

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 4 | Issue 2

2022

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Succession to the Property of a Female Intestate Hindu Law

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ABSTRACT

Freedom cannot be achieved unless the women have been emancipated from all forms of oppression

- Nelson Mandela

The impact of reforms in the Hindu Succession Act 1956, which allow girls equal coparcenary birth rights in joint family property, which they were previously denied, may be measured across three generations of humans. Although a large rise in the possibility of daughters inheriting land was achieved as a result of the 2005 amendment, a major bias still exists in society.

The Hindu Succession Act, 1956 was enacted to amend and codify the laws relating to intestate succession for Hindus, which includes Buddhists, Jains, and Sikhs, and to give women priority by abolishing the Hindu women's limited estate and thereby establishing a uniform and comprehensive system of succession in the said Act.

As a developing country, India has limited land markets, which are mostly acquired through inheritance, which is why women continue to be asset-poor and reliant on men. As a result, our country's inheritance laws are important. Equalization of inheritance rights is likely to be a major tool for women's empowerment.

As a result, this study finds a significant increase in the accomplishment of inheritance rights by daughters, implying a wealth transfer alternative. In addition, the research examines the impact of women's empowerment in India through increased intergenerational transfers of physical human capital and inheritance rights.

Keywords: *Succession, women's inheritance rights, property, intestate succession, The Hindu Succession Act*

I. INTRODUCTION

Culture The Hindu Succession Act of 1956 was a significant advancement in the law for Hindu women. Surprisingly, a Hindu woman discove-

red the potential to become the property's sole owner. She might acquire similarly with a male spouse, and a widow was also provided importance in regards to the progression of both her better half's and her father's properties. The

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Hindu Succession (Amendment) Act of 2005 makes the girl a coparcener in a joint household, much like a kid. The change was made to ensure that men and women were treated equally when it came to inheriting property.

However, while these activities have sparked a few minor differences in property ownership, the situation has remained mostly unchanged as women have failed to assert their rights. A mother, for example, shares similarly with her children and widow when one of her children dies. When a married woman dies, her mother inherits the position after her better half's main beneficiaries. This is what the law mandated in the years 1955-1956. Furthermore, in India, a lady's property rights vary depending on her religion, matrimonial status, state of origin, and ancestral character.

The skewed reality of orientation in social, political, financial, and social interactions demonstrates how regulation is not only not orientation-based, but also not always unbiased. If it merely maintains up with the current circumstances, which is only the monitoring of orientation separation, sexual equity will be insufficient. In the public sphere and under regulation, women require and deserve validation of equality. Section 15 of the Hindu Succession Act, for example, which governs the order of succession in the instance of a Hindu woman who dies intestate, should be altered because it reflects a long-standing system of female subjugation.

The usual rule for all types of property is that it will pass to the spouse and the children (or, if the female's children predeceased her, to the predeceased children's descendants). However, if no one from the predecessors is alive at the time of succession, the first type of property will be inherited by her father's heirs, and the second type of property will be inherited by her husband's heirs.²

II. INTESTATE SUCCESSION TO PROPERTY OF HINDU FEMALE

The Hindu Succession Act of 1956 oversees Hindu female intestates' property succession. Hindu Succession Sections 15 and 16 apply to a female's outright property, "remembering an united interest for a Mitakshara coparcenary property in which a female was a coparcener" (2005 Amendment to the Act). Only the property that can be purchased and over which a lady has full removal abilities will be determined by the use of these places. As a result, the plan of advancement has no bearing on any property held by a Hindu woman as a restricted proprietor under Section 14(2) or to which the Act has no bearing.

The order of succession to the property—the entire estate being separate from a Hindu female who dies without leaving a will—is not the same as it is for a Hindu man who dies without leaving a will. Insofar as there is a distinction between succession to a man and that to a female, the Hindu Succession Act, 1956 corresponds with the old Hindu law of succession. In India, all major succession laws establish a standard

² The Hindu Succession Act, 1956, §15.

structure for all intestates. The stress on conversation and property protection in the family of a male Hindu is one of the reasons why Hindu law does not provide a consistent framework.

