

ROLE OF CONSTITUTIONAL COURTS IN PROTECTING WOMEN'S PROPERTY RIGHTS IN INDIA: A CASE STUDY OF LANDMARK JUDGMENTS

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ABSTRACT

The protection and promotion of women's property rights in India have undergone a significant transformation through judicial interpretation and constitutional advocacy. This study examines the pivotal role played by the Constitutional Courts particularly the Supreme Court and various High Courts, in safeguarding and advancing women's rights to property under the Indian legal framework. Drawing landmark judgments of Supreme courts and various High Courts, this paper explores how judicial pronouncements have progressively interpreted provisions of the Constitution and personal laws to ensure gender justice. The analysis highlights the interplay between constitutional mandates of equality and non-discrimination (Articles 14, 15, and 21 of Indian Constitution) and the evolving jurisprudence on property rights, especially in the Hindu Succession law and other customary laws. By focusing on case studies, the research demonstrates how constitutional courts have not only rectified historical injustices but also established precedents that strengthen women's legal and social standing in matters of inheritance and ownership. The paper concludes by reflecting on the continuing challenges and the need for judicial vigilance to uphold and expand women's property rights in India.

KEYWORDS – Women's property rights, Constitutional Courts, Supreme Courts, High Courts, Gender Justice, Equality, Non-discrimination, Hindu Succession, Judicial Vigilance.

1.0. INTRODUCTION

"A woman's right to own property is at the heart of her right to equality."

– Justice Leila Seth,¹⁹⁸

In this contemporary world, everyone deserves the constitutionally guaranteed rights of equality, non-discrimination, etc., However in olden days some basic rights had been curtailed due to the several social anti-activities, particularly discussing about the gender i.e., man and woman, the rights and

liabilities always vested with man not woman. Even she is not be considered as a human being in those days. Since 20th Century the view of status of woman getting evolved, still its in the process of evolving. While discussing the process of evolution of woman rights of property, several precedents of Constitutional Courts plays a pivotal role and such leads to amendment and legislation of several woman rights protection laws in India.

2.0. ROLE OF CONSTITUTIONAL COURTS

Several statutory laws and Constitutional Amendment Acts are the beneficial outcome of the Constitutional Courts towards this welfare

¹⁹⁸ https://en.wikipedia.org/wiki/Leila_Seth

society. **Constitutional Courts** are specialized courts primarily responsible for interpreting a country's constitution and ensuring that laws and government actions comply with it. Their main role is to protect the **supremacy of the constitution** and the **fundamental rights of citizens**. In India, as per Art.124(1)¹⁹⁹ of India Constitution, Supreme Court vested with the highest judicial authority, in addition to Supreme Court, High Courts of each state also have constitutional powers as per Art.226²⁰⁰ and Art.227²⁰¹ of Constitution of India.

3.0.CONSTITUTIONAL AND OTHER LEGAL FRAMEWORK

3.1. Constitutional Provisions

The Constitution of India guarantees **equality before the law** and **protection against discrimination**, forming the basis for women's rights to property and inheritance:

199 There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

200 Power of High Courts to issue certain writs, (1) Notwithstanding anything in article 32 every High Court shall have powers, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warrant or and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose. [(1-A) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.]; was inserted after 15th Amendment] (2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. (3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and (b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated. (4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

201 (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction.

3.1.1. Article 14²⁰² speaks about Right to Equality which forms the foundation for challenging discriminatory inheritance and property laws.

3.1.2. Article 15²⁰³ which speaks about Prohibition of Discrimination which restricts discrimination on grounds of several matters like religion, race, caste, sex, or place of birth and Art. 15(3) allows to make special provisions for women and children by the State.

3.1.3. Article 21²⁰⁴ guarantees Right to Life and Personal Liberty which is interpreted broadly to include the right to dignity, livelihood, shelter, livelihood are the essential components for the property ownership and control.

3.1.4. Art. 39(a)²⁰⁵ and 39(b)²⁰⁶, Directive Principles of State Policy emphasize equal right to adequate means of livelihood and distribution of ownership of material resources.

3.2. Statutory Laws Governing Women's Property Rights

3.2.1. Hindu Succession Act, 1956 (Amended in 2005)

While speaking about the application of the Act, it applies to Hindus, Buddhists, Jains, and Sikhs. Before 2005, daughters were not coparceners in ancestral property however after 2005 Amendment, daughters became coparceners by birth, like sons and they have equal rights in ancestral property, and the right to seek partition. Vineeta Sharma v. Rakesh Sharma²⁰⁷ affirmed these rights retrospectively.

