

BATTLE OF HEIR OVER PROPERTY IN HINDUS

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ABSTRACT :-

In every courtroom where families fight over inheritance, the walls echo not with the language of law, but with the silence of broken bonds.

Legal battles over inheritance are not merely disputes over property; they are deeply human conflicts woven with emotions, expectations, and a yearning for justice. Despite progressive legislation such as the **Hindu Succession (Amendment) Act, 2005**, which promised gender equality and fairness in succession, Indian families continue to be entangled in prolonged and painful property disputes. These conflicts often stem from a clash between traditional values and modern legal ideals – where cultural conditioning, emotional attachment, and a lack of awareness undermine the spirit of equality enshrined in law.

This study seeks to explore how inheritance battles reflect the tension between *law and life, rights and relationships*. It examines why heirs, even when armed with equal legal rights, often resort to adversarial litigation rather than amicable resolution. The paper delves into the limitations of existing legal remedies, the social psychology of ownership, and the emotional cost of justice delayed. Ultimately, it argues that resolving inheritance disputes requires more than legal reform – it calls for empathy, education, and a collective awakening that values relationships over possessions. For in the pursuit of property, families often lose what no court can restore: peace, trust, and the very fabric of kinship.

Key words :- Hindu succession , trust , possession , heirs

(A.) INTRODUCTION :-

Between the ink of the law and the pulse of tradition lies the true battle of inheritance – where equality seeks its rightful voice.

Property is one of the most essential sources of living and survival since the birth of humans. While the importance of land has gradually shifted to its other uses as an investment commodity, in an agricultural country like India, property ownership is still widely recognised as a fundamental source of livelihood. This holds particularly true for the millions of women who depend on agriculture for survival with the empowerment prospects intricately linked by

their legal rights in land.¹ For years, the landscape of property inheritance and succession in India reflected a stark gender disparity, perpetuating an unequal treatment of women. The concept of gender parity and justice seemed like a distant dream, obscured by the shadows of age-old practices and customs. It wasn't until the 2005 amendment in the succession laws for Hindu women, a paradigm shift took place in the family laws of India. By removing the unreasonable obstacles imposed by ancient customs, the 2005 Act is considered to be a milestone in promoting women empowerment in the country, providing equal status to daughters as sons in property

inheritance and succession and empowering them with newfound rights and opportunities.² There have been studies which have shown the positive impact created by the 2005 amendment on women's status and overall rights

¹⁵⁰Friedrich Engels Pointed out that the man of the wealth felt the need of family at a specific juncture of historical evolution of human society as they wanted to maintain and transmit their property which they could acquire after a prolonged effort and pain. families thus originated and maintained to support the concentration of wealth and reproduction of class structure in each succeeding generation. Every later researcher projected the fact that, higher income group in the society are more interested in making and maintaining families so that there upward mobility in the society is justified and secured.

(B.) ACKNOWLEDGEMENT:-

We would like to express our sincere gratitude to Ms. Ashna Siddique mam for her invaluable guidance, support, and encouragement throughout the preparation of this research paper. Her insightful advice, extensive knowledge, and constructive feedback have been instrumental in shaping the direction and depth of my work. We are deeply thankful for her patience and dedication, which inspired us to delve deeper into understanding the complex interplay between the sacred traditions and the evolving legal, social, and cultural dynamics of Hindu marriage.

Finally, we would like to acknowledge [Birla School of Law, BSOL library] for providing the necessary resources access to the professional version of the Manupatra website and other websites and facilities that made this research possible.

We were able to conduct a great deal of study for this assignment and acquire and assimilate a great deal of knowledge and expertise on the

topic. The entire process of coming up with and turning in this project was both incredibly fruitful and fulfilling.

(C) RESEARCH QUESTION:-

1. Whether inheritance battles persist among Hindu heirs despite equal laws?
2. Whether the 2005 amendment truly ended gender bias in Hindu inheritance?
3. What are the legal remedies available to the heirs to resolve property disputes ?

(D) .RESEARCH OBJECTIVES :-

1. To explore advancing equal rights in property ownership such as Hindu succession act 2005
2. To discuss current issues that affect people's ability to claim their property rights
3. To examine development of property rights from ancient times to modern reforms

(E).STATEMENT OF THE RESEARCH PROBLEM:-

Inheritance disputes among heirs have become one of the most complex and emotionally charged legal issues in contemporary India. Despite the introduction of progressive legislation such as the **Hindu Succession (Amendment) Act, 2005**, which aimed to ensure gender equality and fairness in property distribution, conflicts over succession continue to burden families and the judicial system. The persistence of these disputes highlights a deep disconnect between *legal provisions* and *societal practice*.

