

Streedhan: A Critical Study

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ABSTRACT: *Earlier, women were not given any share of property. Contrarily they were only considered as a property. Introduction of streedhan has given rights to women to acquire and retain their own property. The genesis of streedhan can be anticipated through Manu, which stated that a wife, son & slave can't acquire any property of their own, and the wealth they earn is an acquisition for him, i.e. the Patriarch, to whom they belong. The women's right over property was of very negligent share right from the ancient times itself but the husbands had all the authority and significant control on all the properties including streedhan. Through Hindu Succession Act, 1956, right were recognized in women's favour for acquiring property. By this paper, researcher is making an effort to make the concept of streedhan clear along with the rights of women, its type, sources and law and regulations governing the same.*

KEYWORDS: *Streedhan, Rights of Women, Patriarch, Succession, Alienation.*

INTRODUCTION

Concepts like Karta, Succession Laws, HUF (Hindu Undivided Family), Streedhan, etc. are included under Hindu law which were established for the even operating of the family and object was to secure protection of interests of various family members.

One more factor that is necessary to be considered, is the factor which includes the right to use "Streedhan". It is pertinent to understand that if situation arises where dowry was refused, bride shall not forfeit right over "Streedhan" where her husband isn't entitled to regard that property as his own within areas she has acquired the "Streedhan". Streedhan and dowry are fundamentally two different notions that one needs to apprehend. It is important to note here that patriarchal parents sometimes divest their daughters from possessing equal rights in their property under the mask of dowry-less marriage. Streedhan is an asset obtained by woman during events of marriage and is entirely varies with term Dowry. Former depicts voluntary gifts assigned to woman with happiness during marriage ceremonies involving nil aspects as to coercion. To establish more clarity, courts in its several precedents have clearly laid down the distinctions. Further, it added that streedhan is absolute property of women only.

From earlier times, the idea of streedhan is existing under Hindu law, but the complete ownership was not assigned to the women at that very time. The property started belonging to a Hindu woman only post enforcement of Hindu Succession Act, 1956, in country and now has been granted the status of property in absolute nature for her parallel to complete right for it.

The right of the daughter to inherit was also contested because only if she was a 'putrika', meaning brotherless child, was she entitled to inherit. Some social workers brought reformative change in women properties with Hindu Women's Right to Property Act, 1973 that got enforced only because of their efforts. Under that Act, ideology of all Hindu law schools was changed in a way that gave Hindu women greater rights.

By influencing laws like coparcenary law including law of alienation, succession, division or adoption per se, this Act brought about fundamental changes. It allowed a widow to claim an ownership proportion of over shares of son's, but due to disentitlement of her being a coparcener, the widows has just restricted property with right to request partition in property that their deceased husband held.

Parliament agreed to come out with such an updated law dealing with women's property ownership and implemented the Hindu Succession Act, 1956, after realizing criticism for right to Hindu Women's w.r.t their property.

DISCUSSION

1. Meaning of Streedhan

The term “Stri” is the originator of expression “Streedhan”. Stri is a term from very ancient language Sanskrit and word “Stri” signifies a woman and the word "dhan" implies property. Therefore, “woman's property” is coined from her 'Streedhan' by joining these two words. These terms imply that a woman's property has total control over her streedhan. 'Streedhan' demands no consideration in exchange of it. Streedhan covers all kinds of assets be it movable or immovable, inclusive of ornaments, currency, any investment, etc.

History of Streedhan is equally older as Hindu law. Streedhan is merely a term reflected under Hindu texts. This is a term that was derived from the Hindu Smritis over many ages, but today it is witnessed as a flood because it is a part of all kinds of marriages in all recognizable castes and religions.

The earlier sense of streedhana in the Mitakshara School elaborates the meaning of streedhan in its commentary as what was offered to a woman in front of her wedding fire where girl and boy take seven rounds of it or assets presented on her succession, by her family members. While Dayabhaga School in its commentary doesn't recognize the term streedhan and furnishes that even during the life of her husband, she has all the control over the property given to her.

There were specific provisions drafted with respect to the property of Hindu women after the inception in 1956 of Hindu Succession Act. Pursuant to Section 14, properties owned by Hindu woman, prior or later to effective establishment of Act and immaterial as to when property was acquired are to remain property of that woman with full ownership rather than being a partial owner.