202 The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

203 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public. (3) Nothing in this article shall prevent the State from making any special provision for women and children.

204 No person shall be deprived of his life or personal liberty except according to procedure established by law.

205 The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means to livelihood;

206 The State shall, in particular, direct its policy towards securing—(b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;

207 2020 INSC 487

3.2.2. Indian Succession Act, 1925

This Act Governs Christians and Parsis which provides **equal inheritance rights** to daughters and sons.

3.2.3. Muslim Personal Law (Shariat) Application Act, 1937

This Act Applies to Muslims which says that women are entitled to inherit property, but **in smaller shares** compared to male counterparts (usually half) and Inheritance is governed by Islamic principles and has **not been codified** uniformly.

3.2.4. Other Relevant Laws:

- **Protection of Women from Domestic Violence Act, 2005** which provides for **residence rights** in the shared household.
- **The Prohibition of Benami Property Transactions Act, 1988** (amended 2016) which Protects women against property being illegally acquired or registered in their name without knowledge.
- **Transfer of Property Act, 1882** which Governs transfer of ownership and rights, applicable equally to men and women.

3.3. Role of Judiciary in Interpreting and Enforcing These Rights

The Supreme Court and High Courts have played a **transformative role** by interpreting the Constitution in favour of gender equality in property matters. Key judgments have clarified ambiguities, removed gender bias, and enforced constitutional principles over outdated customs and personal laws.

4.0. LANDMARK JUDGMENTS OF SUPREME COURT

4.1. Right to Equality and Non-Discrimination (Articles 14 and 15 of the Constitution)

4.1.1. *Mary Roy v. State of Kerala* ²⁰⁸

The Supreme Court held that the Travancore Christian Succession Act, which gave lesser inheritance rights to Christian women in Kerala, ceased to be operative after the Indian Succession Act, 1925 was extended to that region. This ruling enabled Christian women to inherit equally. The Court emphasized that personal laws cannot violate fundamental rights, especially the right to equality.

DECIDED – Courts have consistently upheld that gender-based discrimination in succession and property laws is unconstitutional, and have invalidated such provisions where challenged.

4.2. Hindu Succession Act, 1956 and the 2005 Amendment

4.2.1. In *Prakash v. Phulavati* ²⁰⁹, it was held that the amendment has prospective effect not retrospective effect and the daughters to claim Coparcenary rights, their fathers must be alive on the date of the amendment.

4.2.2. *Danamma v. Amar* ²¹⁰– This appeared contradict to Phulavati case by granting coparcenary rights to daughters even when the father had died before 2005.

4.2.3. *Vineeta Sharma v. Rakesh Sharma* ²¹¹, it resolved the conflict that the

- Daughters have Coparcenary rights by birth and it is immaterial about the life of her father in 2005.
- The 2005 amendment is retroactive in its application to pending partitions or undivided properties.
- It clarified that a daughter can claim partition even if the father died before the amendment, as long as the property had not been partitioned or alienated before 2005.

DECIDED– The court upheld that to reinforce the substantial equality in patriarchal denial, the

²⁰⁸ 1986 AIR 1011
²⁰⁹ AIR 2016 SC 769,
²¹⁰ AIR 2018 SC 721
²¹¹ 2020 INSC 487

daughters have equal birthright in ancestral property.

4.3. Right to Residence in Shared Household (Under Domestic Violence Act, 2005)

As Per Sec 17,²¹² Irrespective of ownership or title, every woman in a domestic relationship has the right to reside in the “shared household”.

4.3.1. *S.R. Batra v. Taruna Batra*²¹³ (Earlier view): It was held that a woman’s right is limited to the household owned or rented by her husband and she cannot claim a right to live in a house owned by her in-laws.

4.3.2. *Satish Chander Ahuja v. Sneha Ahuja*²¹⁴ Overruled *Batra* case and Held that the shared household includes any house where the woman has lived in a domestic relationship*, including the home of in-laws. A woman cannot be evicted merely because the property is not in her name or her husband’s name.

DECIDED– Courts have expanded the interpretation of “shared household”, ensuring that women are not rendered homeless due to ownership technicalities.

4.4. Muslim Women’s Property Rights

Islamic Personal Law provides fixed shares to male and female heirs (e.g., daughter gets half of the son’s share) and generally grants property rights, but patriarchal practices and misinterpretation often reduce women’s effective access.

