CIVIL REFERENCE.

Before Bhandari, C. J. and Tek Chand, J.

S. RAGHBIR SINGH SANDHAWALIA,—*Applicant*

versus

THE COMMISSIONER OF INCOME-TAX, PUNJAB, PEPSU, HIMACHAL PRADESH, SIMLA,—*Respondent.*

Civil Reference No. 22 of 1953.

1957

Sept., 24th

Indian Income-tax Act (XI of 1922)—Section 16—Gift of a part of movable property of a Hindu undivided family made by the Karta to his wife—Whether valid and divests the family of its title to that property—Gift—Essentials of—Hindu Law—Power of father to alienate coparcenary property by way of gift—Extent of—Hindu Law as interpreted in the Punjab—Power of a member of joint Hindu family to alienate joint family property—Extent of—Alienation, whether void or voidable—'Assent', 'Consent'—Meaning of—Intention—Meaning of and how to be ascertained—"reasonable"—Meaning of—Gift of joint family property—Whether reasonable—How to be determined—Tax payer—How far entitled to decrease or avoid his liability.

R. S. and his only son H. S. were members of a Hindu undivided family which possessed properties, movable and immovable, worth serveral millions of rupees. R. S. made a gift of shares of the value of Rs. 2,40,000 to his wife without the consent of H. S. but without any objection by him. The question arose whether the income from dividend on the gifted shares was the property of the family or of the donee.

Held, that the gift of a joint family asset of the value of Rs. 2,40,000 by Shri Raghbir Singh, *Karta* of the family, to his wife, being a gift of affection of a reasonable share of ancestral moveable property, is valid and effective and divests the family of its title to the gifted property even if the said gift was made without the consent of the other adult coparcener and consequently the income received from the gifted property was the income of the donee and not of the Hindu undivided family.

Held, that three things are essential to every gift, a donor, a donee, and a thing to be given, and three essential elements of a gift are donor's intention to make a gift, delivery actual or constructive, and acceptance by the donee.

Held, that a Hindu father has full power to alienate coparcenary property with the consent of his sons, but his power to part with such property without their consent is limited by the scriptures. Although the sons acquire by birth rights equal to those of a father in ancestral property, both movable and immovable, the father has the power of making within reasonable limits gifts of ancestral movable property without the consent of his sons for the purpose of performing "indispensable acts of duty, and for purposes prescribed by texts of law, as gifts through affection, support of the family, relief from distress and so forth." A 'gift of affection' may be made to a wife, to a daughter, and even to a son. But the gift must be of property within reasonable limits. A gift of the whole, or almost the whole, of the ancestral movable property to one son to the exclusion of the other sons, cannot be upheld as a 'gift through affection' prescribed by the texts of law.

Held, that according to the Hindu Law as interpreted in the Punjab no member of a joint Hindu family can, in the absence of custom to the contrary, alienate even his own share in the undivided estate without the consent of his coparceners; but such an alienation is an act which is not necessarily and *ipso facto* void, but it is merely voidable by the cosharers if they choose to repudiate it. If the gift is not repudiated by the other members of the coparcenary and there is evidence that he assented to it, the gift is valid.

Held, that "assent" means passivity inaction or submission which does not include consent. "Consent" in law, no doubt, means an affirmative, positive act but in order to infer assent it is sufficient to establish that a person having the power to forbid the act, had knowledge of the act and neglected to exercise that power.

Held, that intention has been defined as the fixed direction of the mind to a particular object, or a determination to act in a particular manner, and it is distinguishable from "motive", that which incites or stimulates action. A man's

intention ought to be judged by his acts and not from what may be in his mind. It should be ascertained by taking into consideration the entire transaction. A man is presumed to intend the natural and probable consequences of his own acts and it must, therefore, be assumed that the assessee in the present case intended every conequence which was the natural and immediate result of the acts which he voluntarily did.

Held, that the expression "reasonable" means "rational according to the dictates of reason and not excessive, or immoderate". An act is reasonable when it is conformable or agreeable to reason, having regard to the facts of the particular controversy. The question whether a particular gift made by a Hindu father is within reasonable limits must be answered with reference to the facts and circumstances of the particular case, the word "reasonable" meaning what is just, fair and equitable in view of the value, income and financial position of the estate, the number of persons who constitute the joint Hindu family, the relationship which the donor bears to the donee and any other circumstances which may appear in the case and are relevant and material to its determination.