This captioned Act enlightened with significant changes to women's property rights and provides women complete authority over their assets. In a matter, judiciary declared its sentence that a property assigned to lady during persistence of marriage remains her whole sole property with complete ownership.

2. Meaning of Term Property

As per the understanding of a layman, property is a piece of land owned by a person and he owns the same. Conceptualization of property is very distinct from the above in the legal context. In law, ownership of a thing reflects the right of one or more people to own it and use it and excluding other from doing the same. The item in which there may be ownership is called "property" in this code. Referring in particular to the Hindu Succession Act, Section 14 sub-section (1), the term specifically encompasses all forms w.r.t property including moveable and immovable property. A woman's right to share on partition is property itself.

3. Criterion for Streedhan

3.1. The test as to whether it is Stridhan:

The property can be secured through various sources by a Hindu woman, but all such properties cannot be regarded under the umbrella of streedhan. Whether a property can be titled as Streedhan relies upon the following variables:

- Property was acquired from what destinations,
- Status possessed by women when she acquired that property,
- Her family preference over school to be followed.

3.2. Succession

Pointing out the concern towards Streedhan's alienation or succession w.r.t. legal branch in India came up with order to preserve such right. Now, such property could be diffused among women's heirs after her demise. The inheritance of a woman's estate is not subject to this law. Further, abolishment of property of

different types took place within realm of 1956, Hindu Succession Act, where succession unanimous rule got granted in concern with Stridhan.

3.3. Power of alienation:

Hindu woman had ownership with unrestricted nature of Stridhan, therefore was entitled to absolute right in terms of alienation of land or property. It might get disposed of willingly by her.

Its worthy noting that, property vested with women, before or after the inception of above mentioned Act, turns into absolute property of women with or after inception of such Act without any limitation. Therefore at her will, she has the full power to alienate herself.

4. Types of Streedhan

A Hindu woman may have two forms of property categorically, namely Stridhan: one where she is the absolute owner and the property of women: one where she is the minimal owner. It should be noted that limited ownership principle got extinguished with Section 14, Hindu Succession Act, 1956 and conferred full ownership of property on it, irrespective of whether the property was obtained before or after the Act was initiated.

The concept indicates not only the distinct properties as applied to in the Smritis in modern Hindu law, but it also includes existing properties to which she is a complete owner or where the property is passed to her because she is a legal heir. Actually, it means that the women are all in the assets owned by him and that she can use and dispose of it at any time, not subject to receiving permits in any way she wants according to her own will.

5. Sources of Streedhan

There are several sources from which the woman may acquire the estate and proof of the same has been given.

5.1. Property Received in Lieu of Partition

The Karta is empowered give a member of the family some property for his or her life support. Hindu female is sanctioned to occupy property to secure her maintenance purpose as a family arrangement or during partition. This means that if the father of the woman or the father in law wishes to split the property between two or more number of children that the father or the father in law has, women will be given the property.

In *Chinnappa Govinda v. Vallaimmal*, to preserve the right of maintenance of daughter in law, her father in law assigned some property to her by virtue of a deed or through other contexts. Later, in 1960, when he died, left alone his widowed daughter-in-law, interest had been passed down through inheritance. In order to get her share of her inheritance, the daughter in law sued for partition. Alive family members claimed that she might only earn parts belonging if she consented to incorporate the estates granted to her for preservation in the suit holdings. Court concluded “under the maintenance deed, she did not need to forfeit the assets held by her. It was because the late father in law did not state anywhere that she still had to include the other estate, so the court ruled in her favour.”

In words of sec 14, after Act's inception, properties held by Hindu woman would regard as absolute property to her. Further, it implies "any property held by women at non existence of this Act turn to be absolute property with Act's inception only if at inception she was the possessor of that.. Another indication of this claim is that in the Kerala High Court in *Pachi Krishnamma v. Kumaran Krishnan*, it was noted that the woman's share in partition was her absolute property due to pre-existing maintenance right of hers that extended to an absolute property pursuant to section 14 (1).

5.2. Property Given Under an Award or Decree

To develop understanding for this concept, an example is referred. In a matter, division by virtue of award, subsequently was incorporated in a decree, a Hindu woman was allocated such assets as share belonging to her only, SC claimed “it holds no applicability over section 14(2).” Their judges stated that since the portion together seems to be more complementary than the individual sections, section should be read as a whole and not in parts. Whether the same applies to sub-section (1) or sub-section (1) depends on the details in each case (2).