A patriarchal arrangement makes a woman believe she has no permanent family of her own. In contrast, when it comes to his marriage or remarriage, there is no noticeable change in the husband's family.

While the Hindu woman's restricted estate has been removed, she will have unlimited control and right over all sorts of property as long as she lives. However, without a will, the succession of the 'source of property' remains a major and thorny issue. The property of a Hindu female is concerned with the following three heads in terms of succession:

- The female inherits property from her father or mother.
- The female inherits property from her husband or father-in-law.
- Property acquired through other means, such as inheritance or otherwise.

It should be mentioned that if the female has children, the first two heads will be turned off.

Section 15 discusses property succession in the event of a Hindu female dying without making a will after the Act's inception. According to Section 16, a female Hindu's property must be decent and follow the requirements outlined in this section. Sections 15 and 16 of the Act go into effect immediately and do not control the

inheritance of the property of a Hindu female who died before the Act was enacted.

III. GENERAL PROPERTY (SECTION 15(1))

This section lists all properties that a Hindu female did not inherit from her parents, husband, or father-in-law. That is, property received by a Hindu female from her husband, parents, or father-in-law should not be inherited but rather received through any other means, such as a gift, will, settlement, prescription, or a transfer for consideration, i.e. purchase (1). Because property given to a Hindu female by her father is not equal to inherited property, Section 15(2) rather than Section 15(1) will be used in this circumstance, as held in *Meyappa v. Kannappa* AIR 1976 Mad. 184.³

Self-acquisitions made by a female are also protected under Section 15(1). A female has the right to inherit property from any other family member, such as property inherited from her brother in the capacity of his sister or her husband's brother in the capacity of his brother's widow. This property would be regarded her 'general property,' as defined in Section 15 of the Act (1). The heirs are separated into five categories called 'entries,' and as long as a single heir is present in the previous entry, the property will not pass to the next entry as per Section 16. If no heirs are listed in any of the five entries, the property will be taken by the government through escheat.

³ *Meyappa v. Kannappa* AIR 1976 Mad. 184

Entry (a)- Sons and daughters, as well as sons and daughters of a deceased son or daughter (i.e.

According to Section 16, these heirs shall succeed simultaneously by sharing equally to the exclusion of other heirs. The children of a predeceased son or daughter, on the other hand, will not share per capita with the intestate's son or daughter or spouse, but will share per stripe the portion that their father or mother would have shared if they had been alive at the time of the intestate's death. In other words, such children will divide the portion of their inheritance that falls within their deceased father or mother's share.

A Hindu woman A passes away, leaving a son S1 and a granddaughter D from her second son S2. S2 married W2 only to find out later that his consent was gotten through deception. S2 filed a petition in court seeking a nullity decree. D was born before S2 discovered the scam. The marriage was declared void by the court. After S2 died, D was raised by her grandma A. A has now passed away as well. Children born of annulled voidable marriages do not inherit the property of their parents' relatives, hence D could not inherit A's property. It's worth noting that children of a predeceased son or daughter will be prohibited from inheriting the intestate's property if their parents converted to Christianity before they were born.

The Apex Court held in *Ugre Gowda v. Nage Gowda*⁴ that an adoptive mother's ability to dispose of her separate property by transfer or

will if she has adopted a son cannot be taken away. As a result, the widow or adoptive mother of the suit property that vested in her through succession after her husband's death is entitled to such remedy.

Entry (b)- Heir of husband

If the heirs fail to enter (a), the property will be handed to the husband's heirs. Because the property is deemed to belong to her husband, the inheritance will be determined by Section 8 of the Hindu male property succession law. As a result, as per Section 16, the spouse shall be presumed to have died immediately after the female Hindu died. The term "heirs of the husband" does not include "all those who could have been such husband's heirs."