4.4.1. *Danial Latifi v. Union of India*,²¹⁵ The Court upheld the Muslim Women (Protection of Rights on Divorce) Act, 1986 and interpreted “reasonable and fair provision” to mean a lump sum maintenance covering the woman’s entire future needs, including accommodation and financial security. This opened doors for claims

over residential property or monetary which is equivalent to that.

DECIDED

Courts have used progressive interpretation to secure property and maintenance rights for Muslim women, within the framework of Islamic law and constitutional morality.

4.5. Customary Law and Tribal Rights vs. Constitutional Morality

Many communities, especially tribals, have customary laws that deny equal inheritance to women.

4.5.1. *C Masilamani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil*²¹⁶:

The Court held that customary laws denying equal property rights to women are invalid if they violate the Constitution. Personal and customary laws must conform to constitutional principles like equality and dignity.

4.5.2. *Madhu Kishwar v. State of Bihar* :²¹⁷ Upheld certain customary laws that denied tribal women inheritance rights, citing autonomy of tribal customs.

However, this has been criticized and the Court in later cases has leaned toward aligning tribal laws with constitutional values.

DECIDED

The courts have moved toward harmonizing personal/customary laws with the Constitution, especially in the context of gender justice.

4.6. Agricultural Land and Gender Bias in State Laws

Many state laws excluded daughters from inheriting agricultural land, limiting their economic empowerment. After the 2005 amendment, courts have clarified that daughters can inherit agricultural land unless

²¹² Sec 17 –Right to reside in a shared household.—(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

²¹³ AIR 2007 SUPREME COURT 1118

²¹⁴ AIR ONLINE 2020 SC 784

²¹⁵ AIR 2001 SUPREME COURT 3958

²¹⁶ 1996 AIR 1697

²¹⁷ 1996 AIR 1864

explicitly and constitutionally valid restrictions exist.

4.6.1. *Omprakash v. Radhacharan*²¹⁸ – Supreme Court ruled that exclusion of daughters from inheritance of tenancy rights and agricultural holdings is unjust and discriminatory, and must be interpreted consistent with gender equality.

DECIDED

Courts have emphasized that daughters' economic rights, including to agricultural land, are central to achieving substantive equality.

5.0. LANDMARK JUDGMENTS OF HIGH COURTS

5.1. *Pushpalatha N.V. v. V. Padma*²¹⁹

This Case affirmed the retrospective application of the Hindu Succession (Amendment) Act, 2005 to daughters. Held that a daughter becomes a coparcener by birth, and she need not prove her father's survival on the date of amendment to claim rights in coparcenary property. This judgment anticipated the later ruling in *Vineeta Sharma* and upheld the principle of equal rights for daughters without restrictive interpretation.

5.2. *Badrinarayan Shankar Bhandari v. Omprakash Shankar Bhandari*²²⁰

A daughter can claim partition and ownership rights in the ancestral property even after her father's death, provided the partition had not been concluded. This reinforced that a formal registered partition or alienation must exist to defeat a daughter's claim, and oral partitions or vague family arrangements would not be sufficient.

5.3. *Archana D. Tomar v. State of M.P.*²²¹

The Court upheld a daughter's right to inherit agricultural land on an equal footing with male heirs after the 2005 amendment, despite earlier contrary provisions under state law. It struck down discriminatory provisions in state

tenancy and land laws that favored sons over daughters in agricultural property inheritance.

5.4. *Harvinder Kaur v. Godhwani*²²²

This case clarified that a daughter-in-law's right to residence under the Domestic Violence Act extends to shared households owned by in-laws, if she lived there during the marriage. The Court interpreted "shared household" liberally to protect women from eviction and preserve residential security post-marriage breakdown.

5.5. *Lata Singh v. State of U.P.*²²³

Though more focused on inter-caste marriage, this case reinforced the importance of women's autonomy, dignity, and equal rights, which includes property rights in the broader framework of gender equality. It provided jurisprudential support for women's freedom to assert legal rights, including rights in family property against social and cultural pressure.

5.6. *Suman v. Tulsi Ram*²²⁴

The court reiterated that Coparcenary rights apply to daughters, and execution of wills or family settlements intended to defeat daughters' rights must be closely scrutinized and prevented misuse of testamentary instruments to circumvent the equal inheritance regime introduced by the 2005 amendment.