'Possessed' and 'acquired' are the crucial words in the subsection. In the broadest possible sense, the former was used in the context of section 14 (1). It implies actually owning or acquiring the state in hand with control. Likewise, acquired word was interpreted to possible larger extent as well. The Supreme Court reflected with opinion that, even though her share as property holder is described as limited in decree or award, a share acquired by Hindu woman in any partition pursuant to section 14(1).

5.3. Property under an Agreement or Compromise

Division between two subsections was specifically sought during Mahadeo v. Bansraji. There are certain tests as to how the distinction should be made. The test that if the judgement passed or award related to the pre-existing right and confirms it then it attracts under subsec. 1, but where first time property has been assigned to Hindu woman, decree or award under subsec. 2 will be enforced. The purchase of the property under an arrangement or negotiation has been enforced.

5.4. Property Received in Inheritance

It deals with property in any form inherited by Hindu woman from a male relationship or per se female relationship, though denied in thoughts of Bombay School, was taken by her as a limited estate. Section 14 states every property acquired by a Hindu woman inherits from any relationship will be considered as her absolute property after the beginning of the Act. At her death, under the terms of Sections 15 and 16 of the same Act, only the property will be passed to her heirs. If she inherited any property at all prior to beginning of the Act, also if it lies in her scope, then such property becomes her property at absolute nature as well. And before the beginning of the Act, no one can deprive her of the properties she owns and has inherited.

5.5. Property Received in Gift

Act provides no difference at any point of life between the gifts she receives from her family or even from her own father or from strangers, and all of the presents she receives are solely her belongings. Ornaments earned during marriage by her usually constitute her property as Streedhan. In Vinod Kumar Sethi v. State of Punjab matter, a full bench of judges arrived at the conclusion that dowry and all traditional presents rendered to the bride during the event of her marriage constitute her Stridhan, over whom she possesses an absolute right. In Gopal Singh v. Dile Ram, before the enforcement of Hindu Succession Act, 1956 came into force, a widow possessing living inheritance who pretended to be someone else in order to make a donation of the property.

5.6. Property Received under a Will

It is related to property received by virtue of a will or through registered will. In Karmi v. Amru matter, under registered will, a Hindu granted his wife a life estate in order to transfer property to Bhagtu and Amru after the death of his wife Nihali, two of his collateral Nihali took possession and in 1996 she was dead. After death of her, heirs claimed the property through the declaration that the life estate of Nihali became her full and absolute estate after the Act's commencement in society.

It has been declared that Section 14(2) will apply at scenario with only a life estate conferred within testament, while estate would not be full estate. Despite this, if though will complete estate become her property, she can hold it entirely. Properties distributed widow as a settlement for returning to settler on her death to his brother are not enlarged into full estate.

6. Laws Governing Streedhan:

6.1. Hindu Succession Act, 1965

The right of a woman over a Streedhan is protected under regulation Hindu Marriage Act, 1955. S. 14 of the Act, 1956 when read with section 27, it establishes that when asked by the woman, even if it is kept within the possession of woman's husband or her in-laws, they are bound to return back to her as if they are the depositories or trustees assigned for that property¹.

6.2. Domestic Violence Act, 2005

In cases where she is a target of domestic abuse, Sec. 12, Domestic Violence Act, 2005 specifies for streedhan for women to which she is entitled. It is easy to enforce the protections of this law in order to recover Streedhan. The magistrate can order the offender to deliver her Streedhan to the hands of the aggrieved person or any other asset or precious protection to which she is subjected.

Fortunately, 18(ii) of above Act states while empowering woman to obtain Streedhan's possession, her clothes, jewellery as well as including necessary articles. Under Act, the word 'economic exploitation' was also elaborated.

6.3. Criminal Breach of Trust

And when all of necessary components are found to have been met may offence within Sec. 405 be considered to be executed smoothly. Temporary misappropriation might also stand to be strong enough for warranting prosecution under this provision, as in matter of criminal misappropriation. Even if the defendant plans to recover the property in the future, it is a criminal breach of confidence at the time of misappropriation.

