
WOMEN'S RIGHTS IN RELATION TO HINDU SUCCESSION ACT, 1956

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INTRODUCTION

According to the Indian Constitution, a woman who lives in India is entitled to equal treatment with men in all facets of life. She has, however, always been regarded as a lesser animal in a society that values men. In addition to matters of honour and liberty, this second-class status also occurs in the family and in society. She is especially affected by this imbalance and lack of sufficiency in relation to one side of the property. The predominantly male-dominated Hindu society discredits women's rights to property and views them as inferior from a social and economic standpoint. A woman should never be free, according to Manu, the main source of law: "A women should be dependent upon her father in youth, upon her better half in youth, and upon her offspring in advanced age." As a result, the Indian Constitution seeks to achieve fairness in terms of status and opportunity as well as in terms of social, economic, and political spheres.

Consequently, in 1956, the then-government enacted the Hindu Succession Act in order to defy established authority and force women to participate in financial activity. The Demonstration served as the main guideline for deliver a comprehensive and consistent distribution of legacy among Hindus and to rectify imbalances in orientation in the legacy region. The status of women, however, could not be improved because of the problems faced unjust legacy rules and a lack of awareness of regard woman as a coparcener.

Consequently, on the advice of 174 Report of the Indian Law Commission on "Property Liberties Proposed Modifications to the Hindu Regulation, ladies ", a change in The Hindu Progression Act of 1956 has been completed in 2005 women's predicament. Two substantial adjustments have been made by the Correction in the 1956 demonstration Right away, it ends orientation segregation in area 6 by granting young girls the same rights. Second, it fails to take into account Section 23, which denies a female beneficiary of a request segment for a home

fully occupied by a joint family until the male beneficiaries opt to divide their separate offers in that.

This modification serves as a clear example of success in terms of orientation adjustments. In our male-centred society, there is still a long way to go until it is accomplished. The 1956 demonstration has undergone two substantial adjustments as a result of the correction. Right away, it ends orientation segregation in area 6 by granting young girls the same rights. Second, it fails to take into account Section 23, which denies a female beneficiary of a request segment for a home fully occupied by a joint family until the male beneficiaries opt to divide their separate offers in that. This modification serves as a clear example of success in terms of orientation adjustments. In our male-centred society, there is still a long way to go until it is accomplished.

COMPARING HINDU JOINT FAMILIES AND COPARCENARIES

Coparcenary and the Hindu Joint Family (HJF) are crucial a member of the Hindu ethnic group. A typical forefather and all of his male lineal relatives, together with their wives and unmarried daughters, make up the larger body known as the Hindu joint Family. It cannot be accomplished via other party demonstrations, such as a wedding or reception. A Hindu joint family is often one in bequest as well as in food and affection. The coparcenary, on the other hand, is a scaled down version of the Hindu Joint Family. The original group consisted of a father and his three male lineal relatives, such as a father, son, grandson, and exceptional grandson. A kid is born into the HJF as a criminal. A Coparcener is a person who is born with an interest in joint family property (coparcenary property), according to the Hindu Progression Act. Prior to the 2005 Revision, only male lineal relatives were regarded as coparceners, and girls dealt with persons rather than coparceners. Change, however, abolished orientation segregation in 2005 and confronted a little girl with a dilemma involving a coparcener. As a result, when a man or female is introduced into a Hindu joint family, that individual becomes a coparent.

Each individual has the choice to get comparable treatment regardless of their socioeconomic position. She wasn't regarded as a coparcener, though, and she had no claim to coparcenary property because of the attitude to Hindu advancement and the position of Hindu women. Lady's station is seen as being below average, and she is made to feel this mediocrity, particularly in her propriety right. No Hindu girl was granted a property right in communal

property in her own unique way prior to the Hindu Succession Act (Amendment) Act, 2005. She may take a share only when a man is looking for a package.

