

www.research-Chronicler.com

ISSN - 2347 - 503X

Research Chronicler

International Multidisciplinary Research Journal

Vol IV Issue I : January 2016

Editor-In-Chief

Prof. K. N. Shelke

Research Chronicler

ISSN 2347 – 5021 (Print); 2347 – 503X (Online)

**A Peer-Reviewed Refereed and Indexed
Multidisciplinary International Research Journal**

Volume IV Issue I: January – 2016

Editor-In-Chief

Prof. K.N. Shelke

Head, Department of English,
Barns College of Arts, Science and Commerce, New Panvel, India

Editorial Board

Dr. A.P. Pandey, Mumbai, India
Dr. Patricia Castelli, Southfield, USA
Dr. S.D. Sargar, Navi Mumbai, India
Christina Alegria, Long Beach, USA
Prin. H.V. Jadhav, Navi Mumbai, India
Dr. Adrienne Santina, McMinnville, USA
Prof. C.V. Borle, Mumbai, India
Dr. Nirbhay Mishra, Mathura, India

Advisory Board

Dr. S.T. Gadade

Principal, C.K. Thakur College,
New Panvel, India

Dr. R.M. Badode

Professor & Head,
Department of English,
University of Mumbai, India

Dr. G.T. Sangale

Principal, Veer Wajekar College,
Phunde, India

Research Chronicler is peer-reviewed refereed and indexed multidisciplinary international research journal. It is published bi-monthly in both online and print form. The Research Chronicler aims to provide a much-needed forum to the researchers who believe that research can transform the world in positive manner and make it habitable to all irrespective of their social, national, cultural, religious or racial background.

With this aim Research Chronicler, Multidisciplinary International Research Journal (RCMIRJ) welcomes research articles from the areas like Literatures in English, Hindi and Marathi, literary translations in English from different languages of the world, arts, education, social sciences, cultural studies, pure and applied Sciences, and trade and commerce. The space will also be provided for book reviews, interviews, commentaries, poems and short fiction.

-:Subscription:-

	Indian Individual / Institution	Foreign Individual / Institution
Single Copy	₹ 600	\$40
Annual	₹ 3000	\$200
Three Years	₹ 8000	\$550

-:Contact:-

Prof. K.N. Shelke

Flat No. 01,
Nirman Sagar Coop. Housing Society,
Thana Naka, Panvel, Navi Mumbai. (MS), India. 410206. knshelke@yahoo.in

Cell: +91-7588058508

Research Chronicler

A Peer-Reviewed Refereed and Indexed International Multidisciplinary Research Journal

Volume IV Issue I: January – 2016

CONTENTS

Sr. No.	Author	Title of the Paper	Page No.
1	Dr. B. Moses	Linguistics Problems in translating the novel <i>Helicopter gal Keezhe Irangivittana</i> from Tamil into English	1
2	G. Christopher	Solitude Leads to Salvation a Critical Study on William Golding's <i>Free Fall</i>	5
3	Ved Prakash Gupta	Study of various Governance Issues in Government Hospitals (A case of Delhi)	9
4	S. Pari & Dr. K. Sundararajan	Explicit of Khushwant Singh's Life and His Literary Works.	18
5	Syed Imranul Haque	Effectiveness of ICT in EFL Classroom	21
6	Mr. Vijaya Kumar Chavan & Dr. R. Udayakumar	UV – VIS Spectral and Morphological Studies on the Effect of Sildenafil Citrate on Testis of Ethanol Fed Albino Mice	33
7	Sana Sulaikha	Dalitistan – Towards the Formation of a Dalit Nation	44
8	Sailesh Sharma	Leadership for Learning beyond Instructional-Lessons from Indian Private School Principals	50
9	Dr. Hemangi Bhagwat & Sugandha Indulkar	Of Man and Nature in 'The Hungry Tide' Ecocritical perspectives on Amitav Ghosh's Novel 'The Hungry Tide'	62

