
A CRITICAL STUDY ON POSITION OF FEMALE HINDU UNDER THE HINDU SUCCESSION ACT, 1956

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ABSTRACT

Hindu women's inheritance rights have been limited since the very beginning of ancient period. Women were not regarded as equals to men in the past, and they did not have the same rights as males in society. Since women were deemed incapable of participating in sacrificial rites and were forbidden from preparing funeral ceremony for the spiritual salvation of the common ancestor, the denial of property rights to them can be linked to religious customs. Following independence, the Parliament enacted a number of measures to standardize inheritance laws throughout India. The Hindu Succession Act, 1956 was one such attempt. It has sparked intense responses from a number of sources. However, because of Supreme Court rulings and parliamentary reforms, women's status has significantly been improved since independence. The Hindu Succession Act of 1956 was a welfare law that overhauled and codified Hindu law in its entirety. It identified Hindu women's property rights and introduced novel ideas like as coparcenary property, testamentary succession, and intestate succession. The Hindu Succession (Amendment) Act, 2005 was created in response to the need for reforms. This Act established women's birth right to inherit coparcenary property, eliminated made Hindu women eligible for testamentary disposition of the property and included a number of disparaging clauses. The researcher has analyzed the two Acts in this article and highlighted several improvements that are necessary to better carry out the goal for which the Amendment Act was passed and to ensure equality in accordance with the principles of the Indian Constitution.

Keywords: Hindu succession Act, 1956, Inheritance, Right to property, Coparcenary, Indian Constitution, Testamentary Disposition, Heirs, Class I, Class II, Male Hindu, Self - Acquired property.

Introduction

In earlier times, Hindu women were frequently seen as socially and economically inferior to men, and they had little property rights in India. In ancient India, women's ownership rights were essentially non-existent. Hindu women were seen as less valuable than men, both socially and financially. Hindu women have fought a long and difficult battle for equal property rights. A woman's property was divided into "stridhan" and "non-stridhan" categories prior to the establishment of statutory laws.

During her marriage, other special occasions, or ceremonial events, Stridhan added goods that she had received as gifts and presents from her parents, spouse, or close relatives. Property inherited from male or female ancestors was referred to be non-stridhan. Women were less interested in non-stridhan, despite having more control over their stridhan. They could use this estate and keep its revenue, but they were not allowed to pass it on to their own heirs because of disposal limitations. Except in extreme circumstances or for vital religious and philanthropic reasons, such as their husbands' spiritual well-being, transfer rights were prohibited. The Hindu Women's Right to Property Act of 1937 was the first law to safeguard Hindu women's property rights and gave them greater property rights. It gave the widow additional rights. She gained the right to maintenance from her husband's property. She had no authority to alienate the land other than for authorized and approved uses, and it was a restricted right of life estate only. Daughters are not granted any rights under this Act.

The Hindu Succession Act of 1956 which was subsequently introduced as welfare legislation empowering Hindu women, eventually superseded the Hindu Women's Right to Property Act of 1937. The Act recognized Hindu women's property rights and incorporated novel ideas of coparcenary property, testamentary succession, and intestate succession. The purpose of this law was to safeguard Hindu women's rights to purchase property in their entirety as owners and to dispose of it as they saw fit. The Act is applicable to property purchased before to the Act's start and was granted retroactive effect.

Position of women under Mithakshara and Dayabhaga law

Hindu laws vary from one another, even when it comes to property division and advancement. The two largest schools of Hindu law were the Mitakshara and Dayabhaga schools, both of which have distinct qualities throughout different states. With the exception of eastern India,

the Mitakshara School was practiced across the country; in contrast, the Dayabhaga School was practiced throughout eastern India, especially in Bengal and Assam. The primary difference between the Mitakshara and Dayabhaga schools is that the former views the family as belonging to the family by birth or as a rightful recipient. The father's self-obtained property is not directly owned by the male members of the family, who may desire to give their father pieces for just tribal property. The standard of survivorship is a genealogical trait that is directly inherited. In terms of the coparcenary property, the lady has no offer. But according to the Dayabhaga school, a family member could only acquire a substantial portion of the property whether it was inherited or acquired on their own by the death of the previous owner.