It should be noted that the date of the succession's opening is not the date of the husband's death, but the date of the deceased, i.e. female Hindus (*Seethalakshmi Ammal v. M. Iyengar AIR 1998 SC 1692*⁵). As a result, it must be assumed that when the intestate died, it was her husband who died, and the property belonged to him as well. The 'step-son of a female' who is a competent heir can succeed as the 'son of the husband' who was born to him from a previous marriage in such a case. As a result, if a Hindu lady, W, dies intestate and leaves behind her step-son and brother, the step-son will get her property because brother is an heir in the later entry.

In comparison to her parents, brothers, and sister, who are placed in the latter entry, the 'heir of husband' is deemed 'close in connection' to a

⁴ *Ugre Gowda v. Nagegowda by Lrs. And Ors* on 27July

⁵ *Seethalakshmi Ammal v. M. Iyengar AIR 1998 SC 1692*

childless widow. As a result, in comparison to the group of 'heirs of husband,' a woman's blood relatives are reduced to a lower position (relations by marriage). No other succession rule, including Muslim law, gives a woman's in-laws formal preference over her blood kin. When a Hindu man dies, none of his wife's family are eligible to inherit his property.

Entry (c)- The dead female's father and mother (proposita)

A stepfather/mother is not included in Father/Mother, but an adoptive mother/father is. Step-father/mother, on the other hand, may succeed as a 'mother's heir,' while the latter may succeed as a 'father's heir.'

When the parents' marriage is a void or annulled voidable marriage, the parents inherit from their children. A mother will inherit even if the deceased female (proposita) was the mother's illegitimate daughter, but a putative father will not.

Entry (d)- Heir of the father

Because the property is deemed to be her father's, the inheritance will be determined under Section 8 of the Hindu Property Act, which governs "succession to the property of a Hindu man." As a result, as per Section 16, the father shall be presumed to have died shortly after the female Hindu died. 'All persons who could have been the heirs of such father' does not mean 'all humans who could have been the heirs of such father.'

Brothers and sisters, including half-blood brothers/sisters and their progeny, grandparents, and other natal relations will be included in this category.

Entry (e)- Heir of the mother

Because the property is deemed to be her father's, the inheritance will be determined by Section 15 and Section 16 of the Hindu Property Act, which governs "succession to a Hindu female's property." As a result, the mother will be deemed to have died shortly after the female Hindu, according to Section 16. 'All persons who could have been such mother's heirs' does not mean 'all humans who could have been such mother's heirs.' This group will contain the uterine brother/sister and their descendants.

IV. PROPERTY INHERITED FROM MOTHER OR FATHER (SECTION 15(2)(A))

Regardless of what is contained in Sub-section, this section delivers (1). If there is no son or daughter of the deceased present, including the offspring of any predeceased son or daughter, any property inherited by a female Hindu from her father or mother shall descend, not on the heirs specified in subsection (1) in the order described, but on the father's heirs. As a result, Section 15(2)(a) is an exception to Section 15 of the Act (1).

Only property obtained by the intestate via 'inheritance' as an heir and not received from parents through gift or bequest is covered under Section 15(2). It should be remembered that a gifted property is not the same as an inherited property. Any property given to her at the moment of marriage is her Stridhan, and Section 15(1) governs the succession to it (*Meyappa v.*

Kannappa AIR 1976 Mad. 184⁶). Similarly, Succession will not be controlled by Section 15 (2) if she has changed the property, she inherited from her parents into something else (Emana v. Gudiseva AIR 1976 A.P. 337⁷).

Similarly, the inherited property should be available after she passes away. Section 15(2) does not apply if the property's identity is changed, or if it is considerably amended and improved, or if it is substituted. As established in Veera Raghavamma v. G Subbarao⁸, if she inherits property from her father, sells it, and then purchases another property with the proceeds from the sale, the new property will be her general property, and Section 15(1) will apply (AIR 1976 A.P. 377).