The Apex Court mentioned in matter of Rashmi Kumar vs. Mahesh Kumar Bhada² that in situations where the woman assigns the property or streedhan into the hands of her husband or her in-laws with superiority over it and if the family or husband with dishonest intentions use that property for his or their own benefit or make the woman to suffer through that property deliberately then criminal breach of trust has been said to be established by the wrongdoer.

7. Rights of Women over Stridhan

For women, Streedhan meant total authority of land. When she was a maiden or a widow, she had full rights over her house. However such limitations on the disposal of such property are imposed on women. Streedhan is categorized into two main divisions after commencement of marriage. First is Saudayaka and other is Non-Saudayaka. Former is a gift resulting out of affection and love by relatives of woman. Over such property, woman has acquired all the rights including alienation. Non-Saudayaka applies to certain gifts that without her husband's permission, the woman has no alienation rights over it.

¹ Dixit Vaibhav, *Streedhan – The Right of Woman*, 2015 January 30

² www.lawctopus.com/

Women are entitled to exercise the mentioned rights over her Streedhan:

- A Hindu woman may alienate her streedhan of each description at her leisure during maidenhood.
- She can dispose of gifts from relationships within span of coverture, during her husband's lifespan, excluding the one if given by her husband.
- During her widowhood, she might make divestment of transportable goods acquired from her spouse, but not property received from spouse as immovable property.

After the establishment in 1956, Hindu Succession Act all existing rules on women's property ownership were abolished. Sec. 14 of the Act clearly reflects regarding properties w.r.t. women and privileges, including their full and exclusive property rights, possession, also stridhan, through this Act. After amendment of mentioned Act in 2005, in some cases women may now be able to claim immovable property. It was claimed in one instance that if woman wanted property belonging to her to get assigned at the time of marriage, then perhaps the spouse and his relatives are obliged to do so.

8. *Streedhan and Judicial Pronouncements*

In matter of *Devimangal vs. Mahadeo³ Pd.* the council furnished the post separation from husband, the property acquired by her from husband will never constitute a part of streedhan. Even as per the commentaries laid down in *Mitakshara School*, the property gained as widow post partition will not fall under the umbrella of stridhan. Also, unless specified clearly through a contract, all her property will again rest with her husband's family heirs. The court upheld in case of *Sham Kunwar v. Wah Kunwar* that it property of dead husband rests with his widow for a period of more than twelve years, then the property will be referred as her streedhan.

In context to Streedhan, the Punjab and Haryana High Court gave a significant ruling in matter "*Vinod Kumar Sethi v. Punjab State*". As per court's understanding, anything gained by the women during marriage including gifts will form the part of the streedhan. Under three heads, the court split the donations and dowry made to her. First, such things that are provided for her exclusively use to the bride; second, items that are meant to be used jointly by her with her spouse; and third, includes such gifts which entitled to be used by her husband and his relatives. She has the exclusive right over the first category and she holds exclusive ownership of it over belongings to second category, the court's came up with statement that even then, claiming that both partners have authority to enjoy it, ownership of the wife would not be extinguished. Every such gifts along with presentations falling in realm of first two categories shall be called streedhan in the case of marriage breaks or in compliance with the above decision.

In a later scenario, *Pratibha Rani vs. Suraj Kumar, SC* disaccord with the Punjab and Haryana High Court's proposition, and held that whichever presents, representations inclusive of dowry items ones assigned to married woman will be considered her property in absolute sense. Her Steedhan is entire gold ornaments, clothing with other several dowry items assigned to Hindu woman during marriage ceremony, and she enjoys total ownership over it. The situation where woman lives with her spouse and both are equally enjoying the assets gained through dowry won't debar her from exercising absolute ownership over such assets. It should not be understand by others that once women has become the integral part of her husband's family, that gained property will be subject to everyone's use and wife will lose her absolute right over such property.

9. *Distinction of Streedhan from Dowry*

Though 'Streedhan' is fully distinct from 'Dowry', they commonly misconstrued to imply alike. Though 'Streedhan' and 'Dowry' are fully distinct, they are commonly misconstrued to mean alike. Dowry, within domestic legislation, implies property or valuable protection which is provided or consented to be furnished to bridegrooms family by family of bride's side during the persistence of marriage period.