While the law now recognizes equal rights of sons and daughters as coparceners, many families still adhere to traditional norms that privilege male heirs or prioritize informal family settlements over statutory entitlements. This contradiction creates fertile ground for misunderstanding, manipulation, and prolonged litigation. Moreover, property disputes are not merely legal battles; they often expose hidden emotional tensions, economic insecurities, and generational divides within families.

¹⁵⁰ German philosopher, political theorist, journalist, and revolutionary socialist.

The core problem this research addresses is the **gap between the legal framework guaranteeing equal inheritance rights and the lived reality of property disputes among heirs**. It seeks to explore why, even after legislative and judicial advances, property inheritance remains a source of division rather than harmony. The study aims to analyze whether societal attitudes, lack of awareness, and procedural challenges have undermined the effectiveness of the Hindu Succession Act in achieving its goal of substantive equality and peaceful transmission of family wealth.

(F) RESEARCH METHODOLOGY:-

This research employs a doctrinal methodology to analyse and understand the complex interplay between the sacred traditions and the evolving legal, social, and cultural dynamics of Hindu marriage. The findings of this study technique focused on analysing qualitative information that came through a range of sources of information, such as texts, papers, court decisions, web pages, and legal journals. Databases available on the internet including JSTOR, Heinz Online, and SCC Online were used to compile these sources of information. By including the thoughts and perspectives of other scholars and sociologists, the sources provided a more comprehensive view. This all-encompassing strategy made it possible to analyse the topic matter more thoroughly and identify any fundamental difficulties or flaws. The research was capable of helping to increase the reader's understanding of what was chosen and reach more solid recommendations by utilizing this methodology. For that reason, doctrinal study is the best method for researching.

The research will critically analyze the Hindu Succession Act, 1956, and its application by courts. It will pinpoint ambiguities, inconsistencies, or areas where the law is inadequate in addressing complex modern family structures or property arrangements, particularly concerning self-acquired property, Wills, and the rights of female heirs. By

systematically reviewing case law, the study will illustrate how courts interpret and apply statutory provisions, highlighting evolving legal principles. This provides valuable insight for legal practitioners, judges, and law students on the current judicial trend in property disputes.

(G). LITERATURE REVIEW:-

Hindu law was uncodified and mainly derived from two ancient schools of jurisprudence, which themselves were interpretations of older religious texts Smritis and Dharma Shastras: Mitakshara School: Prevalent across most of India. It was characterized by the concept of coparcenary, where a son acquired a right in ancestral property by birth. It was highly patriarchal and excluded women from being coparceners.

Dayabhaga School: Prevalent primarily in Bengal and Assam. Inheritance was based on the spiritual benefit conferred on the deceased, and the son did not acquire a right until the father's death. Scholars like Flavia Agnes and Archana Parashar highlight that despite this progressive change, societal resistance and patriarchal customs continue to hinder women from exercising their legal rights. Judicial decisions such as *Vineeta Sharma v. Rakesh Sharma* (2020) reaffirmed the retrospective application of the amendment, strengthening daughters' rights.

(H). HISTORICAL BACKGROUND OF HINDU INHERITANCE LAWS:-

As regards the inheritance of property among the patrilineal Hindus, to systems prevail almost throughout India. These are named as Mitakshara school and dayabhaga school

1. **Mitakshara school** – this school of inheritance of property prevails all over india except Bengal, eastern Bihar, and Kerala. The principle of inheritance by birth is the basic feature of this system. This implies ancestral property is to be inherited but a child cannot demand the share of the self-acquired property of the father. In this system of inheritance we can note the following features –

- All the members of a family commonly and jointly share the property. Even in the presence of father, the sons enjoy rightful share of the family property.
- Ancestral property can be divided among the sharers.
- Women do not enjoy equal share with the male members.
- The self-acquired property of the father can only be inherited by the direct heirs.
- The head of the family may dispose of the family property for repayment of the family debt.

2. **Dayabhaga school** - This system prevails in Bengal and eastern Bihar. This believes in the principle of spiritual benefit. 3 classes of heirs are accepted under the system-(a) sapindas (b) salukyās (c) samanodakas. This system is having the following features-

- The ancestral property cannot be partitioned during the lifetime of the father.
- The head of the family enjoys absolute right over the family property.
- The principle of succession is determined by the right to funeral offerings of the closest one that is son or brother's son.
- Family members enjoy the right to succession but they may be denied the right also if they are wrong in performing the social and familial duties.
- The ancestral property and self-acquired property are same in respect of inheritance

In 1956 Hindu succession Act has been passed which included the women as the rightful sharers of their parental property.