However, in the Dayabhaga school, there is no distinction between independent and coparcenary property; whatever property an individual acquires is by legacy, and that too simply by the death of the father (last holder). In the Mitakshara school, rights in coparcenary property must be acquired by birth, so the portion of an individual cannot be described because it continues to fluctuate at the birth and death of a male part. In the coparcenary property, each coparcener has equal rights. All things considered, rights of advancement acquire the father's independent property at the moment when he bites the dust intestate.

In general, women's property rights were restricted by the Mitakshara school; it was believed that women could never become coparceners. A widow of a deceased coparcener was not allowed to receive his share and was not allowed to use a portion of his husband's share against his siblings. In contrast, Dayabhaga school was quite lenient; it differed from Mitakshara school in that it allowed women to leave a legacy and as beneficiaries, and widows had more notable property rights there. In addition, a widow could obtain her deceased husband's share and authorize a segment against his siblings.

The Mitakshara school did not consider women to be coparceners. However, the Dayabhaga school permitted a widow to inherit her late husband's assets. As a result, Dayabhaga school gave women more privileges than Mitakshara legislation. However, regardless of whether a widow had daughters or not, her property would be transferred to her closest male heir if she went away without a son under Dayabhaga law. In order to give women more rights and standardize inheritance laws, the Hindu Succession Act was passed in 1956.

Hindu succession Act, 1956

In the modern era of changing standards, it is recognized that women should be given the same position and rights as males in order to promote the development of the country. As a result, the Hindu Succession Act, 1956 (HSA), the first significant piece of legislation acknowledging women's property inheritance rights, was created. Since then, women's property inheritance rights have developed. Women has been recognised as a full and absolute owner after the commencement of Hindu Succession Act, 1956. Any property that a Hindu woman owns, whether she bought it before or after this Act went into effect, she will be considered the complete owner and not a limited owner¹.

Women are granted unrestricted rights under the Act, including the ability to sell their property which includes both immovable and moveable property. According to Section 14 of the HSA, any Hindu woman may use her property without the authorization or approval of her father, spouse, or other family members. She can transfer her property whenever she wants and use the money that is received whatever she pleases. The Supreme Court ruled that women's rights under Section 14(1) are unbreakable and cannot be restricted in any way by legal interpretation or inference². It was decided that the date of possession of the property is unimportant because women who owned the land before to the provision's passage would now have full rights, whereas they had only restricted rights before.

It is clear from an examination of Section 14(1) of the Hindu Succession Act of 1956 that the Legislature has eliminated the idea of restricted ownership with regard to a Hindu woman and established that she will now be the complete owner of any property she owns. In the event that she gets a chance to assert or claim a title to the property, Section 14(1) would be activated. The Himachal Pradesh High Court decided that the woman's property, if she has any, is her exclusive property, regardless of how she acquired it³. In this case, the Andhra Pradesh High Court ruled that, in accordance with Section 14 of the HSA, women had complete ownership rights over the deceased husband's property. None of the heirs may contest any transfer or alienation of such property made by the wife after HSA began⁴.

¹ Hindu Succession Act, 1956, s.14.

² Punithavalli Ammal vs Ramalingam (Minor) And Anr, AIR 1970 SC 1730.

³ Chaudhary v. Ajudhia (2003), AIR 2003 (NOC) 126 (HP)

⁴ Agasti Karuna v. Cherukuri Krishnaiah., 2000 AIHC 84(AP)

Hindu female dies Intestate

Hindu succession Act, 1956 Act covers the general rules for a Hindu female's intestate property transfer⁵. It details the manner in which the devolution will take place: First, on the spouse and sons and daughters (including the offspring of any deceased son or daughter).

