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DAUGHTERS RIGHT TO ANCESTRAL PROPERTY IN INDIA

Akankshya Nanda

Amity Law School, Noida

ABSTRACT

In India, there are all children, whether or not your son/daughter has many rights as heir/legal share of the ancestral property. With respect to the property of their ancestors, both sons and daughters have equal rights to such property. The property can only be considered ancestral property if the father inherits from him. That is, it could be owned by his ancestors. After the death of the grandfather, or if the grandfather divides the property, either in his lifetime, the property must be inherited from the grandfather. This dissertation helps to understand the right of the daughter to the property of the Indian ancestors in various religions.

Keywords: Ancestral, Law, Property, Religion etc.

INTRODUCTION

In India, my daughter was not an accomplice. Therefore, the daughter did not have the rights to the property of her ancestors. My daughter is a member of the family, but she is not an accomplice. Her parents would take care of her until her daughter married. After getting married, she moved into her husband's house and was no longer part of her birth family. Many were afraid that her husband or family

would claim her property, so the daughter had no right to her ancestors' property. This position has changed since 2005. The Supreme Court has given daughters the same property rights as their ancestors.

The Hindu Inheritance Act ("Act"), 1956 was the first law to deal with the inheritance of ancestral property under Hindu Law. He codified the Hindu law on how ancestral property should be acquired only by the direct descendants of the male ancestors of the Hindu co-family. The law was based on the idealism that women should not legally be considered accomplices because they would eventually marry and become part of another family. The woman had "full ownership" of her property, but she could not claim co-ownership of her ancestral property. As a result, the law was completely discriminatory against women on the basis of their gender and abolished the fundamental right to equality established in article 14 of the Indian Constitution.

In order to end discrimination against women by the Mitakshara Coparcenary, Indian lawmakers recognized the need to enact gender-neutral legislation. A law that does not oppress women and does not grant them the same rights to ancestral

property. In this way, the Hindu Succession Act 1956 was amended. On 9 September 2005 the Hindu Heritage (Amendment) Act 2005 ("Amendment Act") came into force. The amendment allowed women to become legal co-heirs and acquire property from co-heirs in the same way as men. It put an end to sexism and protected the issue of the violation of women's fundamental rights to equality.

Section 6 of the Hindu Succession Act 1956 was amended to promote reforms. It stated that "since the beginning" of the 2005 reform, Coparcenary's daughter, like her son, is entitled to Coparcenary property by birth. Daughters have the same responsibilities as sons. This concept is called "barrier-free equity."

The contradictory decisions of the Supreme Court in Pravati and Danama have caused confusion among the people. There was a dilemma about how much communism the daughter had because of her ancestors' property. This paved the way for appeals to the Supreme Court. The Supreme Court ruling in Vineeta Sharma v. Rakesh Sharma clears the air and clarifies how the daughter of a Hindu joint family is a legal heir and entitled to inherit common property.

BACKGROUND AND HISTORY

- Dating back to a time when there was no specific law governing the inheritance of property among all Hindus. Various laws were enacted according to caste and custom, but these laws also varied from place to place. The Hindu Inheritance Act 1956 was enacted to establish a unified law dealing with all forms of inheritance under Hindu Law.
- The Hindu Succession Act 1956 Promulgation introduced the Survivors Regulations. That is, the property is left to the survivors only after the death of a common

ancestor. The inheritance of ancestral properties was based on this rule. Co-ownership of such assets has been extended only to male heirs within tripartite co-ownership. They were known as direct descendants of their ancestors.

- Section 6 of the Hindu Inheritance Act 1956 (before amendment) states: Your interest in the property will be delegated by survivorship to the surviving members of the Coparcenary without complying with this law.
- However, women were never considered legal heirs to ancestral property on equal terms with men. The reason for such exclusion is that she will one day marry and become part of another family. In the case of the accomplice's wife, the reason was that she was not counted as a direct pedigree of her ancestors. This discriminatory approach to gender and the suppression of the fundamental rights of women necessitated a revision of the Hindu Succession Act of 1956.

A DAUGHTER CAN NOW HAVE TWO KINDS OF RIGHTS IN THE ANCESTRAL PROPERTY

1. Coparcenary rights:

Before 2005, the daughter was not complicit in the property of the ancestral ancestors of a Hindu communal family. Therefore, she had no communist rights to the property of her ancestors. Since 2005, after the enactment of the Hindu Inheritance (Amendment) Act 2005, the daughter is now considered an accomplice to the ancestral property of the Hindu joint family. Therefore, the daughter now has communist rights to the property of her ancestors.