If a Hindu woman inherits property from her 'father or mother,' rather than her father or mother, her heirs fall into one of two categories:

Category (1): Sons, daughters, and sons and daughters of a predeceased son or daughter

When any of the favored heirs, such as sons or daughters, dies, the property falls to the heirs of the next category, the intestate's father. In other words, if a girl inherits property from her parents but does not have children, the property will revert to her father's heirs. The word 'spouse' isn't used here.

In the case of Radhika v. Anguram (1994) 5 SCC 761⁹, where a Hindu woman died leaving behind her daughter from a previous marriage, her second husband, and property that she had

inherited from her father, it was held that because the deceased had inherited the property from her parents, her daughter alone would be entitled to succeed and the husband would be unable to succeed.

As stated in the case Lachman Singh v. Kirpa Singh AIR 1987 SC 1616¹⁰, a 'step-son' is not an issue and cannot inherit the property of a woman that she acquired from her parents.

Category (2): Heirs of the father

As a result, under Section 16, the father will be presumed to have died shortly after the female Hindu. There appears to be a flaw in the Act's drafting here. Even if a father is still alive, his estate will be divided among his heirs. 'Upon the father and, in the event of the father's death, upon his heirs' should be the wording of the clause.

Another inconsistency is that whether the property is inherited from the father or the mother, the devolution will fall on the 'heirs of the father' in both situations. As a result, even if she inherits from her mother, the 'heirs of mother' will be unable to succeed.

In one example, A dies, leaving her husband H, full brother B, and uterine sister S behind (her mother having remarried after the death of her father). A was the heir to her mother's estate. The property will not pass to H, but to B (A's father's heir). S is not eligible to succeed because she is not A's father's heir, but rather A's mothers.

⁶ Meyappa v. Kannappa AIR 1976 Mad. 184

⁷ Emana v. Gudiseva AIR 1976 A.P. 337

⁸ Veera Raghavamma v. G Subbarao AIR 1976 A.P.

377

⁹ Radhika v. Anguram (1994) 5 SCC 761

¹⁰ Lachman Singh v. Kirpa Singh AIR 1987 SC 1616

V. PROPERTY INHERITED FROM HUSBAND OR FATHER-IN-LAW (SECTION 15(2)(B))

The husband is presumed to have died immediately after the female Hindu, according to Section 15(2)(b). It should be mentioned that, as his widow, a woman inherits her husband's property upon his death. As the widow of her father-in-predeceased law's son, she also inherits from him (provided she does not remain before the date of the opening of the succession).

If a woman has been married more than once, the properties she inherited from her separate husbands and fathers should belong to the respective husbands' heirs. If she remarries after inheriting property from her deceased husband and dies with issues from her second husband, she has not died issueless, and the property will pass to her children and second husband. If she dies without having children, the second husband will not be able to inherit the property, and it will pass to the first husband's heirs. Similarly, if a lady inherited property from her second husband and died with a son from her first marriage, the property would pass to the son (*Chintaram v. Rushibai*, 2000 AIHC 1308 M.P¹¹).

In a recent case, a woman died leaving behind a son and a daughter, born to her from the husband who had inherited her property. She already had a son from her previous marriage. The property was inherited by the woman from her second husband, and the son born of the prior marriage was not entitled to it, according to the Gauhati

High Court, because he was not the heir of that husband.

The term "son and daughter" refers to the son and daughter of the husband from whom or whose father she inherited the property. The court reasoned that allowing such property to drift away from the source through which the dead female had acquired it would contradict the purpose of Section 15(2). As decided in the case *Dhanistha Kalita v Ramakanta Kalita* AIR 2001¹², the aim of Section 15(2) is to ensure that the property bequeathed by a Hindu female does not lose the genuine source from which the deceased female had inherited the property.

