

Paramount Law Times Newsletter



(For uptodating law and events)

2014-15 – (second half)

Issue no 0007

Dated 26 July, 2014

Welcome Announcement

Paramount has taken a initiative to have its Law Time Newsletter for updating law and events. All interested individuals and institutions are welcome to request this newsletter.

Legal Audit and Moral Audit Services

Paramount Law Consultants Ltd., Delhi has completed its research and is taking up legal audit and moral audit services for the Corporates.

Subhash Nagpal
Chairman

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THE DOCTRINE OF FEEDING THE ESTOPPEL

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I

Doctrines of Law

1. Some principles with time acquire the status of Doctrines. However, in law, all doctrines do not become the ‘Doctrines of law’. As such the enlistment of ‘Doctrines of Law’ is to be a conscious exercise.

II

Values of Doctrines of Law

2. ‘Doctrines of Law’ take the status of accepted position of law and this accepted position manifests as ‘Values of Doctrines of Law’.

III

Doctrine of Feeding the Estoppel

3. Doctrine of Feeding the Estoppel has acquired the status of ‘Doctrine of Law’ in India. With its incorporation as a statutory provision (section 43) of the Transfer of Property Act, which provides as under:

“43. Transfer by unauthorised person who subsequently acquires interest in property transferred.—Where a person fraudulently or erroneously represents that he is authorized to transfer certain

immoveable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists.

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.”

IV

Case law: Supreme Court decision

***Agricultural Produce Marketing Committee Vs. Bannama (D) By Lrs.
In Civil Appeal No. 3198 Of 2007 decided on 25-07-2014.***

4. The supreme court in the above referred case has held that:

“Section 43 in our considered opinion applies when the transferor having no interest in the property transfers the same but subsequently acquires interest in the said property, the purchaser may claim the benefit of such subsequent acquisition of the property by the transferor.”

5. Further it has been laid down that:

“where a transferor never acquired by succession, inheritance or otherwise any interest in the property during his life time then the provision of Section 43 will not come into operation as against the heirs who succeeded the stridhan property of their grandmother.”

Link of the above referred Judgment

<http://judis.nic.in/supremecourt/imgs1.aspx?filename=41792>

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