By definition, the son and daughter of the eldest son of the same Hindu family, three generations, are now complicit in the family's ancestral property. Therefore, if the oldest accomplice in the family is your grandfather, grandmother, father or mother, as a daughter, you are an accomplice of the assets of your ancestors. Your own father will be another accomplice, as will his brothers and sisters. Your brother will also be an accomplice. There may be other partners, depending on how many of your ancestors and descendants are alive.

As an accomplice, you have certain rights to control the property of your ancestors. These are known as joint joint rights. The two important joint rights are:

1. The assets of ascendants cannot be disposed of without the consent of all consentors. Your consent is required to dispose of your ancestral property.
2. As an accomplice, you have the right to unilaterally request the division of the assets of your ancestors. No other accomplice can deny you this right.

The Supreme Court made the daughter an accomplice, but there was still confusion over whether the daughter, whose father died before 2005, would inherit her ancestors' property. The Supreme Court ruled that even if the father died before 2005, the daughter would still have the Communist Party's rights to her ancestors' property.

2. Inheritance Rights:

Even before 2005, daughters had the right to inherit part of the ancestral property of the Hindu co-family. The daughter was not an accomplice, but she still had the right to inherit the property of her ancestors. After the enactment of the Hindu Inheritance (Amendment) Act, 2005, the daughter retains the

same inheritance rights in the property as her ancestors.

Likewise, your mother, as the daughter of your maternal grandparents, has the right to inherit part of the assets of your maternal grandparents' grandparents. This is considered ancestral property held by your mother. The daughter can inherit her mother's property after her death.

Married Daughter's Rights in Ancestral Property

Before the marriage, their daughter was a member of the family and an accomplice. After the marriage, the daughter is no longer part of the family. She is just an accomplice. She not only can she demand a division of the family property, but she can also become a family karuta. After her death, her share of her ancestral property is transferred to her children. Married daughters have an equal share of their ancestral property, but they cannot give their share of their ancestral property while they are alive. She can only bequeath her assets by will. A 2005 Supreme Court ruling made all daughters accomplices, regardless of their marital history.

Daughter-in-Law's Rights in Ancestral Property

The court has not reached an agreement on the rights of the daughter-in-law in the ancestral property. However, the general judicial opinion is that the daughter-in-law has no right to the property of her husband's ancestors. She is entitled to the property of her ancestors only through their husbands. Therefore, the daughter-in-law will inherit the assets of her husband's ancestors. If the property is self-acquired by her daughter-in-law, the daughter-in-law is not entitled to such property. The daughter-in-law only has the right to reside on her property.

DEVELOPMENT OF THE LAW OVER THE YEARS

- After 50 years of back and forth on the issue of deciding whether women have the right to inherit common property, the Hindu Heritage 2005 (Revised Act) was passed. Common property here means property inherited by Hindus from their father, grandfather or great-grandfather.
- Changes made by the Hindu Heritage (Amendment) Act 2005-
 - Modified the provision that deprives daughters of the right to inherit common property.
 - If a Hindu die, the common property will be allocated to the daughter in the same way as it is allocated to the son.
 - Coparcener's daughter has been established as a coparcener at birth, as has her son.
 - Inheritance canceled according to rules of survival and testamentary and testamentary inheritances introduced.
 - In an undivided family of Hinduism, a daughter has the same right to request partition as her son.
 - The daughter can, at her will, dispose of her part of her common property.
 - If the split occurs shortly before the death of an accomplice, the child of said accomplice will have the right to inherit the common assets.
- The co-owner has the right to seek partitions in the co-owner's assets. This made retroactive application of the law difficult. Such an application will lead to the resumption of many settlements made in the past. To avoid this problem, the court decided December 20, 2004 as the date to retroactively limit the application of the revised law. However, the court

also said that if the daughter was still seeking a split to leak the shares, she could not deny it on the basis of an oral family agreement supported by official documents.

- The Hindu Heritage (Amendment) Act 2005 proved to be more gender neutral. It severed the oppressive and sexist aspects of women's fundamental right to equality associated with the 1956 Act. It allowed women to become complicit in the inheritance of Mita Kushara's joint property. He defended the principles of the Constitution by granting women the same rights. However, the revised law was affected by legal ambiguity.

LAWS IN DIFFERENT RELIGION

There are various personal laws (Hinduism, Islam, Christianity, Parsis) and a constitution in which the daughter has property rights.

Hindu law

Section 14 of the Hindu Inheritance Act 1956 introduced a fundamental change in the Hindu Law on women's property. Before 1956, women's property was divided into two heads.

1. Stidhan, and
2. Female property.

The Hindu Women's Property Rights Act 1937 had the effect of giving certain Hindu women some new inheritance rights and increasing most of their property, but it was secondary to communal family property. The division becomes the property of Stedan and the woman. It is always said that daughters are the heart of the family. The eldest daughter is always a daughter.