Held, that a tax-payer has full liberty to decrease what otherwise would be his taxes, or altogether to avoid them, by means which the law allows. The fact that a certain transaction has been entered into with the ulterior object of enabling the tax-payer to avoid payment of income-tax would not render the transaction void, for motive alone cannot make unlawful what the law allows. In such a case the transaction should be examined with the object of seeing whether it is in reality what it appears to be in form. A purpose may be the touchstone, but the purpose which counts is one which defeats or contradicts the apparent transaction, not the purpose to escape taxation. If, therefore, a tax-payer alters the basic facts affecting his liability to taxation, by legal means available to him for the purpose of avoiding taxation, the court will uphold the changes unless it is satisfied that the changes are not actual, but merely simulated. The question is not whether the motive for the transaction was proper or otherwise but whether what the tax-prayer has done actually accomplishes the result anticipated.

Case referred under section 66(1) of the Income-tax Act, by Income-tax Appellate Tribunal, Delhi, on 9th July, 1953, for decision of the following question:—

> *"Whether the gift of a joint family asset worth Rs. 2,40,000 by Shri Raghbir Singh,* karta *of the family, to his wife, Sardarni Ahalya Bai, not being a transfer for consideration or in pursuance of any antenuptial arrangement or in connection with any arrangement to live apart, is valid and effective to divest the family of its title to the said shares without the consent of the other adult coparcener, Shri Raghbir Singh's son Shri Harindar Singh ?"*

Present:

DEVA SINGH, for Petitioner.

S. M. SIKRI, Advocate-General and H. R. MAHAJAN, for Respondent.

ORDER

Bhandari, C. J.

BHANDARI, C. J.—The following question has been referred to this Court under section 66(1) of the Income-Tax Act, namely:—

> "Whether the gift of a joint family asset worth Rs. 2,40,000 by Shri Raghbir Singh, *karta* of the family, to his wife, Sardarni Ahalya Bai, not being a transfer for consideration or in pursuance of any antenuptial arrangement or in connection with any arrangement to live apart, is valid and effective to divest the family of its title to the said shares without the consent of the other adult coparcener, Shri Raghbir Singh's son Shri Harindar Singh?"

Sardar Raghbir Singh assessee and his only son Sardar Harindar Singh are members of a Hindu undivided family which possesses landed

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and other property, the value of which runs into several millions.

Sardar Raghbir Singh's wife Sardarni Sujan Kaur died in the year 1943 and he contracted a marriage with Sardarni Ahalya Bai in or about the year 1945. On the 31st March, 1949, the assessee made a transfer entry in the books of the family debiting the capital account with a sum of Rs. 2,40,000 representing 80 per cent share capital of 300 shares of the Simbholi Sugar Mills Limited and crediting the account of Sardarni Ahalya Bai with a corresponding amount. In the year 1950-51 the assessee, who is the *karta* of the Hindu undivided family, submitted a return in which he declared an income of Rs. 1,03,952. This return did not include the income on 300 shares of the Simbholi Sugar Mills which had been transferred by the assessee to his wife. Sardarni Ahalya Bai submitted a separate return of her own in which she declared that she had received a sum of Rs. 48,000 by way of income on the shares which had been transferred to her.

The Income-Tax Officer came to the conclusion that the assessee had transferred property to his wife without the consent of the other coparcener, that this transfer was effected without legal necessity and without a corresponding benefit to the estate arising out of this transfer, and that the gift of property was neither reasonable nor for performing indispensable acts of duty nor for pious purposes. He accordingly included in the family's assessment for the year 1950-51 an income of Rs. 48,000 on account of the dividend on the shares which had been transferred to his wife. The order of the Income-Tax Officer was upheld by the Appellate Assistant Commissioner and later by the Appellate Tribunal. In one of

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the paragraphs of the order the Tribunal observed as follows:—

> "Obviously the transfer, if real, was without consideration. It is not in pursuance of any antenuptial arrangement, nor is it in connection with any agreement to live apart. The gift of a joint family asset of such a magnitude Rs. 2,40,000) by the *karta* to his wife would be void. There is nothing to show that his son consented to the gift. Raghbir Singh says in an affidavit filed by him on 30-9-1950 that his son has no objection to the transfer; but the assertion should come from the son himself, not from the father who is the author of the alleged gift. The son would have, of course, no objection to the transfer of registry of the shares to his stepmother, if that would lighten the tax-burden on the family, so long as the real title of the family to the shares is not affected. In the absence of a contemporaneous solemn declaration irrevocably binding on both the male coparceners that the transfer to the lady was a real and valid gift intended to be acted upon for all purposes, we are unable to hold that the shares have ceased to belong to the family. We confirm the inclusion in the family's assessment for 1950-51 of the dividend income from shares in Sardarni Ahalya's name."