10	Dr. Anil Kumar Verma	Effect of Parental Involvement on Academic Performance of Government Primary School Children	73
11	Dr. Anjan Kumar	Existential Angst in the Novels of Arun Joshi	78
12	Dr Meenu Dudeja	Comparison of the Three Novels: <i>Train to Pakistan, A Bend in the Ganges, Azadi</i>	83
13	<i>Dr. Prativa Panda</i>	Sex Inequality and Inheritance Rights of Women in India	91
14	Prof. Soumyamoy Maitra	Rin & Tide: A soapy Saga	102
Poetry			
15	Santosh Dharma Rathod	How's there, Gautama, how's there?	107
16	Nishtha Mishra	Last of India's "Golden Wings" - An elegy on the Death of Dr. APJ Abdul Kalam	109
17	Nishtha Mishra	I Have Given Up My Human Rights!	111
18	Nishtha Mishra	O Bride! O Bride!	114

Sex Inequality and Inheritance Rights of Women in India**Dr. Prativa Panda***Reader, University Law College, Utkal University, Bhubaneswar, (Odisha) India***Abstract**

Inheritance rights of women in India are limited compared to men. The denial and violations of women's property rights widens the economic disparity between men and women. This paper has explained how women have always been treated as a disadvantageous section of the society. It further explains that in spite of the Constitution of India prohibiting discrimination on the ground of sex, women are discriminated even in Legislations. Prior to the Act of 1956, women had no power to be on their own and they had no right in property. Even though Legislations were made but all were in favour of male members and subsequently some legislations were passed on women's property rights but they had very limited scope. Women had no right in ancestral property, they had no coparcenary rights, and married women had no right in father's property or on dwelling home. It has been resolved by the Amendment in Hindu Succession Act 1956 in the year 2005 which have been strengthened the women in society. This paper has made an attempt to explain how the Hindu Succession Act, 1956 mark a new era in the history of social legislation in India. A vigorous attempt has been made to bring some reforms of far reaching consequences in the system of inheritance and succession

Key Words: Right of inheritance, Right of successionⁱ, Hindu Succession Act

Introduction:

“Discrimination against women is so pervasive that it sometimes surfaces on a bare perusal of the law made by the legislature itself. This is particularly so in relation to laws governing the inheritance/succession of property amongst the members of a Joint Hindu family. It seems that this discrimination is so deep and systematic that it has placed women at the receiving end”ⁱⁱ

Inheritance rights of women in India are limited compared to men. The denial and violations of women's property rights widens the economic disparity between men and women. Women's property rights are

affected by complex web of statutory laws, personal laws, social norms and customs.

The Hindu Succession Act, 1956 mark a new era in the history of social legislation in India. A vigorous attempt has been made to bring some reforms of far reaching consequences in the system of inheritance and succession. The law in these areas needed complete overhauling as some of the legal provisions under the old textual law had become obsolete. For example, the non-inclusion of female to inherit the property and giving preference to the males. The law in this respect needed some revolutionizing changes so as to recognize the long felt right go inheritance of Hind females as par with males.

The main scheme of The Hindu

Succession Act, 1956 Act: The two systems of inheritance to the separate or self-acquired property and coparcenary interest of male intestate which hitherto prevailed under the Mitakshara and Dayabhaga Law have been abolished and a uniform system comes into operation in section 8. The three recognized classes of heir: Sapindas, Samanodakas and Bhandhas cease to exist after the coming into force of Act. The heir are divided only in four classes under the Act., (i) heirs in class I of the scheduled, (ii) heirs in class II of the schedule, (iii) agnates and (iv) cognates.

1. The Hindu woman's limited estate is abolished and any property possessed by a female Hindu howsoever acquired is now held by her as absolute property and she has full power to deal with or dispose of it by will as she likes. The restraint and limitations on her power cease to exist even in respect of existing property possessed by a female Hindu at the date of the Act coming into force whether acquired by her as full owner and not as limited owner (section 14).
2. The absolute property belonging to a woman was called *Stridhan*. *Stridhan* varied in form, on the basis of nature of marriage and source *Stridhan*. The Act by section 15 abolishes all this and propounds a uniform scheme of succession to the property of a female. Hindu who dies intestate after the commencement of the Act? The section groups heirs of a female dying intestate into five categories described in entries (a) to (e) and specified in sub-section (i) but these provisions do not apply to

persons governed by Marumakkattayam and Aliyasantana laws, as will be clear from the provisions of section 17 of the Act.

3. The hitherto limited estate given to women was converted to absolute one.
4. Female heirs other than the widow were recognized while the widow's position was strengthened.
5. The principle of simultaneous succession of heirs of a certain class was introduced.
6. In the case of the Mitakshara Coparcenary, the principle of survivorship continues to apply but if there is a female in the line, the principle of testamentary succession is applied so as to not exclude her.
7. Remarriage, conversion and chastity are no longer held as grounds for disability to inherit.
8. Even the unborn child, son or daughter, has a right if s/he was in the womb at the time of death of the intestate, if born subsequently.

