

## **WIDOW WHO REMARRIES HAS RIGHT TO DEAD HUSBAND'S ESTATE: BOMBAY HC**

In a landmark judgment, the Bombay High Court has ruled that a widow, even after she has remarried, has the rights over her former husband's properties, as she would qualify as Class I heir and the husband's kin would still be a Class II heir. The court was hearing a petition filed by a Dahisar resident, Sanjay Patankar, against his former sister-in-law Prajakta Patil. Malad resident Prajakta had claimed the right over her deceased husband Prakash Patankar's properties four years after she married another man. A division bench of Justices VM Kanade and BP Colabawalla ruled that a woman doesn't lose rights over her dead husband's properties - moveable and immovable - even if she remarries. The court ruled that provisions of the Hindu Succession Act, 1956 would prevail over the repealed Hindu Widows' Re-Marriage Act, 1856. In this case, Prajakta claimed the rights to her deceased husband Prakash's bank balance and annual commission from the insurance company, which was of recurring nature, towards 'death benefits'. She hadn't claimed the rights over Prakash's flat in Dahisar, where the couple resided, and another property in Ratnagiri, on 'humanitarian grounds'. The couple got married in April 1993, and Prakash died in May 1998. Seven months later (December 1998), Prajakta remarried and shifted to Malad.

In March 2001, her former husband's mother died, leaving behind Prakash's elder brother Sanjay and his family. A year later (June 2002) --four years after having got married again - Prajakta filed a petition in the high court seeking a succession certificate for her former husband's 'death benefits'. Sanjay too approached the high court seeking succession certificate in his name. The grounds on which he sought the dismissal of Prajakta's case were that she had not disclosed to the court that he too was a legal heir, and that since she had remarried, she had no rights in his late brother's properties. Sanjay relied on the Hindu Widows' Re-Marriage Act, 1856, which said, "All rights and interests which any widow may have in her deceased husband's property, without express permission to re-marry only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other person entitled to the property on her death, shall thereupon succeed to the same." However, advocate, appearing for Prajakta, argued that the Hindu Succession Act, 1956 would prevail over the 1856 Act, an argument which was accepted by the hon'ble court.