(I). DEVELOPMENT OF ANGLO-HINDU LAW

Over time, a hybrid system known as “**Anglo-Hindu Law**” evolved, combining Hindu religious principles with English legal reasoning.

Concepts like succession, partition, stridhan (women’s property), and adoption marked the beginning of the judicial codification of Hindu law.

Initially, women did not have full ownership over Streedhan and their husbands’ consent was required to alienate or dispose of the property. The enactment of the Hindu Succession Act, 1956, marked a significant change, recognising women as absolute owners of their properties and granting them full rights over it. Streedhan differs from dowry in that it includes voluntary gifts given to a woman by her family, her husband and her husband’s family. It is not given under coercion, making it a legal practice in India. Dowry, on the other hand, is specifically linked to the marriage transaction and is prohibited under **the Dowry Prohibition Act, 1961**.

The division of property into two parts is known as partition. Under the Hindu law, partition means a division of property of a Joint Hindu family in order to give separate conferment of status on the undivided coparceners. It is pertinent to note that no partition is possible if there is only a single coparcener in a Joint family. Each of the coparceners has an equal share of the property of the Joint Hindu Family and each of them reserves an inherent title in the property. If a Hindu Joint family decides to do partition then its joint status of a family comes to an end. In the case of ¹⁵¹**Mrutunjay Mohapatra v. Prana Krushna Mohapatra**, the Court stated that when the elder brother had purchased the property from his persona funds it cannot be subjected to partition and included in the Joint Family at the instance of a younger brother. Moreover, in the case of ¹⁵²**Prafulla Kumar Mohapatra v. Joy Kanta Krushna Mohapatra** the court stated that when the property belongs to the paternal uncle and there is no substantial evidence about the share of the property of claimant’s father, it would be considered as separate property and not a property of Joint Hindu family.

➤ **Special power of father:** A Hindu father reserves a right to effect a partition between himself and his sons. Despite the express

¹⁵¹ (2016)11 OLR 45 Orissa H.C.

¹⁵² 1994 (1) OLR 280.

consent or dissent of his sons, he can exercise this right. Therefore the severance of the property can be done as per the special power given to the father.

➤ **Son, Grandson and Great-grandson:** All coparceners, who is major and of sound mind is entitled to demand partition anytime irrespective of whether they are sons, grandsons or great-grandsons. A clear demand made by any coparcener, with or without reasons, is sufficient and the Karta is legally bound to comply with his demand.

➤ **Daughter:** Moreover, daughters, son in a mother's womb, adopted son, son born after void or voidable marriage, an illegitimate son etc. also reserves a right to demand partition.

In the case of ¹⁵³*Pachi Krishnamma v. Kumaran*, the court stated that the daughter claimed his share as equal to the son in the partition of joint family property, but she failed to prove her customs which says that a daughter can get an equal share as to the son. But after the amendment of 2005 in Hindu Succession Act, it gave the power that a daughter has the right ask for partition and can claim an equal share as to the son in the partition of joint family property.

(J.) WOMEN AND PROPERTY

The question of inheritance and property right or always related to the life of women as they are to leave their parental home after marriage. The transfer of family property does excludes women. This issue as always been raised and addressed in every society as the egalitarian principles came into existence with the democratization of society and politics. Prior to the Hindu Succession Act the property rights of women were limited. Equal rights of inheritance are granted to sons and daughters, and the widows limited estate is converted into absolute ownership (¹⁵⁴*kalabati v soiryabai 1991*). Remarriage of windows does not divest her of her husband's property. The Hindu woman's right to maintenance is recognised as a

tangible right against the property and the husband has a personal obligation to maintain his wife, and if he or his family has property, the female has a legal right to be maintained from the property

(*V. ¹⁵⁵tulsamma vs. sesha reddy*), the Hindu Succession Act has retained the coparcenary property under the mitakshara joint family system, which excludes women from the right to inherit and control joint family property. The property is owned by the father, his sons and their male descendants. on the death of any one of them, the remaining members continue to own the property. Various States have removed the discriminatory feature of the Mitakshara joint family, like Andhra Pradesh, Kerala, Tamil Nadu, Maharashtra and Karnataka. Despite these legal advancements, challenges persist in practice. Many women, particularly in rural and semi-urban areas, remain unaware of their rights under the amended law. Social stigma and family pressure often prevent daughters from asserting their legal claims, as demanding property is still seen as defying traditional family harmony. Procedural barriers, such as difficulties in registration and mutation, also make it harder for women to exercise their rights effectively. Moreover, while Hindu women have achieved near-parity through statutory reform, women governed by other personal laws—such as Muslim or Christian inheritance laws—still face unequal shares, revealing inconsistency across communities.

