



# Denied Property Rights to ST Women Under Hindu Succession Act

**For Prelims:** Scheduled Tribe, Hindu Succession Amendment Act, 2005, [Article 14 of the Constitution](#), Mitakshara school of Hindu law, [Inheritance Rights in India](#).

**For Mains:** Issues related to Women in India.

## Why in News?

The Union government is examining whether to issue notification under **the Hindu Succession Act** to apply beneficial provisions to [Scheduled Tribe \(ST\)](#) women, who profess Hinduism, to enable them **to inherit equal share over properties** of father/ Hindu Undivided Family (HUF)

## What are the Issues Highlighted Around Inheritance Rights?

- **Exclusion from the Act:**
  - Scheduled Tribe women who profess Hinduism have been excluded from the beneficial provisions of the [Hindu Succession Act, 1956](#).
  - This exclusion denies them equal rights to inherit ancestral property compared to women from other Hindu communities.
- **Denial of Equal Inheritance Rights:**
  - Due to the exclusion, **ST women are not entitled to an equal share of their father's or Hindu Undivided Family's (HUF) property.**
  - This **inequality in inheritance rights perpetuates gender disparities** and hampers the financial empowerment of ST women.
- **Discrimination Based on Tribal Identity:**
  - The denial of equal inheritance rights to ST women who profess Hinduism is a form of discrimination based on their tribal identity.
  - It **contradicts the principles of equality and non-discrimination** enshrined in the Indian Constitution.
- **Supreme Court Directive:**
  - The Supreme Court, in the case of **Kamla Neti Vs Special Land acquisition Officer and Ors.**, directed the Central government to examine whether amendments are necessary to withdraw exemptions provided under the Hindu Succession Act concerning the applicability of its provisions to Scheduled Tribes.

## What is 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.**
- **Applicability:**
  - It **applies to everyone who is not a Muslim, Christian, Parsi or Jew** by religion.

- Buddhists, Sikhs, Jains and followers of Arya Samaj, Brahmo Samaj, are also considered Hindus for this law.
- 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.
- **Class I Heirs:**
  - The Act categorizes relatives into different classes of heirs.
  - **Class I heirs include** the deceased's children, grandchildren, and their respective mothers.
  - In the absence of Class I heirs, the property goes to **Class II heirs which includes** Father, Son's daughter's son, brother, sister, Father's widow; brother's widow etc.
- **Testamentary Succession:**
  - The Act also recognizes testamentary succession, where a person can dispose of his/her property through a valid will.
  - The individual has the freedom to distribute the property according to his/her wishes, subject to certain restrictions and legal requirements.
- **Rights of Widows:**
  - The **Act recognizes the rights of widows to inherit property** from their deceased husbands.
  - A **widow** has a **share in the property** left by her husband, **along with other legal heirs.**

## What Do Schools of Hindu Laws Say about Property Inheritance?

Schools of Hindu Laws	
Mitakshara Law School	Dayabhaga Law School
The term Mitakshara is derived from the name of a commentary written by Vigneshwaran, 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 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.
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.
All the members enjoy coparcenary rights during the father's lifetime.	Sons do not enjoy coparcenary rights when the father is alive.

### UPSC Civil Services Examination, Previous Year Question (PYQ)

**Q. With reference to the history of ancient India, which of the following statements is/are**

**correct? (2021)**

1. Mitakshara was the civil law for upper castes and Dayabhaga was the civil law for lower castes.
2. In the Mitakshara system, the sons can claim right to the property during the lifetime of the father, whereas in the Dayabhaga system, it is only after the death of the father that the sons can claim right to the property.
3. The Mitakshara system deals with the matters related to the property held by male members only of a family, whereas the Dayabhaga system deals with the matters related to the property held by both male and female members of a family.

**Select the correct answer using the code given below:**

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 3 only

**Ans: (b)**

**Explanation:**

- Mitakshara and Dayabhaga terms were used to denote regions. It is not related to the caste system. **Hence, statement 1 is not correct.**
- The difference between Dayabhaga and Mitakshara is in the basic idea of them. Dayabhaga does not give anyone the right to property before the death of their forefathers whereas Mitakshara gives anyone the right to property just after their birth. **Hence, statement 2 is correct.**
- **Dayabhaga system prevails in West Bengal and allows both the male and female members of the family to be coparceners. Mitakshara system, on the other hand, prevails all over India except West Bengal and allows only the male members to be coparceners. Hence, statement 3 is not correct.**
- **Therefore, option (b) is the correct answer.**

**[Source: TH](#)**

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