It is argued that the legislature utilized the phrase "in the absence of any son or daughter of the deceased" in Section 15(2)(b). The statement is unqualified, and the words 'any son or daughter' refer to any son or daughter, not to legitimate, illegitimate, or other sons or daughters. These are the only relationships that are mentioned about her, not her father/husband/mother. All children have equal rights to their mother's property.

If the 'heirs of the husband' are not present and a female Hindu dies issueless, leaving behind property 'inherited by husband/father-in-law,' the property will be recognized as general property and will devolve as per Section 15(1) if any of the heirs (her brother's grandson in this example) is present. In other words, under the law of escheat, this would not be considered an instance of "failure of heirs," and the property would not pass to the government.

¹¹ *Chintaram v. Rushibai*, 2000 AIHC 1308 M.P

¹² *Dhanistha Kalita v Ramakanta Kalita* AIR 2001

The purpose of Section 15(2) was not to eliminate the other heirs named in Section 15(1), but to establish a priority system (State of Punjab v. Balwant Singh AIR 1991 SC 2301). It was said that it is critical to note that a female Hindu who owns the entire property creates a new line of descent. Her property cannot be escheated if she leaves behind any heirs as defined in Section 15 sub-sections (1) and (2).

VI. COPARCENARY INTEREST ACQUIRED BY FEMALE AS PER SECTION 15(1) AND NOT BY SECTION 15(2)

Following the 2005 amendment to the Hindu Succession Act (1956), a daughter (married or unmarried) is now a coparcener with coparcenary ownership opportunities, just like a son. As previously stated, a daughter acquires a coparcenary interest by birth, and while it originates from her father's family, it is not an interest that she has inherited from her parents. Her heirs would be her spouse, children, and children of predeceased children in such a case. These heirs would inherit her property regardless of whether she died before or after requesting partition.

As a result, if a female dies intestate, her interest, as defined by Section 6(3)¹³, will be passed on to her heirs in accordance with Section 15. (1). Because the interest determined under Section 6(3) is not a share that she inherits from her father, Section 15(2) does not apply.

Succession to a property by a Hindu female (Example)

A Hindu joint family consisting of Father(F), his Wife(W), his Son(S) having two children i.e, grandchildren S1 and D1, his Daughter(D) having a daughter, ie. granddaughter D4 and a predeceased Daughter D3 having a son(S2) and a daughter(D2). In the aforesaid example, the succession to the property of predeceased daughter D3 survived by her husband(H) and son(S2) and a daughter(D2) will be as follows:

D3's share in the coparcenary property was 1/5th. This share of hers is 'coparcenary property' even against her son and daughter because Section 6(2) provides that any property to which a female Hindu becomes entitled by Section 6(1) shall be held by her with the incidents of coparcenary ownership. Thus, her interest in coparcenary property will be divided as per notional partition between her and her son S2 and her daughter D2. Thus, D3, S2 and D2 each will get 1/15th.

This 1/15th will go by intestate succession to her heirs under Section 15(1), as provided in Section 6(3) that 'his interest in the property of a joint Hindu family governed by the Mitakshara, shall devolve by testamentary or intestate succession and not by survivorship'. Here, a portion of Section 6(1) which provides 'any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener' becomes important. Thus, the expression 'his' applies to 'her' too. Therefore, this 1/15th is treated at par with her 'separate property' which

¹³ Section 6(3) 2005 amendment to the Hindu

Succession Act (1956)

thus, her 'absolute property'. According to Section 15(1), this 1/15th will be divided into three parts equally between her husband H, her son S2 and her daughter D2, each getting 1/45th share.