In any event, the 2005 Correction Act made significant improvements to Demonstration Area 6 and altered the concept of the devolution of ownership of coparcenary property by granting Hindu women (girls) the same liberties as male coparceners (child). Currently, a girl has the same rights as a kid from birth. Unquestionably, the 2005 Amendment Act is an orientation change law that aims to encourage female financial participation by giving women their own unique property rights. The author of this piece must examine fundamental shifts in how the Hindu Succession Act views women's role as coparceners.

REFORMATION OF HINDU WOMEN'S PROPERTY RIGHTS

In the Vedic era, women were treated with remarkable respect and enjoyed many liberties and rewards. They have the same freedoms and obligations that her significant other had. In any event, the biggest difference they encountered was the inheritance and development of the father's property. Children are entitled to a free offer in hereditary property under Hindu law. However, the parts of young girls are determined by the proportion received by their fathers. The father may thereby effectively exclude his daughter by rescinding his ownership of the ancestral property. Whatever the case, the youngster will continue to make offers on his own initiative. Furthermore, married children have no private rights in the tribal household, not even those who are subjected to marital provocation. The Hindu Law of Succession Act, 1929 was enacted in the nineteenth century because it was recognised that women's rights to property and inheritance were often limited and frequently violated. It was the first law that included Hindu women in the legacy plan.¹

The Demonstration granted the right of inheritance to three female beneficiaries: the sister, the child's young daughter, and the girl's young daughter. The Hindu Ladies on the Right to Property Act of 1937, another landmark law, brought about progressive changes and sought to ensure that in a Mitakshara coparcenary, the widow of the deceased would inherit the same interest in the joint family property that her deceased spouse had at the time of his death. As a male owner, she was given qualification for the guarantee part. However, she always operated

¹ Das, Bidisha and Banerjee, Shivangi, Hindu Female Intestate Succession Laws and Their Impact on Fundamental Rights of the Elderly (May 1, 2021). Available at SSRN: <https://ssrn.com/abstract=3837895> or <http://dx.doi.org/10.2139/ssrn.3837895>

as a limited proprietor. Although she came from a joint family and had a coparcenary interest, the widow was not a coparcener. A female essentially had no inheritance rights. Despite the fact that these institutions offered unequivocal women additional advancement rights, they did not protect women from separation.

In order to overcome these many differences and bring Hindu women up to par with males, the Hindu Succession Act first emerged in 1956. It brought about enormous changes in the law of progress and granted previously hidden liberties that were akin to a woman's property.

However, young ladies were not given the same status as children as coparceners. It is explicitly stated that, in the event of shared family property, a male Hindu's stake would regress by survivorship after the deaths of enduring persons from coparcenary rather than through advancement. However, under this demonstration, interest in a coparcenary would often decline through testamentary or intestate progression rather than by survivorship if the deceased had left him enduring a female family member. In other words, if a joint family splits up, each male coparcener takes his share and the women get nothing. When one of the coparceners passes away, a woman inherits a share of his inheritance as the primary heir to the deceased.

HINDU SUCCESSION: DAUGHTER AS A COPARCENER (SECTION SIX) (AMENDMENT) ACT, 2005

As previously stated, the coparcenary is a distinctive aspect of the Hindu ethnic group. He (the child) has a few special rights in coparcenary property by virtue of being a coparcener. However, while there are Hindu regulations in place, Hindu male hawkishness disregards these benefits for young girls. This refusal to allow a young girl to participate in coparcenary leads to uniqueness in orientation as well as to persecution and denial of her essential right to communication. Additionally, there is no agreeable, legal, or moral justification for the denial of the rights of the little girl in the coparcenary. Different efforts were then undertaken to provide girls their civic rights and raise their social status.