At the request of the assessee the Tribunal has referred to this Court the question which has been set out at the commencement of this order.

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S. Dewa Singh, who appears for the assessee, contends that the question as framed does not bring out the matters in controversy between the parties and that the question should be re-framed so as to run as follows, namely:—

> "Whether in view of the facts of the case the income arising from the dividend on the shares gifted to Sardarni Ahalya Bai could be included in the hands of the Hindu undivided family?"

Three things are essential to every gift, a donor, a donee, and a thing to be given; and three essential elements of a gift are donor's intention to make a gift, delivery actual or constructive, and acceptance by the donee. A Hindu father has full power to alienate coparcenary property with the consent of his sons, but his power to part with such property without their consent is limited by the scriptures. In section 225 of Mulla's Principles of Hindu Law the learned author declares that although sons acquire by birth rights equal to those of a father in ancestral property both movable and immovable, the father has the power of making within reasonable limits gifts of ancestral movable property without the consent of his sons for the purpose of performing "indispensable acts of duty, and for purposes prescribed by texts of law, as gifts through affection, support of the family, relief from distress and so forth. A 'gift of affection' may be made to a wife, to a daughter, and even to a son. But the gift must be of property within reasonable limits. A gift of the whole, or almost the whole, of the ancestral movable property to one son to the exclusion of the other sons, cannot be upheld as a 'gift through affection' prescribed by the texts of law."

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Mr. Sikri who appears for the department contends (1) that the impugned gift is void and not voidable, (2) that even if it is voidable it does not divest the family of its title (a) because it is not a gift of affection, (b) because the assessee had no intention of making a gift, and (c) because the so-called gift cannot be said to be a gift of property within reasonable limits.

In support of his contention that the gift is void and not merely voidable reliance has been placed on section 404 of Mayne's Treatise on Hindu Law and Usage. This section is in the following terms:—

> "The question whether an alienation made by a father or other manager which is neither for a legal necessity nor for the discharge of an antecedent debt, is void or voidable has given rise to conflicting judicial opinions. Such an alienation must on principle be invalid as against the members of the family from its inception though they can elect to abide by it. The possession of a purchaser under an unauthorised alienation by the manager will be wrongful unless it is assented to or ratified by the other coparceners."

Whatever conflict of judicial opinion may have manifested itself in other States, judicial opinion in regard to the law as it obtains in the Punjab is fairly consistent. According to the Hindu Law as interpreted in the Punjab no member of a joint Hindu family can, in the absence of custom to the contrary, alienate even his own share in the undivided estate without the consent of his coparceners; but such an alienation is an act which is not necessarily and *ipso facto* void, but it is merely voidable by the co-sharers if they choose to

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repudiate it *Banke Rai* v. *Madho Ram* etc. (1) *Imperial Bank of India, Jullundur* v. *Mst Maya Devi, etc.* (2), *Mst Piari,* v. *Kishori Rawanji Maharaj and others* (3). The view is consistent with the view taken in *Hanuman Kamat* v. *Hanuman Mandur* (4), where their lordships of the Privy Council held that "the alienation by a manager was not necessarily void, but was only voidable if objections were taken to it by the other members of the joint Hindu family." A similar view has been taken by certain other High Courts in the country. [*Subba Goundan and another* v. *Krishnamachari and others* (5), *Bhirgu Nath Chaube and another* v. *Nar Singh Tiwari* (6)]. Indeed certain Courts have gone to the length of holding that a deed of assignment executed by one of the two *kartas* of a joint Hindu family is voidable at the option of the other co-parceners who alone may be affected by his unauthorised act, and no person who is a stranger to the family and does not possess a right to have the transaction defeated on other grounds, for example, under section 53 of the Transfer of Property Act, has a *locus standi* to intervene and impugn such an alienation merely because it is in excess of his authority to deal with the property for family purposes. [*Ram Kumar-Ram Saraff* v. *Mohan Lal Maharaj* (7), *Sm. Pan Kajini Debi* v. *Pramatha Nath Ghosh* (8)].

