



SC on Inheritance of Daughters

For Prelims: Rights Issues, Hindu Succession Act, Inheritance of Daughters, Supreme Court, Mitakshara law, Dayabhaga law, Vyavastha Chandrika, Manu

For mains: Indian laws related to inheritance of girls, Schools of Hindu laws, Issues related to Women in India.

Why in News

Recently, the [Supreme Court \(SC\)](#) has ruled that daughters will have equal rights to their father's property even prior to the enactment of the **Hindu Succession Act (HSA) of 1956**.

- The case **involved a dispute over the property of a person who died in 1949** leaving behind a daughter who also died issueless in 1967.
- Earlier, the **trial court held that since the person had died prior to the enforcement of HSA, 1956 therefore the petitioner and her other sisters were not the heirs** as on the date of his death and was not entitled to partition of share in the suit properties. Later, the **High Court, too, dismissed the appeal against the trial court.**

Key Points

- **Daughters Inheritance:** It ruled that the **property of a man who had died** without executing a will and is **survived only by a daughter will devolve upon the daughter** and not others such as his brother.
 - Earlier in 2020, the SC has already [expanded the Hindu women's right](#) to be the coparcener (joint legal heir) and inherit ancestral property on terms equal to male heirs.
- **Ancient Texts & Judicial Pronouncements:** The SC referred to ancient texts (smritis), **commentaries by various renowned learned persons** and even **judicial pronouncements which have recognised the rights of several female heirs**, the wives and the daughter's being the foremost of them.
 - Tracing the sources of customary Hindu law on inheritance, **the SC discussed Mitakshara law.**
 - SC also looked into **Vyavastha Chandrika**, a digest of Hindu Law by Shyama Charan Sarkar Vidya Bhushan which quoted 'Vrihaspati' as saying 'the **wife is pronounced successor to the wealth of her husband**, in her default, the daughter. As a son, so does the daughter of a man proceed from his several limbs.
 - The SC **also noted that the book quoted Manu as saying** "the son of a man is even as himself, and the daughter is equal to the son. How then can any other inherit his property, notwithstanding the survival of her, who is, as it were, himself".
- **Old Law:** Right of a widow or daughter to inherit the self-acquired property or share received in partition of a coparcenary property of a Hindu male dying intestate is **well recognised not only under the old customary Hindu Law.**
 - If a property of a male Hindu dying intestate is a self-acquired property or obtained in partition of a coparcenary or a family property, the same would devolve by inheritance and

not by survivorship, and a **daughter of such a male Hindu would be entitled to inherit such property** in preference to other collaterals”.

- **Property After Woman's Death:** The court also said that if a female Hindu dies intestate without leaving any issue, then the **property inherited by her from her father or mother would go to the heirs of her father** whereas the property inherited from her husband or father-in-law would go to the heirs of the husband.
 - In case a **female Hindu dies leaving behind her husband or any issue, then Section 15(1)(a) of the HSA 1956 will come into operation** and the properties left behind including the properties which she inherited from her parents would devolve simultaneously upon her husband and her issues.

Land Rights and Women in India

- **Related Data:** Property in India is largely inclined to be passed on to male heirs. This in turn deprives women of agency, financial independence and entrepreneurship. According to the [National Family Health Survey-5](#), **43% of women respondents reported owning house/land alone or jointly**, but doubts remain about women’s ability to actually access and control property.
 - In fact, a 2020 University of Manchester working paper found **barely 16% of women in rural landowning households own land.**
- **Patriarchy:** In deep [patriarchal](#) mores and rural-agrarian settings, property, which is seen as a **primary source of wealth**, is largely inclined to be passed on to male heirs.
- **State Laws:** Inheritance laws for agricultural land remain a minefield with conflicting central personal laws and state laws.
 - In this regard, states such as Punjab, Haryana, Uttar Pradesh (UP) and even Delhi **have regressive inheritance provisions.**
 - In fact, **Haryana twice tried to take away the progressive rights given to women through HSA1956**, while in **UP since 2016 married daughters aren’t considered primary heirs.**
- **Ground-level Resistance:** There is also a lot of **ground-level resistance to registering land for women in several north Indian states.** Thus, women’s empowerment and property rights remain an unfinished project.

Hindu Succession Act, 1956:

- **About:**
 - 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.

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

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