The shares will be as follows:¹⁴

F- $\frac{1}{5}$

W- $\frac{1}{5}$

S- $\frac{1}{5}$

D- $\frac{1}{5}$

D2- $\frac{1}{15} + \frac{1}{45}$

S2- $\frac{1}{15} + \frac{1}{45}$

H- $\frac{1}{4}$

VII. SPECIAL RULES FOR FEMALES GOVERNED BY MATRILINEAL SYSTEM

The Marumakkatayam system followed by the Nairs of Kerala, the Aliyasantana followed by the Bunts of Karnataka, and the Marumakkal Vazhi followed by the Pillai's of Tamil Nadu are some of India's most illustrious matrilineal property inheritance systems. Despite the fact that the Hindu Succession Act (1956) applies to all Hindus, Section 17¹⁵ of the Act offers some exclusions for these customs.

When a woman who observes matrilineal norms dies intestate, her 'general property' will go to her children and mother first, rather than the children and spouse. Then it would fall into the same category as father and husband. The heirs of the mother take precedence over the heirs of the

husband, a hierarchy that is flipped by other Hindus.

VIII. CASE LAWS

1. Om Prakash v. Radhacharan

In the Om Prakash v. Radhacharan¹⁶ case, A woman's self-acquired property covered by Section 15(1) and not by Section 15(2).

In this case, a 15-year-old Hindu girl named Narayani Devi married and became a widow three months later. Following her husband's death, she was ejected from her marital house. She never returned, and her in-laws made no attempt to find out what had happened to her. She was brought to her parents' home and educated by them. She went for a job. She died 42 years later without leaving a formal will, leaving behind vast money in numerous bank accounts, as well as a provident fund and large property. There is no doubt or disagreement that the deceased's assets were 'self-acquired' rather than inherited from her parents.

The deceased's property was claimed on one side by her mother and brother (appellants), and on the other side by the husband's heirs (respondents). The appellants affirmed that Section 15(2)(a) of the Hindu Succession Act should be applied in a scenario like this when the deceased's husband or her in-laws made no contribution to her education or provided any support throughout her lifetime.

The Supreme Court ruled in favor of her husband's heirs, stating that under the Hindu

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<https://www.scribd.com/presentation/550856011/FA-MILY-LAW-II-21-09-21>

¹⁵ Section 17, the Hindu Succession Act 1956

¹⁶ Om Prakash v. Radhacharan. SC 2009

Succession Act (1956), only the husband's heirs have a legal right to inherit the property of an issueless married Hindu lady, and that her parents or heirs of parents cannot inherit in their presence. The Supreme Court pointed out that Section 15(1) establishes the standard principles of succession. Section 15(2) provides for an obstante clause, but with the caveat that if the deceased is passed property from her father or mother on her deathbed without any children, the property will be passed to her parent's family and not to her husband's family (b).

The law is silent about a Hindu woman's self-acquired property. Section 15(1) solely applies to 'general property,' with the exclusions set forth in sub-section (2), and makes no distinction between self-acquired property and property inherited from a third party. The property that was completely vested in the deceased or that she had is referred to here. A Hindu female's 'self-acquired property' would be her absolute property, not the property she inherited from her parents.

The source from which a female Hindu came into possession of the property and the form of inheritance would thus determine the manner of devolution for a female Hindu who dies intestate. Section 15(1), not Section 15(2), will apply to 'self-acquired property' (2). The Hindu Succession Act does not prohibit a woman from making a will. Section 15(1) would only apply if a Hindu woman died intestate, that is, without leaving a will. In this case, the statute's standard succession rules will apply.

The court went on to say that it is now a well-established legal principle that sentiments or sympathy alone will not be used to determine the rights of parties who are seen under the Hindu Succession Act¹⁷. This court cannot make a decision based solely on sympathy or feelings. If the appellants' argument is adopted, we will be forced to construe Section 15(1) in a way that the Parliament did not intend. In the matter of property, the Parliament has granted equality to married and unmarried Hindu women. It is necessary to apply the golden rule of interpretation.

Finally, the court decided that just because a case appears to be difficult does not justify invoking alternate interpretations of statutory provisions that are otherwise illegal. In light of this, we consider that Section 15(1) of the Act should be used instead of Section 15 of the Act¹⁸(2). As a result, the appeal was denied.

