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SC Verdict on Hindu Women's Inheritance Rights

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Why in News

Recently, the **Supreme Court** (SC) has expanded the Hindu women's right to be the **coparcener** (joint legal heir) and inherit ancestral property on terms equal to male heirs.

The judgment pertains to the **Hindu Succession (Amendment) Act, 2005**.

Key Points

- **Current Ruling:**

- It ruled that a **Hindu woman's right to be a joint heir to the ancestral property is by birth** and does not depend on whether her father is alive or not.

Coparcenary (joint-heirship) **is by birth**, so the father doesn't need to be living as on 9th September 2005, when the **Hindu Succession (Amendment) Act** was enacted.

- The SC expanded and promoted the amendments done in 2005 which removed the **discrimination as contained in Section 6 of the Hindu Succession Act, 1956** by giving equal rights to daughters.
- It also **directed High Courts to dispose of cases involving this issue within six months** since they would have been pending for years.

- **Hindu Succession Act, 1956:**
 - The **Mitakshara school of Hindu law** codified as the **Hindu Succession Act, 1956** governed **succession and inheritance of property** but only **recognised males as legal heirs**.
 - It **applied to everyone who is not a Muslim, Christian, Parsi or Jew** by religion. **Buddhists, Sikhs, Jains and followers of Arya Samaj, Brahma Samaj**, are also **considered Hindus** for this law.
 - In a Hindu Undivided Family, several legal heirs through generations can exist jointly. Traditionally, **only male descendants** of a common ancestor along with their mothers, wives and unmarried daughters are considered a joint Hindu family. The **legal heirs hold the family property jointly**.
- **Hindu Succession (Amendment) Act, 2005:**
 - The 1956 Act was **amended in September 2005** and **women were recognised as coparceners** for property partitions arising from 2005.
 - Section 6 of the Act was amended to make a daughter of a coparcener also a coparcener by birth “in her own right in the same manner as the son”.
 - It also gave the daughter the same rights and liabilities “in the coparcenary property as she would have had if she had been a son”.
 - The law **applies to ancestral property and to intestate succession** in personal property, where **succession happens as per law and not through a will**.
 - **Background for the Amendment:**
 - The **174th Law Commission Report** had recommended the reform in Hindu succession law.
 - Before the 2005 amendment, **Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu** had made this change in the law and **Kerala had abolished the Hindu Joint Family System in 1975**.
- **Government’s Stand:**
 - The Solicitor General of India has **argued in favour of an expansive reading of the law to allow equal rights for women**.
 - He **criticised the Mitakshara coparcenary 1956 law** because it contributed to **discrimination on the ground of gender** and was also **oppressive and negated the fundamental right of equality (Articles 14 to 18)** guaranteed by the Constitution of India.

Schools of Hindu Laws

Mitakshara Law School

Dayabhaga Law School

<p>The term Mitakshara is derived from the name of a commentary written by Vijnaneswara, on the Yajnavalkya Smriti.</p>	<p>The term Dayabhaga is derived from a similarly named text written by Jimutavahana.</p>
<p>It is observed in all parts of India and subdivided into the Benares, the Mithila, the Maharashtra and the Dravida schools.</p>	<p>It is observed in Bengal and Assam.</p>
<p>A son, by birth acquires an interest in the ancestral property of the joint family.</p>	<p>A son has no automatic ownership right by birth but acquires it on death of his father.</p>
<p>All the members enjoy coparcenary rights during the father's lifetime.</p>	<p>Sons do not enjoy coparcenary rights when the father is alive.</p>
<p>A coparcener's share is not defined and cannot be disposed of.</p>	<p>The share of each coparcener is defined and can be disposed of.</p>
<p>A wife cannot demand partition but has the right to a share in any partition between her husband and her sons.</p>	<p>Here, the same right does not exist for the women because the sons cannot demand partition as the father is the absolute owner.</p>

Source: IE