Hindu Women's Right to Property Act, 1937 was the first law granting widows a share in property, a turning point that later inspired the ***Hindu Succession Act, 1956***.

The **2005** Amendment substituted Section 6 and declared that the daughter of a coparcener shall, by birth, become a coparcener in her own right, in the same manner as a son. This change gave daughters equal rights and liabilities in the **HUF property**. They could now demand partition, own

¹⁵³ AIR 1982 Ker 137

¹⁵⁴ 1991 AIR 1581

¹⁵⁵ AIR 1977 SC 1944

ancestral property by birth, and even act as the karta (manager) of the family if they were the eldest coparcener. The amendment marked a significant step from formal equality to substantive equality by recognizing women's equal role in both family and economy.

(K).HINDU LAW OF SUCCESSION:-

In India, the Hindu law of succession governs inheritance for Hindus, Sikhs, Jains, and Buddhists, primarily through **The Hindu Succession Act 1956**. This law codifies rules for transferring the property of deceased individuals, providing guidelines on who is entitled to inherit and how assets are distributed.

- **Intestate Succession:** When a Hindu dies without leaving a Will, property distribution is governed by the Hindu Succession Act under intestate succession.

- **Coparcenary Property:** This includes property inherited by male family members through joint family ownership. Traditionally, only male members held coparcenary rights, allowing them to share ancestral property.

- **Self-Acquired Property:** Property acquired by an individual independently is considered self-acquired property, which can be bequeathed to anyone through a Will.

Judicial interpretations have played a crucial role in reinforcing this equality. In **Prakash v. Phulavati** (2016) 2 SCC 36, the Supreme Court initially held that the benefits of the 2005 Amendment would apply only if both the father and the daughter were alive on 9 September 2005, the date the amendment came into force. However, this restrictive view was later overruled. In **Danamma v. Amar** (2018) 3 SCC 343, the Court took a more liberal approach, granting coparcenary rights to daughters even though their father had died before the amendment. Finally, the Supreme Court in **Vineeta Sharma v. Rakesh Sharma** (2020) 9 SCC 1 settled the law by declaring that the right of a daughter is by birth, and it is not dependent on whether the father was alive on the date of the amendment. The Court observed that

conferring such rights was a recognition of women's equal status and an attempt to eliminate the deep-rooted discrimination in property matters.

(L).INHERITANCE RIGHTS OF INDIVIDUALS :-

➤ **Sons:**

Sons are coparceners by birth and have an inherent share in ancestral property. In ¹⁵⁶**Kanagavalli v. Saroja**, the appellants were the legal heir of one Natarajan. Natarajan was earlier married to the first respondent, the second respondent was the son and the third respondent was the mother of Natarajan. The first respondent obtained a decree of restitution of conjugal rights but still no reunion occurred between them. The first appellant claimed to have married Natarajan in 1976 and the appellants 2 to 5 were born through them. Natarajan died afterward. The suit was filed for declaration that the appellants were the legal heirs of the said Natarajan along with respondents 1 to 3, and they were entitled to the amounts due from the Corporation where Natarajan worked. The Court held that a son born of a void or voidable marriage that is declared to be annulled by the Court will be a legitimate child and would thus inherit the property of his father. A son has an absolute interest in the property and his son cannot claim birthright in it.

➤ **Daughters :**

Daughters have the same rights as sons in ancestral property, whether married or unmarried. Daughters can demand partition and become coparceners like sons. Daughters inherit equally from their father's self-acquired property.

➤ **Widows:**

The widow gets a share that is equal to that of the son. If there exists more than one widow, they collectively take one share that is equal to the son's share and divide it equally among themselves. This widow should have been of a valid marriage. In the case of ¹⁵⁷**Ramkali v.**

¹⁵⁶ AIR 2002 Mad 73

¹⁵⁷ AIR 2000 MP 288

Mahila Shyamwati, it was held that a woman who had a voidable or void marriage, and that marriage was nullified by the Court on the death of the husband, would not be called his widow and would not have rights to succeed to his property.

If the widow of a predeceased son, or the widow of a brother has remarried, they will not be given the term of 'widow', and will not have the inheritance. Mothers, sisters, and daughters-in-law inherit based on their class—Class I or II—depending on family hierarchy.

Section 25 of the Act disqualifies a murderer from inheriting the property of the person whom he murdered. He is treated as non-existent and is not considered a part of the line of descent¹⁵⁸ (**Nirbhai Singh v. Financial Commissioner, Revenue, Punjab & Ors., 2017**). A murderer under the Section also includes a person who aids or abets such a crime.