2. **Bhagat Ram v. Teja Singh**

In this *Bhagat Ram v. Teja Singh*¹⁹ case, Succession to property of a Female Hindu (originally Inherited from her mother).

In this case, a Hindu woman and her sister acquired property from their mother when she passed away. One sister died childless after receiving the land. Under Section 15(2)(a), the other sister took the property as her 'father's heir' and agreed to sell it to person A. Under Section 15(1), the deceased sister's husband's brother challenged the legitimacy of the sale and claimed the property as an heir (b).

¹⁷ the Hindu Succession Act

¹⁸ Hindu Succession Act, 1956

¹⁹ *Bhagat Ram v. Teja Singh* AIR 2002 SC1

The dispute arose as to whether the property would pass to the father's legal heirs (her sister) or the predeceased husband's heirs (husband's brother). According to Section 15(1)(b) of the Hindu Succession Act, if a female Hindu die without leaving a will and leaves no issue, the property must be devolved based on the source from which the property was inherited by females. If a girl received property from her father or mother and there were no offspring of the deceased, the property would solely pass to the father's heirs. And in this circumstance, her sister, who was the only legal heir of the dead's father, got the property since the legislature's objective is clear: property that originally belonged to the deceased female's parents should go to the father's legal heirs. As a result, a sale of such property by the female Hindu's sister is legal.

The respondents' learned counsel, i.e., the husband's heirs, argued that the dead female acquired the property from her mother, who died. And while the deceased female had had limited rights to the land at the time, she became the entire owner of the property under Section 14(1) of the Hindu Succession Act.²⁰ As a result, upon her death, her lawful heirs would inherit her property according to the criteria outlined in Section 15. (1). He further stated that Section 15 of the Hindu Succession Act²¹ will only have an eventual effect, as stated in Section 15(2)(a), "any property inherited by a female Hindu is to be considered as property inherited by her after

the commencement of the Hindu Succession Act."

The respondents' learned counsel, i.e., the husband's heirs, argued that the dead female acquired the property from her mother, who died. And while the deceased female had had limited rights to the land at the time, she became the entire owner of the property under Section 14(1) of the Hindu Succession Act. As a result, upon her death, her lawful heirs would inherit her property according to the criteria outlined in Section 15. (1). He further stated that Section 15 of the Hindu Succession Act will only have an eventual effect, as stated in Section 15(2)(a), "any property inherited by a female Hindu is to be considered as property inherited by her after the commencement of the We do not believe that the fact that a female Hindu had restricted rights at first and then earned full rights in any way changes the norms of succession set forth in Section 15. (2). Hindu Succession Act."

The source, from which the female acquires the property and can further regulate the situation, is always crucial. Otherwise, those who aren't even distantly connected to the individual who originally had the land would be able to inherit it. That would be contrary to the object and purpose of Section 15(2), which specifies a certain succession pattern. In the lack of issue, properties inherited by her father revert to the father's family. In the absence of issue, property inherited from her husband or father-in-law reverts to the husband's heirs. A rule like this would prevent

²⁰ Section 14(1) of the Hindu Succession Act.

²¹ Section 15 of the Hindu Succession Act

property from getting into the hands of people who would face legal consequences if they did.

IX. THE CURRENT POSITION IN LAW FOR SELF-ACQUIRED PROPERTY OF HINDU FEMALE DYING INTESTATE

The Succession Act and the amendment

The Hindu Succession Act of 1956 also covers Jains, Buddhists, and Sikhs, and grants women in India conditional property inheritance rights. The patrilineal Hindu law in India is divided into two schools: Dayabhaga and Mitakshara. There is a clear distinction drawn between a man's own property and property belonging to ancestors, according to Mitakshara school. He has complete discretion and authority over his personal property, and the Succession Act automatically appoints his sons as coparceners. Daughters had only the right to claim in their father's personal property and the father's portion of the ancestral property. The status of coparcener was not conferred to women. In India, women could only ask for a right to food from a combined Hindu household, and nothing else.