In view of these decisions I have no hesitation in holding that the gift is not void but merely voidable and that it was open to S. Harindar

(1) 153 P.R. 1883.
(2) I.L.R. 16 Lah. 714.
(3) A.I.R. 1930 Lah. 223.
(4) (1891) 19 Cal. 123, 126.
(5) I.L.R. 45 Mad. 449.
(6) I.L.R. 39 All. 61.
(7) A.I.R. 1940 Patna 270.
(8) A.I.R. 1942 Patna 95.

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Singh, who is the other member of this joint Hindu family to avoid it. He has not cared to do so, though several years have gone by. On the contrary there is evidence to show that he assented to the gift for he was present at the meeting of the Board of Directors of the Simbholi Sugar Mills which was held on the 28th December, 1948 and in which the question of the transfer of 300 shares to Sardarni Ahalya Bai was taken up for consideration. It is contended that the mere passive acquiescence of the son cannot be deemed to be "consent" which implies some positive action and always involves submission, and that the utmost that can be said in the present case is that the son merely assented to the proposal of his father for "assent" means passivity or submission which does not include consent. It is true that "consent" in law means an affirmative, positive act that 'assent' means passivity or inaction, but it must be remembered that although the son did not expressly assent to the transfer of the shares by his father to his stepmother, the fact remains that he was aware of the transfer and that he took no steps to challenge the gift. The expression "consent" has come to acquire a somewhat peculiar meaning under the Hindu Law. In *Banke Rai* v. *Madho Ram, etc.* (1) a learned Judge of the Chief Court of the Punjab observed:—

> "So far therefore as I have been able to consult the authorities on Hindu Law, the giving or withholding of consent would appear to have been intended as a mere privilege of the coparceners. Indeed the very condition of 'assent' implies the possibility of the act being

(1) 153 P.R. 1883.

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legal for a void act is a thing that has no legal inception, and is a mere nullity *ab initio*. That this is the true doctrine of the Hindu Law, becomes to my mind all the more manifest when we bear in mind what is the legal definition of 'assent' in that system of law. 'The assent required' says Katayanā, 'is found in the want of opposition, for it is a rule—not to forbid is to assent', a rule which corresponds in a remarkable manner with the familiar maxim of the Civil Law, *qui non prohibet quod prohibere protest assentire videtur*. This definition seems to show that express consent is not necessary, and that in order to prove that the co-sharers assented to the transaction, all that need be established is that having the power to forbid the act, which implies that they knew of it, they neglected to exercise that power."

It seems to me therefore that by his acquiescence S. Harindar Singh must be deemed to have assented to the gift of 300 shares to his stepmother Sardarni Ahalya Bai.

Mr. Sikri contends that the gift the validity of which is being challenged in the present case cannot be said to be a gift of affection for it was not made with the intention of making a gift but with the intention of avoiding payment of income-tax. The Simbholi Sugar Mills Limited, it is argued, is to all intents and purposes a family concern as the family owns nearly 800 out of 1,200 shares. If the family controls the company and if it can easily prevent an alienation by the Sardarni Sahiba, it is wholly immaterial whether

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the shares stand in the name of the assessee or of his wife. This being so, it is contended, the shares were transferred to Sardarni Ahalya Bai not with the object of manifesting the donor's love and affection for his wife but with the object of evading payment of the tax which would be recoverable on the income of the shares. I regret I am unable to concur in this contention. A tax-payer has full liberty to decrease what otherwise would be his taxes, or altogether to avoid them, by means which the law allows. The fact that a certain transaction has been entered into with the ulterior object of enabling the tax-payer to avoid payment of income-tax would not render the transaction void, for motive alone cannot make unlawful what the law allows. In such a case the transaction should be examined with the object of seeing whether it is in reality what it appears to be in form. As pointed out by an American jurist, purpose may be the touchstone, but the purpose which counts is one which defeats or contradicts the apparent transaction, not the purpose to escape taxation. If therefore, a tax-payer alters the basic facts affecting his liability to taxation, by legal means available to him but for the purpose of avoiding taxation, the Court will uphold the changes unless it is satisfied that the changes are not actual, but merely simulated. The question is not whether the motive for the transaction was proper or otherwise but whether what the tax-payer has done actually accomplishes the result anticipated.