Devolution of interest in Mitakshara Coparcenary property:

The Mitakshara law before the commencement of the Hindu Succession (Amendment) Act, 2005 recognized two modes of devolution of property, namely:-

- (i) **Survivorship:** The rule of survivorship applied to joint-family property or in the case of the devolution of interest in the Mitakshara coparcenary. It implied that where a coparcener governed by a Mitakshara law died leaving behind him other coparceners his interest in the coparcenary property devolved not upon his heirs by succession but upon the surviving

coparceners. This rule was changed to some extent after the commencement of the Hindu Women's Right to Property Act, 1937. The effect of the Hindu Women's Right to Property Act, 1937 was that so long as the widow of a deceased Mitakshara coparcener was alive, she was entitled to the interest of the deceased husband and the rule of survivorship remained suspended during her life time. It was only after death of the widow of the deceased coparcener that the rule of survivorship was revived.

The original section 6 of the Hindu Succession Act provided as a general rule that where a male Hindu governed by the Mitakshara law dies after the Hindu Succession Act, leaving behind him a female relative specified in class I of the Schedule or a male relative specified in that Schedule who claims through a female relative, his interest in the coparcenary shall devolve by succession and not by survivorship.

(ii) **Succession:** The rule of succession applied to property held as separate and self-acquired property by the last owner or by member of joint Hindu family. The property of a Hindu male governed by the Mitakshara law may consist of his own separate or self-acquired property or an interest in Mitakshara coparcenary property or both. Therefore, whenever a question regarding the devolution of property belonging to coparcenary arises, a distinction must always be drawn between ancestral and non-ancestral property.

The Hindu Succession (Amendment) Act, 2005 has introduced a complete departure from the old law in this respect. It has

substituted Section 6 of the Hindu Succession Act. The present Sec.6 of the Hindu Succession Act has abolished the rule of survivorship.

Section 3 of Hindu Succession (Amendment) Act, 2005 provides substitution of new section for section 6 of the principal Act. The following section shall be substituted, namely: -Devolution of interest in coparcenary property (Section 6):

(1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,-

- (a) by birth become a coparcener in her own right in the same manner as the son;
- (b) have the same rights in the coparcenary property as she would have had if she had been a son;
- (c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:

Provided that nothing contained in this subsection shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

(2) Any property to which a female Hindu becomes entitled by virtue of sub-section (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act, or any other law for

the time being in force, as property capable of being disposed of by her by testamentary disposition.

(3) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005, his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if a partition had taken place and,-

- (a) the daughter is allotted the same share as is allotted to a son;
- (b) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and
- (c) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Explanation.- For the purposes of this sub-section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no

court shall recognize any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this sub-section shall affect-

- (a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or
- (b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.

Explanation.-For the purposes of clause (a), the expression "son", "grandson" or "great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005.

(5) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004.

Explanation.- For the purposes of this section "partition" means any partition made by execution of a deed of partition duly registered under the Registration Act, 1908

(16 of 1908) or partition effected by a decree of a court.

Before this amending Act, Mitakshara coparcenary consisted of male members only. Now, daughter of a Mitakshara coparcenary has also been made a coparcener. The principle of survivorship has been abolished by the Amending Act and Mitakshara coparcenary would be divided after the death of coparcener.

In *Puspalata N V. v. V. Padma*,ⁱⁱⁱ it was observed by the Karnataka High Court that Sec.6 of the Hindu Succession Act as amended by the Hindu Succession (Amendment) 2005 has conferred right upon the daughter as a coparcener in the Mitakshara coparcenary, but only such daughter would be a coparcener in such coparcenary who is born after the Act came in to force i.e.17.6.1956. Daughter's marriage will not put an end to the right of the daughter to Mitakshara coparcenary property which she has acquired by birth.

In *Ganduri Koteswaramma & Another. Vs Chakiri Yanadi & Another*^{iv}, Supreme Court held that a Hindu woman or girl will have equal property rights along with other male relatives for any partition made in intestate succession after September 2005. Under the Hindu Succession (Amendment) Act, 2005, the daughters are entitled to equal inheritance rights along with other male siblings, which was not available to them prior to the amendment. The female inheritors would not only have the succession rights but also the same liabilities fastened on the property along with the male members.