³ (1912) ILR 34 All 234

Primary distinction among 'dowry' and 'Stridhan' seems to be the effect of demand or coercion or undue influence aspect whose traces are found in former but lacking in latter condition. Stridhan revolves around gift offered to women willingly but it is not the product of demand, unfair force or coercion. In a variety of cases, the courts drew line pointing down the distinction among Stridhan and dowry. The key reason behind the distinction of the courts is that if the wedding falls apart hereafter, the lady has the option of recovering the goods she acquired as Stridhan, that is not the case with dowry gifts⁴.

In matter "Pratibha Rani V. Suraj Kumar",⁵ the SC defined distinction between dowry and Streedhan after witnessing the agony of an alienated wife. Woman was held to be her Stridhan's utter owner, and she is empowered use property in way she wanted to. Further, also established that spouse would occupy no right of ownership in Stridhan during ordinary circumstances, but he can use it in times of serious distress, but must recover it when he is able to do so.

10. Women's Estate and Powers

10.1. Management Power

Women have a slight advantage over Karta in terms of estate control, as the Karta is just a co-owner of the joint family proprietorship due to involvement of other coparceners, but woman occupies sole ownership over her land. She, exclusively is entitled to her estate's ownership, care and revenue. She also has the power to invest the wealth created from her estate at her own discretion, and if she saves the income, then Streedhan will be her. Only on behalf of her estate will she be prosecuted and be sued in favour of it, and no one else. The woman, until revocation by death, re-marriage, adoption or surrender per se, remains the owner over her assets⁶.

10.2. Alienation Power

Woman holds restricted alienation rights w.r.t. her property and under only extraordinary cases will she be alienated. The special cases are legal necessity, the gain of property or the discharge of some important duty.

10.3. Surrender

Surrender means the female owner's abrogation of the estate. Surrender can be performed by the woman willingly during her existence, or by her death naturally. In favour of her nearest successor, the woman has the right to renounce her estate, and consciousness on her part will act as her civil death.

There are certain prerequisites for a legal surrender, viz. That would need to be met. It is essential that whole property shall be renounced or surrendered by woman. A small portion can be saved by her in order to maintain her life requirements. Also, the surrender should be executed in the support of closest heir or heirs belonging to last owner. In addition to it, such surrender shall be made voluntarily by woman. The estate will focus upon the reversions after such deposition. Such reversions often have the authority to forbid the female holder from wastefully or wrongly alienating the property from using it.

CONCLUSION

Women's ownership rights in property are restricted from initial years. Since, enactment of the 1956 Hindu Succession Act, substantial changes in women's ownership in property was witnessed. In certain cases, the words 'Streedhan' and 'Dowry' are wrongly interpreted. These two have substantial differences, and it is forbidden by law to give or take dowry, while the streedhan was legally recognized and protected.

⁴ Sreekanth Reddy, *What is Streedhan? – Meaning & Constituents / How can Women protect it?*

⁵ 1985 AIR 628, 1985 SCR (3) 191

⁶ *Supra* note 6.

Section 14 was certainly a security guard for especially Hindu women. It gave women the freedom that had been denied to them form decades. It is certainly a safeguard of women's rights as well as human rights. This provision destroys female power to gain and own ownership as an absolute owner of property, as well as the capacity to convert any property acquired by a woman as a restricted owner on the date of the act's enactment into an absolute estate. She would become a fresh stock of descent in the event of her intestate death and the property quickly turns to its own heirs through inheritance. This segment extends women's maintenance rights by granting them full rights over them. The absolute new happy feeling for women's rights advocates is to grant women their absolute rights. Sub-section (2) is an exception to sub-section (1) in so far as it states that nothing in sub-section (1) applies to any estate acquired through a gift, a bequest, or any other arrangement, or through civil court order, or decree or an award, assuming that the conditions of the gift, testament, or other instrument are limited to its ownership. So, above all, what can be said is that the women were the winners of this segment.

Cases frequently appear in front of bench in context of Streedhan properties by women forced out of the marital home or exposed to domestic abuse, specifically while they are subject to a decree of legal separation and their husbands have either refused or stopped their monthly maintenance. "The Supreme Court cited Sir Gooroodas Banerjee's observation on the concept of Stridhana in Pratibha Rani vs. Suraj Kumar: Take the case regarding property acquired by gift first. Presents of affectionate kinds, known as simply sandayika stridhan, entail the exclusive property of a woman, over which she has independent power to alienate at any times and to which her husband has only a qualified privilege, namely the right and use it in times of distress.