In 2005, there was an amendment that attempted to address this, but it was beset by confusion as a result of the court's contradictory rulings. There was a lack of clarity in the decisions made. The benefits of the new provisions do not extend to girls born after the statute was altered, according to the Bombay High Court. High Courts of Delhi, Karnataka, and Orissa later issued opposing rulings, stating that the change would apply to daughters alive in 2005. In 2015, the Supreme Court of India ruled that if the father died before the amendment took effect, the daughter would

lose her property rights. As a result, the most recent judgement emphasizes that the rule applies to all property disputes filed prior to 2005 and pending at the time the law was implemented. If the daughter dies before 2005, the children of the daughter will be the coparceners.

Women who were born before 1956 are eligible for the Act's benefits.

The Supreme Court recently issued a decision in a lawsuit challenging women's right to inherit property on two grounds. According to Amar, her aunt was born before 1956, hence she was not entitled for the Succession Act's rights, and the 2005 modification did not apply to her. The Supreme Court, on the other hand, relied past judgments to determine that two women were qualified to inherit the property under the Act and the modification of 2005 as it stood before the Act.

Inheritance of Agricultural Land

Another issue that has swung in men's favor is the inheritance of agricultural land. Agricultural land succession is governed by state legislation, and in many situations, daughters are not given inheritance rights to the property for fear of fragmenting the holdings. According to census data, only 13 percent of farmland in India is owned by women.

This is due to men's increased migration to cities, leaving agricultural land to women. Because they do not own the property, they are unable to obtain institutional loans or participate in government-sponsored seed, fertilizer, and other agricultural programmers.

The Succession Act of 1956²², under Section 4(2), excluded agricultural land from its scope. The Allahabad High Court declared in 2014, while the Section was removed by a 2005 amendment, that agricultural land is under the exclusive control of the State Legislature and that Parliament has no land jurisdiction to create any laws for it.

The Supreme Court's most recent decision makes no mention of agricultural land. According to the allegations, despite existing regulations, women are frequently forced to sign away their property inheritance rights due to family pressure. The recent ruling is expected to give women's equality efforts a boost.

The Supreme Court declared on February 2 that, under the Hindu Succession Act, daughters have a legal right to an equal portion of their mother's ancestral property, regardless of the year they were born in. It was a decision that aimed to correct decades of inequity in Hindu property inheritance laws. In this case, a man claimed that his aunt does not have any legal claim to his grandfather's property.

According to the Hindu Succession Act, 1956, a daughter has been a coparcener (bearing an equal share in the undivided property) in the family's ancestral property since birth, with the same rights and liabilities as a son, according to a bench of Justices AK Sikri and Ashok Bhushan.

X. CONCLUSION

Is it necessary for a Hindu woman to write a will? Due to our indoctrination, we continue to believe

that it is always too early to form a will, and that the proper moment would be when old age sets in. So, in my opinion, based on the existing state of the law, it is preferable for a Hindu female to secure her assets, i.e. property, and pass it on to the person she wishes after her death.

Otherwise, in the event of intestacy, the law will take its course, and a Hindu woman's property will end up in the hands of someone with whom she had no intention of transferring it or even having any distant links during her lifetime, as Smt. Narayani Devi's example demonstrates. As a result, the question arises, "Whether I Make a Will?" is "Yes."

In terms of the objective of an ideal succession law, Hindu law's plan of female intestate succession is severely discriminatory and nonsensical. The current system has resulted in arbitrary outcomes, with property passing to someone whom the intestate would never want her property to pass to if she had been alive. case of Mamta Dinesh Vakil v. Bansi S²³. Wadhwa, the unconstitutionality of the law was also recognized. The matter is currently pending before a division bench of the Bombay High Court. The new law will help to reduce existing arbitrariness and bring about progressive legislative changes.

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