

Legal heirs entitled to vested interest in property of the deceased: Supreme Court

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The Will of a person describes the wishes of a person regarding the manner of distribution of his property and assets after his demise. There is no prescribed format for writing a Will. However, the provisions of Indian Succession Act allow a testator to create a vested interest in a property in favour of legatee(s) or beneficiary(ies).

To put it simply, if a testator creates a vested interest in his property in favour of a beneficiary on the happening of a certain event, then although such beneficiary acquires a proprietary right in the property at the time of testator's death but the right to enjoy the property absolutely is postponed to a future date on happening of such certain event. To give an example:

'A' bequeaths his property to his son 'B', but the property is to be transferred to 'B' only at the death of 'C' (B's Mother).

On 'A's' death, the property becomes vested in interest of 'B' but 'B' gets to enjoy the said

property absolutely only upon the death of 'C'.

However, there may be situations wherein a beneficiary in whose favour a vested interest in property is created demises before the happening of the specified event as prescribed under the Will.

The question that is faced in such an event is regarding the status of vested interest of the deceased beneficiary in the property and who shall be entitled to the property on the happening of the certain event as is specified under the Will.

A similar matter came up for consideration of the Supreme Court of India wherein it was to be decided whether the legal heir (wife) of a deceased beneficiary (husband) was entitled to his share in the properties left behind by her father-in-law on the basis of the Will executed by her father-in-law?

The brief facts of the case were that the testator died leaving behind his wife and five sons. In his Will, the testator had stated that his properties should be distributed equally among his surviving sons after the death of his wife.

According to the Will, the testator's wife was put in charge of the properties and she was enti-

led to enjoy benefits arising out of the properties but she had no powers to dispose of the properties in any manner.

As things unfolded, before the death of the testator's wife, the eldest son of the testator died leaving behind his widow. Upon the death of the testator's wife, the deceased son's wife pleaded that she is entitled to his share in the properties that vested in him prior to his death and in accordance with the Will of her late father-in-law.

The trial court accepted the said plea and held that succession opened on death of the testator by virtue of which all sons of the testator became entitled to equal shares in the properties and the recital in the Will that the partition should take place among the surviving sons upon the death of testator's wife was really intended to refer to children surviving the testator.

The said view of trial court was reversed by the High Court and therefore, the matter came before the Supreme Court to decide when the interest vested upon the legatees under the Will.

The Supreme Court examined the nature of the bequest that was made by the testator and upon construing the Will opined that the expression used in the

Will "surviving children" was used in the normal sense to mean the children surviving the testator and hence held that the widow of the deceased elder son was entitled to his share in the property.

The Supreme Court bench opined that in cases where a bequest is of vested interest and by the terms of the bequest, the beneficiary is not entitled to immediate possession of the thing/property bequeathed, the right to receive such property at proper time becomes vested in the beneficiary on the death of the testator and in the event of the death of such beneficiary, the said right to receive the property bequeathed passes on the legal representatives of the deceased beneficiary.

Thus, the beneficiary gets the rights on asset of testator immediately upon the death of testator and not happening of certain event. Only the enjoyment of asset is postponed to happening of certain event.

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