5.7. *Amardeep Singh v. Harveen Kaur*²²⁵

Though primarily about divorce and mutual consent period, it underlined the importance of equitable matrimonial settlements, including property distribution. It strengthened the principle that women must receive fair treatment in marital property disputes, and not be forced to waive rights due to procedural hurdles.

5.8. *Neetu Sharma v. Rajiv Sharma* (Delhi High Court, 2022)

218 AIR 2009 SC (SUPP) 2060
219 ILR 2010 KAR 2312
220 2014 SCC OnLine Bom 814
221 2015 SCC OnLine MP 6834

222 185 (2011) DLT 50
223 2004 SCC OnLine All 716
224 2010 (159) PLR 714
225 AIR 2017 SC 4417

This court reaffirmed the daughter-in-law's right to reside in a shared household even if she is in dispute with her husband and the property is owned by the in-laws. It aligned with the Satish Chander Ahuja judgment by applying it at the High Court level, showing the evolution and acceptance of broader definitions of shared household.

6.0. RECOMMENDATIONS FOR STRENGTHENING PROPERTY RIGHTS OF WOMEN

6.1. Legal Reforms: Harmonize personal laws to provide uniform property rights for women across all religions.

6.2. Awareness Campaigns: Implement educational programs to inform women about their property rights and the legal avenues available to them.

6.3. Simplify Legal Procedures: Streamline legal processes to make it easier and more affordable for women to claim their rights.

6.4. Capacity Building: Train judicial officers, legal practitioners, and law enforcement agencies to be sensitive to gender issues and to uphold women's property rights effectively.

7.0. CONCLUSION

"When women have access to land and property, they gain power over their lives, their families, and their communities."

— Michelle Bachelet,

Former Executive Director of UN Women

The Legislative measures have laid the groundwork for gender equality in property rights, persistent societal norms and legal complexities continue to impede women's full realization of these rights. Judicial vigilance, coupled with comprehensive reforms and awareness initiatives, is imperative to bridge the gap between law and practice, ensuring that women's property rights are not only recognized but also effectively enforced. The principles as laid by the Supreme Courts and High Courts paves the way for upholding constitutional

morality and values by ensuring the women's property rights in India. Several laws legislated due to the guidelines and directions of the Constitutional Courts.

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BALANCING PUBLIC PURPOSE AND PRIVATE PROPERTY: A LEGAL AND POLICY ANALYSIS OF PROPERTY OWNERS ASSOCIATION V. STATE OF MAHARASHTRA

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Abstract:

The conflict between individual rights to private property and the State's authority to regulate land for public purposes remains a critical concern in Indian constitutional and property law. This paper examines the legal and policy dynamics between Property Owners' Associations and the State of Maharashtra, with a focus on regulatory takings, development control rules, and urban planning frameworks. Concerning landmark judgments and statutory interpretations, the paper highlights the growing tensions in balancing the collective public good and constitutional guarantees under Article 300A. The intersection of private property rights and the state's power of eminent domain has long been a contentious issue in Indian constitutional law. The case of Property Owners Association v. State of Maharashtra brings this conflict into sharp focus, offering a lens through which to examine the constitutional, legal, and policy dimensions of land acquisition for public purposes. This paper critically evaluates the background, legal arguments, judicial reasoning, and broader implications of the case. It also considers the balance between individual rights and collective welfare in the context of urban development and infrastructure expansion. By engaging with comparative jurisprudence, analyzing legal doctrines, and considering practical policy implications, this research aims to provide a nuanced understanding of the tension between public interest and private ownership.

Keywords: Eminent domain, public purpose, private property, constitutional law, urban development, land acquisition, Maharashtra

Introduction:-

The evolution of property rights in India reflects the shifting priorities of the state, from prioritizing individual freedoms to promoting collective development. While the Indian Constitution originally enshrined the right to property as a fundamental right, the 44th Amendment relegated it to a constitutional right, reflecting the state's shifting emphasis towards socioeconomic objectives. Land acquisition has become a core instrument in India's developmental strategy, especially in urban planning, infrastructure projects, and industrialization. The Constitution of

India, while not initially recognising the right to property as a fundamental right after the 44th Amendment, still secures it under Article 300A, which mandates that no person shall be deprived of their property save by authority of law. In recent years, multiple disputes have emerged between Property Owners' Associations (POAs) and the State of Maharashtra, particularly in Mumbai and Pune, over land acquisition, redevelopment policies, and urban zoning regulations. This paper explores the legal framework, judicial responses, and policy implications involved in such conflicts. However, the exercise of