Property rights of daughters since 2005: Approximately 50 years after the enactment of the Hindu Succession Act 1956, the government passed a new amendment to the property rights of daughters on the property of their ancestors in 2005. There is no gender discrimination at HUF because the daughter is also an accomplice since the birth of her son, so she is completely under this modification for this property.

Section 6 of the Hindu Inheritance Act 1956 was amended to address the rights of accomplices in the Hindu Undivided Family Property (HUF), and the Amended Act 2005 repealed the rules of survivorship and introduced wills and inheritance of wills.

Similarly, sons and daughters have property rights and equal responsibility.

Article 24 of the 1956 Act was abolished due to the denial of the right of widow to the property of the husband who died during the new marriage.

Islamic law

According to Islamic law, Muslim inheritance is one of the superstructured ones established by pre-Islamic customary inheritance law. It is entirely based on the patriarchal organization of the family, with some close to the family supported alongside the family.

The Islamic inheritance system is valued for its usefulness and formal excellence by all contemporary writers. Like other individual Islamic laws, Islamic inheritance law is a combination of pre-Islamic customs and rules already introduced by the Prophet. (PUBLICATION)

Therefore, there is a double motive for women's property and Islamic inheritance law.

1. The rules of the Holy Quran;
2. The practices and usages popular among the Arabs unless they are modified or abolished by the command of the Qur'an.

The Qur'an grants a particular share to a particular individual with humanitarian considerations, but pre-Islamic customary law treats the residue thus left and distributes it among the lethargic heroes and the heirs of the womb.

According to their ideology and norms that women are worth half as much as men, sons are entitled to be offered twice their daughters' share. Until she gets married. That way, she has the right to stay with her parents and seek child support without any inconvenience. In the divorce example, the support costs were retroactive to her parents and family after the iddat period (almost three months) had expired.

Christian Law

If the deceased is not a Hindu, Mohammedan, Buddhist, Sikh or Jain, the inheritance of his estate will be vested in or regulated by the Inheritance Act 1925.

For the purposes of this 1925 Act, section 27 of the 1925 Succession Act makes no distinction.

1. Between a person who has a relationship with a person who died through his father and a person who has a relationship with him through his mother. as well
2. Between a person who has a relationship with a person who died of whole blood and a person who has a relationship with him with half blood. as well

3. Between the person who was actually born in the decedent's life and the person who became pregnant only in the womb on the day of his death but was born alive afterwards.

Sections 33-49 of the Succession Act also deal with property under Christian Law, but section 33A of the Act is especially special where the will leaves a widow and has no direct offspring.

Parsi Law

Inheritance of Parsi's property in India is regulated by section 50 and further by the Inheritance Act, 1925.

CONCLUSION

Therefore, it can be concluded that the daughter also has the rights of accomplice in an undivided family of Hindu religion according to the rules, and thus has property rights even though she is born from the property of her father or grandfather. Regulations provided by law.

The Hindu Law on Inheritance of Property was first codified by the Hindu Inheritance Act of 1956. It dealt with the delegation of the interests of dying Hindus ancestral intestinal self-acquired property. However, the law was discriminatory due to gender inequality and the suppression of the fundamental rights of equality established in article 14 of the Indian Constitution. It granted communist rights only to descendants of males in the direct line of the family, excluding women from having such rights. The reason for such exclusion is that one day the woman will marry and become part of her husband's family. Common property under Hindu law means the property inherited by Hindus from their father, grandfather or great-grandfather. A discriminatory approach to women's gender and suppression of their basic rights necessitated an amendment to the Hindu

Succession Act 1956. Therefore, section 6 of the Act was amended and became known as Hindu Inheritance (Amendment) .) Act of 2005. This amendment allowed women to be oppressors just like men. The 2005 revised law created ambiguity regarding the application of the provisions below. Due to the two conflicting cases, it was not clear how the interpretation of the law would have to be done. The Phulavati case in 2015 and the Danamma case in 2018. The question was whether the 2005 amendment was applicable retroactively and whether the father (accomplice) and daughter had to be alive on the day the 2005 amendment came into force . Energy. The case of Vineeta Sharma vs. Rakesh Sharma answered both questions. The Honorable Supreme Court of India has ruled that a daughter has the same rights to the same common property as her son, even if the father died before the enactment of the Hindu Succession (Amendment) Act, 2005. This amendment applies to living daughters of living Coparseners as of September 9, 2005, regardless of their daughter's date of birth. Women have been exposed to historical injustice due to the lack of access to their communist rights and the ambiguity in their interpretation of those rights. The decision of the High Court of Homble in India in the case of Vineeta Shama v Rakesh Sharma is a step towards gender justice and gender equality. However, it was a long time before the evolution of women's rights under Hindu law took place.

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