Section 26 of the Act disqualifies a person or his children born after conversion, who converts from the Hindu religion to any other religion. The only condition upon which his descendants are eligible to inherit is that they must be Hindus at the time of succession.

Section 27 further gives the effect of disqualification and mentions that in case of any disqualification, the property would be inherited considering that the person disqualified died before the intestate.

ECHOES OF EQUALITY: THE UNENDING STRUGGLE FOR FAIR INHERITANCE AMONG HINDU HEIRS

Q1. Whether inheritance battles persist among Hindu heirs despite equal laws ?

Laws can divide property, but only conscience can preserve peace; equality on paper means little when hearts remain unequal.

Inheritance and succession play a crucial role in determining how property and assets are distributed among heirs. By providing a legal framework for these matters, the laws aim to protect the rights of individuals while reflecting

the diverse cultural and religious landscape of the country.

As societal attitudes continue to evolve and awareness of inheritance rights increases, ongoing advocacy and legal reforms are essential to address the challenges faced in this area. By promoting equitable inheritance practices and empowering individuals to claim their rights, India can work towards ensuring that every person receives their rightful share of property and assets, regardless of their gender or background.

FROM REFORM TO REALITY: TRACING THE UNFINISHED JOURNEY OF GENDER EQUALITY IN HINDU INHERITANCE”

Q2. Whether the 2005 amendment truly ended gender bias in Hindu inheritance ?

The 2005 amendment to the Hindu Succession Act marked a major step toward gender equality by granting daughters equal coparcenary rights. However, true equality remains limited due to societal resistance, lack of awareness, and delayed implementation. Thus, while legally progressive, the amendment has not completely ended gender bias in inheritance.

Many families still follow patriarchal traditions, denying daughters their rightful share. Legal battles and social stigma discourage women from claiming property. Therefore, while the amendment strengthened women's legal standing, deep-rooted cultural attitudes continue to perpetuate gender inequality in inheritance practices. To achieve true equality, consistent legal enforcement and greater social awareness are essential across all communities.

PATHS TO JUSTICE: LEGAL REMEDIES FOR HEIRS IN RESOLVING PROPERTY DISPUTES”

Q3. What are the legal remedies available to the heirs to resolve property disputes ?

- **Civil Suit:** Filing a civil suit in the relevant court is the common remedy for disputes over title, possession, encroachment, or partition. The

¹⁵⁸ 2017 (1) RCR (Civil) 233

court can grant orders for declaration, injunction, possession, or partition as necessary.

- **Partition Suit:** When joint owners cannot amicably divide property, a partition suit legally separates shares. The court can either physically divide the property or order a sale with proceeds distributed as per law.
- **Injunction:** To prevent further encroachment, demolition, or sale of disputed property, courts may grant interim or permanent injunctions.
- **Eviction Proceedings:** For landlord-tenant disputes, specific grounds allow landlords to evict tenants legally through courts governed by state Rent Control Acts or the Transfer of Property Act, 1882.
- **Succession Certificate and Probate:** In inheritance cases, legal heirs can secure their rights through succession certificates (for debts/securities) or probate (when there's a will).
- **Alternative Dispute Resolution:** Methods like mediation, arbitration, or family settlements often lead to quicker, amicable resolutions, especially in family and co-ownership matters.
- **Consumer Forums and RERA:** For grievances against builders, complaints may be filed before consumer protection forums or under the Real Estate (Regulation and Development) Act (RERA) for speedy redressal.

(M).CONCLUSION :-

The battle of heirs over property is not merely a clash of legal rights but often a conflict of relationships, emotions, and unspoken expectations. What begins as a question of inheritance frequently turns into a struggle for recognition, belonging, and validation within a family. Courts may divide land, money, or assets with precision, but they cannot mend the fractures such disputes leave behind. In truth, every property battle is a mirror reflecting the deeper erosion of trust and harmony in human relationships.

Modern inheritance laws including the reformed provisions of the Hindu Succession Act have sought to ensure fairness and gender equality among heirs. Yet, law alone cannot bring peace where empathy is absent. When heirs begin to see property not as a legacy to be shared, but as a prize to be conquered, families lose far more than wealth they lose unity, dignity, and the essence of kinship itself.

Therefore, the true resolution to property disputes lies not just in the courtroom but in the conscience of individuals. A just society is not built by those who win property battles, but by those who rise above them – who see inheritance not as possession, but as responsibility. The day families learn to value relationships over real estate will be the day when justice will no longer need to be fought for, but simply lived.

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