Now what was the intention of the assessee in the present case in altering the books of account of the family and crediting a large sum of money in the account of Sardarni Ahalya Bai. Intention has been defined as the fixed direction

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of the mind to a particular object, or a determination to act in a particular manner, and it is distinguishable from "motive", that which incites or stimulates action. A man's intention ought to be judged by his acts and not from what may be in his mind. It should be ascertained by taking into consideration the entire transaction. A man is presumed to intend the natural and probable consequences of his own acts and it must therefore be assumed that the assessee in the present case intended every consequence which was the natural and immediate result of the acts which he voluntarily did. On the 25th November, 1948, he requested the Simbholi Sugar Mills to transfer 300 shares of the said Mills belonging to the Hindu undivided family to Sardarni Ahalya Bai. The Board of Directors approved of this transfer on the 7th December, 1948, and confirmed this decision on the 28th December, 1948. On the 31st March, 1949, after this transfer had been made the assessee made a transfer entry in the books of the family debiting the capital account with a sum of Rs. 2,40,000 representing 80 per cent of the share capital of 300 shares and crediting the account of his wife with a similar amount. On the 30th September, 1950, he submitted an affidavit in which he declared that the said shares were given over to his wife during the financial year 1948-49, that none of the family members had any objection to the said transfer, that the said shares had ceased to remain an asset of the Hindu undivided family, that the transfer was irrevocable and that the shares had become the exclusive property of the donee. The consequences which the donor contemplated and which he expected to result from these acts were that the family would cease to own 300 shares and that the donee would acquire full proprietory rights in the said shares. He mani-

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fested a clear intention to relinquish the right of dominion on the one hand and to create it on the other. The intention to make a gift was a present intention. He put it in the power of the donee to claim ownership of the shares, to receive dividends thereon and to exercise all other rights of ownership. This gift was made by the donor to his own wife and must therefore be presumed to have been made out of love and affection.

Assuming for the sake of argument that the gift was not made with the consent of S. Harinder Singh the question arises whether the gift itself was reasonable. There can be no doubt that a Hindu father governed by the Mitakshara has full power to make within reasonable limits gifts of movable property to his wife, daughter, etc. and the Courts have consistently upheld such gifts. The gifts which have been held to be reasonable include the assignment of a usufructuary mortgage by a father to his daughters of the aggregate amount of Rs. 8,000 [*Subba Goundan and another* v. *Krishnamachari and others* (1)]; a gift by a father-in-law of Rs. 2,000 to his daughter-in-law in property of the total value of Rs. 23,000 [*Hanmantapa minor* v. *Jivir Bai and others* (2)]; a gift by a father to his daughter of 8 acres of land out of 100 acres possessed by him on the occasion of her marriage [*A. Sundararmayya* v. *C. Sitamma and seven others* (2)]; a gift by a father to his daughter of 3 acres of land [*Annamalai* v. *Sundarath Ammal and others* (4)]. In *Bachoo Har Kisondas* v. *Man Korebai and others* (5), the

(1) I.L:R. 45 Mad. 449.
(2) I.L.R. 24 Bom. 547.
(3) I.L.R. 35 Mad. 628.
(4) A.I.R. 1953 Mad. 404.
(5) I.L.R. 29 Bom. 51.

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sole surviving member of a joint Hindu family owning property worth ten lacs to fifteen lacs out of the income of such property, made a gift of Rs. 20,000 to his daughter and only child. Tyabji J. set aside this gift on the ground that the donor could not make a valid gift of this large sum of money even to his own daughter, for although the manager of a Hindu family is at liberty to make ordinary gifts or presents on suitable occasions, this power must be confined to such occasions as are usual and to such presents as are customary. A Division Bench of the same Court which was called upon to deal with this case in appeal were unable to uphold the view taken by the learned Single Judge. They observed as follows:—

> "It should be borne in mind what the position of the family was at the date of the gift. Bhagwan Das was the only living male member of the family, and his daughter, Naval, was the only female child born in the family, and in the absence of posthumous birth of a son or an adoption she was the person who in the ordinary course of events would probably become entitled to the whole estate. The value of the estate was from 10 to 15 lacs, so that even if the Government promissory notes had been purchased out of the corpus of the estate it would have represented only one-fiftieth part of the estate or possibly less. Now this income in the hands of Bhagwan Das was not immovable property, nor was he under any obligation to invest it in immovable property: it was movable property. This distinction is not without importance."

