary.-Gift dead.-High Court did not come to conclusion that gift of items was within reasonable limits or in fulfilment of an ante-nuptial promise made on occasion of settlement of terms of marriage of daughter.-Gift deed not permissible under Hindu Law.**

Hindu Law on the question of gifts of ancestral property is well settled. So far as moveable ancestral property is concerned, a gift out of affection may be made to a wife, to a daughter and even to a son, provided the gift is within reasonable limits. A gift for example of the whole or almost the whole of the ancestral moveable property cannot be upheld as a gift through affection.

The Karta is competent or has the power to dispose of coparcenary property only if (a) the disposition is of a reasonable portion of the coparcenary property, and (b) the disposition is for a recognised "pious purpose". The High Court has not come to any conclusion as to whether the gift of items 3 to 6 by Hiri to the respondent No. 2 was within reasonable limits or in fulfilment of an antenuptial promise made on the occasion of the settlement of the terms of the respondent No. 2's marriage. It must be taken, therefore, that the findings of the lower Courts on both counts were accepted. That being so, Hiri could not have donated items 3 to 6 to respondent No. 2 and the deed of gift dated 9-6-1971 was impermissible under Hindu Law. *Thimmaiah and others vs. Ningamma and another*, AIR 2000 SC 3529(2) : 2000(2) Marri LJ 571 : 2000(4) Rec Civ R 609 : 2000(7) SCC 409 : 2000(C) Cur CC 339

**Coparcenary.-Gift of share.-Permissibility.-Gift of undivided share by coparcener governed by Mitakshara school is void.-Gift made by one coparcener in favour of other without the consent of all other coparceners shall amount to relinquishment in favour of all.** An individual member of the joint Hindu family has no definite share in the coparcenary property. By an alienation of his undivided interest in the coparcenary property, a coparcener of their right to the property. The objects of this strict rule against alienation by way of gift is to maintain the jointness of ownership and possession of the coparcenary property. It is true that there is alienation by gift and the law in this regard has developed gradually, but that is for the purpose of preventing a joining Hindu family from being disintegrated. A coparcener can make a gift of his undivided interest in the coparcenary property to another coparcener or to a stranger with the prior consent of all other coparceners. Such a gift would be quite legal and valid. We find that Rami Reddy made the gift for the common benefit of the donee as well as his sons. The gift should be construed as relinquishment or renunciation of his undivided interest by the donor in favour of the other coparceners. Although the gift is ostensibly in favour of Veera Reddy, but really the donor meant to relinquish his interest in the coparcenary in favour of Veera Reddy and his sons. Such renunciation enures for the benefit of all other coparceners and not for the sole benefit of the coparcener in whose favour the renunciation was made. *Thamma Venkata Subbamma (dead) by LR v. Thamma Rattamma and others*, AIR 1987 SC 1775: 1987(3) SCC 294: 1987(3) SCR 236: 1987(1) Scale 1000: 1987(2) J.T. 440: 1987 BBCJ (SC) 155

\*\*\*