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SEWA RAM AND ORS.  
v.  
UNION OF INDIA AND ORS.

APRIL 1, 1997

B

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

*Enemy Property Act, 1968:*

C

*M migrated to Pakistan before 1947 and became citizen of Pakistan—His mother remained in India—After death of his mother he came to India and obtained Bhumidari rights—Land sold to appellants—Respondents initiated proceedings in respect of property—Appellants unsuccessfully filed a suit for injunction to restrain the respondents from taking possession of the property—Revision dismissed by High Court—Appeal—Held in the circumstance M had no right title or interest in property—Accordingly appellant could not acquire any title from M.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2746 of 1980

E

From the Judgment and Order dated 31.7.79 of the Allahabad High Court in C.R. No. 84 of 1978.

A.B. Rohtagi and Ambrish Kumar for the Appellants.

A.K. Srivastava (NP) for the Respondent

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The following Order of the Court was delivered :

This appeal by special leave arises from the order dated 31.7.1979 of the High Court of Allahabad made in Civil Revision No. 84 of 1978.

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The admitted position is that one Mohd. Marghoob Siddiqui had migrated to Pakistan prior to August 14, 1947 and became a citizen of Pakistan. His mother Kabool Fatima who remained in India died on August 7, 1965. Subsequently, he came to India and appears to have obtained the Bhumidari rights of his mother and sold the property to the appellants. The respondents had initiated proceedings against the property

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on the ground that Mohd. Marghoob Siddiqui was an enemy and therefore,

the Enemy Property Act, 1968 (Act No. 34 of 1968) was applicable. The appellants claimed title to the property. Subsequent thereto, the appellants filed a suit for injunction to restrain the respondents from taking possession of the property. Ultimately they came to be unsuccessful in the revision before the High Court. Thus, this appeal by special leave. A

The only question is whether the appellants have acquired any valid title to the property from Mohd. Marghoob Siddiqui, a citizen of Pakistan? On his acquiring citizenship of Pakistan, M.M. Siddiqui ceased to be a citizen of India and thereby after the demise of his mother, he had no right, title or interest in the land to obtain bhumidari right. The proceedings and patta are void. B C

Under these circumstances, since the purchaser cannot have a better title than the seller himself had, the appellants could not acquire any title by virtue of sale effected by Mohd. Marghoob Siddiqui.

The appeal is accordingly dismissed. No costs. D

T.N.A.

Appeal dismissed.