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The view taken by the Division Bench was endorsed by the Privy Council in *Bachoo Hurkisondas* v. *Man Korebai and others* (1), when their Lordships observed as follows:—

> "As to the fact of the gift and the transfer there is now no controversy. At the time of the gift Bhagwan Das was the head of the family, and indeed the only male member of it, and the estate was large. Tyabji J. considered that the gift was not justified by the circumstances of the case. The Court of Appeal, having in the meantime ascertained that the gift was made out of income, not out of capital, took a different view, and decided in favour of Navalbai."

Mr. Sikri admits that it was within the power of the assessee, in his capacity as father of S. Harindar Singh, to transfer by way of gift a part of the ancestral movable property of the joint Hindu family, but he contends that the value of the gift which was made in the present case was so large that it cannot possibly be said to fall within the ambit of the expression "reasonable limits". In any case he contends, on the authority of *Mithibai* v. *Limji Nowroji Banaji and others* (2), that this Court should not extend the doctrine of alienability by a coparcener of his undivided share without the consent of his co-sharers beyond the decided cases.

The expression "reasonable" means "rational according to the dictates of reason and not excessive, or immoderate." An act is reasonable when it is conformable or agreeable to reason,

(1) I.L.R. 31 Bom. 373, 380.
(2) I.L.R. 5 Bom. 48.

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having regard to the facts of the particular controversy. The question whether a particular gift made by a Hindu father is within reasonable limits must be answered with reference to the facts and circumstances of the particular case, the word "reasonable" meaning what is just, fair and equitable in view of the value, income and financial position of the estate, the number of persons who constitute the joint Hindu family, the relationship which the donor bears to the donee and any other circumstances which may appear in the case and are relevant and material to its determination.

The assessee in the present case is one of the richest landlords of the Amritsar District and the family to which he belongs derives income not only from house property, securities, dividends, shares, and profits of firms which are assessable to income-tax but also from a large and valuable estate known as the Raja Sansi Estate which is not assessable to income-tax. The income of this family assessable to income-tax rose from Rs. 1,50.000 in the year 1944-45 to Rs. 2,50,000 in the year 1950-51. The value of the family assets, including the agricultural estate, which I have stated already is not assessable to income-tax, must be of the magnitude of several millions of rupees. In the circumstances it seems to me that the gift by the assessee of shares of the value of Rs. 2,40,000 cannot be considered to be unreasonable. The only members of the joint Hindu family are the assessee and his son. If common sense were applied to the whole situation, would it be possible to contend that a gift of shares of the value of Rs. 2,40,000 by the assessee to his wife is not within reasonable limits? It represents much less than the annual income of the estate during the year 1950-51 and only a very

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small fraction of the total value of the estate. The purchasing power of the rupee has gone down considerably and the authorities on which Mr. Sikri places his reliance cannot furnish a good guide for deciding whether the gift which was made in the present case was reasonable.

For these reasons, I would hold that the gift of a joint family asset of the value of Rs. 2,40,000 by Shri Raghbir Singh, *karta* of the family, to his wife Sardarni Ahalya Bai, being a gift of affection of a reasonable share of ancestral movable property, is valid and effective and divests the family of its title to 300 shares of the Simbholi Sugar Mills Limited even if the said gift was made without the consent of the other adult coparcener, namely, Shri Raghbir Singh's son Shri Harindar Singh.

Let an appropriate answer be returned.

Tek Chand, J.

TEK CHAND, J.—I agree.

B. R. T.

APPELLATE CIVIL

Before Bhandari, C. J. and Tek Chand, J.

S. ANUP SINGH,—*Defendant-Appellant.*

versus

SARDARNI HARBANS KAUR,— *Plaintiff-Respondent.*

Regular First Appeal No. 25(P) of 1954.

1957

Sept., 25th

Code of Civil Procedure (V of 1908)—Sections 2(2) and 9—Orders of Ijlas-i-khas as of the erstwhile Patiala State—Whether amount to decree—Civil Courts, whether competent to question their validity—Constitutional Law—Position and powers of the Rulers of Pre-constitutional Indian States—Powers of the Ruler of erstwhile Patiala State—Comparison with those of the King of England—Legal maxims relating thereto—Whether applicable—Commands of the Ruler—How far final—Courts, whether