John Vallamattom and another v. Union of India (Writ Petition (civil) 242 of 1997)

1) Reference Details

Jurisdiction: Indian Supreme Court
Date of Decision: 21 July 2003
Link to full case: http://www.judis.nic.in/supremecourt/qrydisp.aspx?filename=19152

2) Facts

The first petitioner was an Indian citizen and is a Roman Catholic Priest. The second was also a Christian. The petitioners claim that under the Indian Succession Act 1925 (the Act) they are prevented from bequeathing property for religious and charitable purposes. They petition that the relevant s. 118 of the Act in unconstitutional under Article 32 of the Constitution of India.

3) Law

National Law

- Article 14 of the Constitution of India (equality before the Law)
- Article 15 of the Constitution of India (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth)
- Article 32 of the Constitution of India (remedies for enforcement of rights conferred)
- Section 118 of the Indian Succession Act, 1925

4) Legal Arguments

The Applicant

The applicant argued that s. 118 of the Act violates Articles 14 and 15 of the Constitution because it discriminates:

a) against Christians;
b) against testamentary disposition by a Christian;
c) against religious and charitable use of property;
d) against a Christian who has a near relative; and
e) against a Christian who dies within twelve months of executing his Will of which he has no control.

Furthermore they argued that a citizen of India has a right of a freedom to choose his beneficiaries under his Will as well as the purpose of bequest.

The Respondent

The respondents argued that the Act pre-dates the Constitution and so continues to be in force. Likewise, the Indian Parliament was not bound by any legislative changes or development in this behalf in England or any other foreign country. They also argued that Indian Christians form a separate and distinct class and cannot be treated on equal footing

to Muslims or Hindus as regards bequests for religious or charitable purposes. Finally they submitted that marriage and succession were of secular character and cannot be included in the religious guarantees within the Constitution.

5) Decision

In making his judgment, the Chief Justice of India, V. N. Khare, first examined the history of the Act, pointing out that it related back to English legislation of the eighteenth century that had long been repealed. He went on to say the Constitution specifically declares void any legislation that pre-dates it and is inconsistent with its provisions so the question is whether the Act is inconsistent with the Constitution but that this does not prevent the continuity of application until amendment.

He stated that:

"Article 14 of the Constitution ... guarantees equality before the law or the equal protection of the laws within the territory of India. The restriction imposed by reason of a statute, however, can be upheld in the event it be held that the person to whom the same applies forms a separate and distinct class and such classification is a reasonable one based on intelligible differentia having nexus with the object sought to be achieved. The underlying principle contained in Section 118 of the Act indisputably was to prevent persons from making ill-considered death-bed bequest under religious influence ... restrictions imposed thereby have a great impact on a person who desires to dispose of his property in a particular manner which would take effect upon or after his death. The concept of ownership of a person over a property or a right although is a varying one includes right to dispose of his property by Will. The Indian Succession Act confers such a right upon all persons irrespective of caste, creed or religion he belongs to."

He pointed out that s. 118 of the Act imposes a restriction only on Indian Christians, also:

"It is difficult to appreciate as to why a testator would, although, be entitled to bequeath his property by way of charitable and religious disposition if he has a wife but he would be precluded from doing so in the event that he has a nephew or a niece."

Following an examination of Indian and international law, Chief Justice Khare said:

"... [T]here is no justification in restricting testamentary disposition of property for charitable purpose. Charitable purpose includes relief to poor, education, medical relief, advancement of objects of public utility, etc. As the aforesaid charitable purposes are philanthropic and since a person's freedom to dispose of property for such purposes has nothing to do with religious influence, the impugned provision treating bequests for both religious and charitable purposes is discriminatory and violative of Article 14 of the Constitution."

He further felt that the right conferred by Article 15 was personal rather than applicable to a group and therefore it was not relevant to the case.

Finally, the judge allowed the petition by a unanimous decision of the Court and declared s. 118 of the Indian Succession Act unconstitutional as violating of Article 14 of the Constitution.