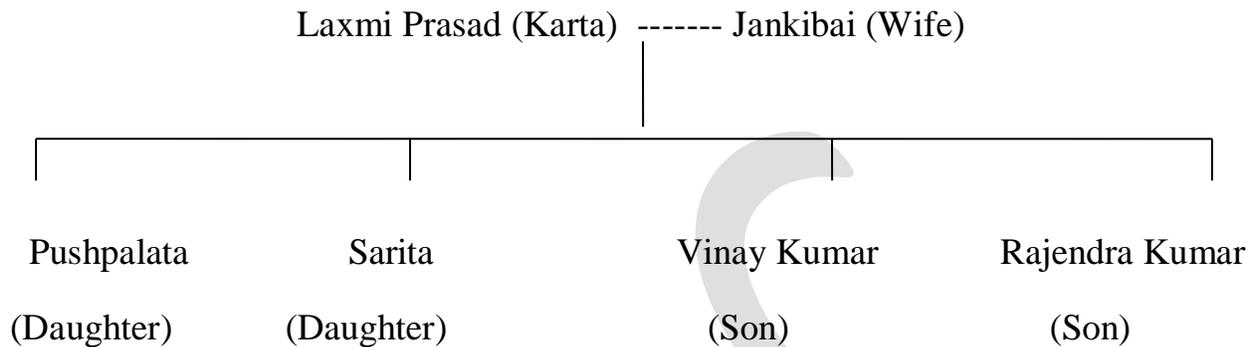


**MOOT COURT NO. 1**

**PROPOSITION:**

1. The HUF consists of following members:



2. Laxmi Prasad as a Karta of HUF purchased a property of 1.6 acres in Baramati in the name of first defendant Vinay Kumar dated 15/02/1960.

3. Another property consisting of a plot of land of 2332 Sq. ft. was purchased on 21/05/1966 in the name of his two sons Vinay Kumar and Rajendra Kumar the first two defendants. Laxmi Prasad later on constructed two storied building through his earnings as a contractor on one of the suit properties.

4. On 3/05/1994 Vinay Kumar sold 1.6 acres of first property to the third defendant i.e. the purchaser Shravan Kumar and further sold 0.2 hectares to the third defendant despite the order of interim injunction.

5. Laxmi Prasad filed a suit on behalf of himself, his wife and two daughters on 30/09/1994 against his two sons and the purchaser Shravan Kumar seeking setting aside the sale deed dated 3/05/1994 and the relief of declaration of title in his favour. The plaintiff urged that they and first and second defendants were members of HUF and the first defendant was the benami owner who could not have alienated the suit property.

6. It was alleged that the properties were paid for and purchased by plaintiff Laxmi Prasad and that first and second defendants being minors had no independent source of income.

## **Moot Proposition**

7. The trial court dismissed the suit on the ground that the original plaintiff has failed to prove his title by cogent evidence. The Plaintiff had however established that they were continuously in possession of suit properties throughout and the tenant in one of the part of property used to pay them the rent. The appellate court also dismissed the appeal holding that the first plaintiff himself intended for the first defendant to be the owner. It was further held that the suit was not maintainable in view of Benami Transaction (Prohibition) Act, 1988.

8. The appellant filed second appeal to Bombay High Court in which two substantial questions of law were formulated by the High Court:

(a) Whether appellate court has erred in confirming trial court's decree and findings?

(b) Whether there was an error in holding that suit was barred by Section 4 of Benami Transactions (Prohibition) Act, 1988?

But the second appeal was dismissed by Bombay High Court on the ground that the plaintiff had failed to prove that property was purchased for the benefit of coparceners. During the pendency of the second appeal, the original first plaintiff died and he was substituted by the elder daughter Pushpalata as the legal representative.

9. Aggrieved by the dismissal in second appeal, the said legal representative filed Special Leave Petition in Supreme Court of India. Argue the case as per the allotment.

### **Allotment:**

Odd Numbers - For Appellant

Even Numbers - For Respondent

The date of moot court will be announced in due course of time. The performance of the students will be assessed for 10 Marks. For written Memorial - 5 Marks and for Oral presentation - 5 Marks.

**(Dr. V.C. Oak)**

**Teacher In charge**