By granting equal rights to females in Hindu Mitakshara coparcenary property, a few states, like the Province of Andhra Pradesh in 1985, the Territory of Tamil Nadu in 1989, the Territory of Karnataka in 1994, and the Territory of Maharashtra in 1994, made significant legal reforms. According to the legislation of these States, a girl who is a coparcener by birth will become a coparcener by her own choosing in the same manner as a kid in a mixed Hindu household represented by the Mitakshara regulation. Segment 6 of the Hindu Progression Act, 1956, was

also amended by the Public Authority in 2005 to remove separation by granting young females in Hindu Mitakshara coparcenary property the same freedoms as children do. It grants females living in a combined Hindu household the concomitant liberties.²

- She will automatically become a coparcener in the same by virtue of her birth. like a son.
- When it comes to the coparcenary property, B must be granted the same privileges that she would have if she had been a son.
- Any reference to a Hindu coparcener will be interpreted to include a reference to a daughter of a coparcener, and she shall be subject to the same responsibilities with regard to such coparcenary property as that of a son.

As a result, all segregations are now invalid due to the newly changed segment 6. for instance, distinctions based on schools, the nature of relationships, and Stridhan. At this point, a Hindu woman became a direct property owner. She could make as much money as she could with a male partner, and being a widow had implications for the inheritance of both her father's and her better half's property. In a combined Hindu family, a coparcener's little daughter will be born as a coparcener by choice, with all the rights and obligations that entails.

In *Prakash v. Phulavati* [(2016) 2 SCC 36], a Division Seat of the High Court concluded that Part 6 isn't review in action and also applies when both the coparceners and his daughter were alive on the date of the Change Act's introduction, for example, September 9, 2005. Additionally, *Danamma @ Suman Surpur and Anr* The Court emphasised its earlier decision in *Prakash v. Phulavati* in *v. Amar and Ors.* [(2018) (1) Scale 657] and concluded that liberties subject to change are important to live daughters of living coparceners as of 9-9-2005 regardless of the time at which such girls are conceived. In any event, although leaving the sphere of orientation segregation, none of these decisions provided a clear image of a young girl's rights. Therefore, the H'ble SC rejected its earlier decisions in *Vineeta Sharma v. Rakesh Sharma and Ors.*, which was decided on August 11, 2020, and explained stance with regard to particular

² Singh Shambhavi (2020). The rights of women vis-à-vis succession under Hindu law, *International Journal of Law Management & Humanities* 3(5),222-225.

concerns arising out of 2005 modifications, notably in connection with situation of a coparcener on girl.³

The judge declared:

- a daughter born before to the amendment, after it, or both
- The Hindu Succession Act, which went into effect in 1956, confers coparcener status.
- With effect starting on September 9, 2005, a daughter may claim the rights of a coparcenary.
- It is not required that the father of the couple be alive on September 9, 2005.
- Daughters are to be allocated a portion in coparcenary that is equivalent to that of a son, even if a preliminary order has been made in a partition case.

CONCLUSION

Hindu households have always discriminated against women in terms of succession and inheritance. For forty-nine years, men and women had distinct inheritance laws, and the woman was denied the right to her husband's property because of her marital status. Fortunately, the Hindu Succession Act was amended in 2005, which addressed the majority of unfair inheritance practises. But it has been noted that Hindu female intestates who pass away as married women still experience injustice, which is supported by a number of discriminatory clauses in the Hindu Succession Act. The focus on above demonstrates that the 2005 Change Act has achieved a similar legacy for everyone. The kid of a coparcener in a Hindu joint family is now a coparcener by birth by her own doing in the same manner as a child; she has the same obligations and limitations as a child and has the right of guarantee through survivorship. However, these laws cannot be effective unless and until there is societal awareness among women about their rights. The majority of the time, women will forego their advantages and face hardship. Due to people's general lack of awareness, the transformation that took a long time to bring small girls at the same level as their peers with children connected to one side in genealogical property cannot

³ Jhaveri, B. & Boricha Kevin (2020). Hindu Undivided Family, Female Coparcener and her rights clarified by the three judges' bench of the Supreme Court, AIFTP Journal,11- 20.

be ignored. The legal representative should also make an effort to enforce the law in order to achieve real change. Lady herself must be aware of and testify to her rights in full.

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