Second, on the husband's descendants. On the father and mother, thirdly. Fourth, on the father's descendants. Finally, on the mother's descendants.

Disposition of Property by Will

Hindu Succession Act states that any Hindu woman who has the right to full ownership may sell her possessions through testamentary or intestate succession. In the past, only Hindu men were allowed to make a will to divide their belongings. The same rights are being granted to Hindu women⁶.

Hindu Succession (Amendment) Act, 2005

Sons had rights over the deceased father's property prior to the Hindu Succession Amendment Act of 2005, whereas daughters could only do so while they were still unmarried. The 174th Law Commission Report's recommendations led to the passage of the Hindu Succession (Amendment) Act, 2005, which significantly altered the 1956 Act.

Previously reserved for the male members of the family, married women could now inherit their father's property. Women might now retain equal coparcenary rights to the patriarch's property and become coparceners in a succession. Women can now inherit property as coparceners, according to an amendment to Section 6 of the Hindu Succession Act that addresses the Devolution of Coparcenary property.

Coparcener

Women were excluded from the coparcenary system, a centuries-old discriminatory practice that was abolished by the 2005 Amendment. By changing Section 6 of the HSA, it was accomplished. A coparcener's daughter will naturally become a coparcener in her own right,

⁵ Hindu Succession Act, 1956, s.15.

⁶ Hindu Succession Act, 1956, s.30.

just as sons, according to the modified provisions of Hindu Succession Act⁷. Sons and daughters of the coparcener are thus granted equal rights and obligations under Section 6(1). Through testamentary or intestate succession, a deceased coparcener's interest in a Hindu undivided family's assets will be transferred. Devolution must take place so that the daughter receives the same portion as the son. In the same manner that it was given to her, the pre-deceased lady coparcener's share is distributed to her surviving children⁸.

Mother as coparcener

According to the Schedule of the Hindu Succession Act, a mother is entitled to Class I heir property. Therefore, a few sections of the Hindu Succession Act of 1956 are control her property rights⁹.

Daughter as coparcener

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Widow as coparcener

A widow is a class I heir under the Hindu Succession Schedule. Sections 8, 9, and 10 of the Hindu Succession Act, 1956, among other relevant legislation, govern property succession in the event that a Hindu man dies without leaving a will. According to Rule 1 under Section 10, if a Hindu man passes away intestate, the widow or widows, if there are several widows, would receive one share. Furthermore, a married woman is entitled to all of the rights associated with being a daughter. The modification of Section 6 of the Hindu Succession Act, 2005, which deals with the Devolution of Coparcenary property, has made this feasible. As coparceners, women can now inherit property.

Conclusion

Since the Hindu Succession (Amendment) Act of 2005, the status of Hindu women with regard

⁷ Hindu Succession (Amendment) Act, 2005, s.6(1)

⁸ Hindu Succession (Amendment) Act, 2005, s.6(3)

⁹ Hindu Succession (Amendment) Act, 2005, sections 6, 8, 9, 10, 11, 14, 15, and 16

¹⁰ Id.

to their property rights has experienced a remarkable change. Hindu daughters in the Mitakshara coparcenary have made a tremendous transition from exclusion to acknowledgment; nonetheless, it is illogical and unreasonable for other Hindu females to be excluded, as the Indian Constitution states that all women have an equal right to economic and social justice. Despite certain advancements brought about by the Hindu Succession (Amendment) Act of 2005, a male-dominated culture still denies women their legal rights.

Theoretically and practically, women should have the same rights and opportunities as men. A country can only start along the path of growth when it really maintains gender equality in both concept and practice. Since the daughters now have the same birthright to the ancestral property as the sons, their interest in it is protected now that they have been acknowledged as coparceners. The father cannot deny the daughters their portion of the property by testamentary disposition.