The Supreme Court in *Sheela Devi and Others v. Lal Chand and Another*,^v dealt with the question of right of a coparcener of a Mitakshara family under the old Hindu Law visa-vis Hindu Succession Act, 1956. The contention raised therein that the provisions of the Amendment Act, 2005 will have no application as the succession had opened in 1989 was negated,

In *M. Yogendra and Others. Vs. Leelamma N. and Other*^{vi} the Supreme Court held that provisions of Section 8 of the Hindu Succession Act are not retrospective in operation and where a male Hindu died before the Act came into force i.e. where succession opened before the Act. Section 8 of the Act will have no application.”

In *Anar Devi and Ors. Vs. Parmeshwari Devi*^{vii} and another, the Supreme Court held that according to Section 6 of the Act when a coparcener dies leaving behind any female relative specified in Class I of the Schedule to the Act or male relative specified in that class claiming through such female relative, his undivided interest in the Mitakshara coparcenary property would not devolve upon the surviving coparcener, by survivorship but upon his heirs by intestate succession.

The Supreme Court in *R. Mahalakshmi Vs. A.V. Anantharaman and Others*^{viii} held that: “Perusal of the aforesaid provision of law makes it abundantly clear that the daughters who have got married prior to 1989 may not have equal share as that of a son but the daughters who got married after 1989 would have equal share as that of a son. In other words, daughters who got married after 1989 would be treated at par

with son having the same share in the property.”

In *G. Sekar Vs. Geetha and Others*^{ix} the Supreme Court held that “It is, therefore, evident that the Parliament intended to achieve the goal of removal of discrimination not only as contained in Section 6 of the Act but also conferring an absolute right in a female heir to ask for a partition in a dwelling house wholly occupied by a joint family as provided for in terms of Section 23 of the Act.

In Pravat Chandra Pattnaik and Others vs. Sarat Chandra Pattnaik^x and Another the Orissa High Court had occasion to consider the effect of the mending Act and the new S. 6 of the Act. It was a case relating to partition of Hindu Mitakshara coparcenary property. The Court held that if the provision of the Act is read with the intention of the legislation, the irresistible conclusion is that S. 6 (as amended) rather gives a right to the daughter as coparcener, from the year 2005, whenever they may have been born. The daughters are entitled to a share equal with the son as a coparcener

The amended sections 6 of the Hindu Succession Act confers on daughter equality in status vis-à-vis son and equal right in coparcenary property and remove gender discrimination between son and daughter. It brings law in conformity with article 14 and 15 of the Constitution.

Property of a Female Hindu to be her Absolute Property:

Under the Hindu law, before the commencement of the Act, separate rules existed for the devolution of a women’s property. Prior to the Act a female Hindu

possessed two kinds of property: (1) Stridhan, (2) Hindu Women’s Estate. Over Stridhan she had full ownership and on her death it devolved on her heirs. With regard to the property which she acquired as women’s estate her position was that of owner but her power alienation was limited. On her death, such property devolved not on her own heirs but upon the next heirs of the last full owner. But now Section 14 of the Act abolished the Hindu Women’s limited Estate and confers on the women the absolute ownership over all her property howsoever acquired by her. Section 14 of the Act runs as follows:

Section.14:(1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.

Explanation.- In this sub-section, “property” includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of arrears of maintenance, or by gift from any person, whether a relative or note, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as Stridhan immediately before the commencement of this Act.

Effect of Section14:

Section 14 of the Act contains revolutionary provisions in respect of Hindu Women’s proprietary rights and is a step towards the gender justice. “The effect of rule laid down in this section is to abrogate the stringent

provisions against the proprietary rights of a female which are often regarded as evidence of her perpetual tutelage and to recognize her status as independent and absolute owner of property.”^{xi}

In Mangal v. Ratno, the Apex Court held that the words “any property possessed by a female Hindu” include actual as well as constructive possession. Even when the property is in the possession of a trespasser, she is in its constructive possession.^{xii}

In Gurumalappuru v. Setra^{xiii}, the Supreme Court held that the word ‘possessed’ is used in the broad sense and in the context means the state of owning or having in one’s hand or power

The expression “female Hindu” in the heading of section 14 of the Act as well as the expression “any property possessed by a female Hindu” have to be given a wider interpretation in consonance with the wishes and desires of the framers of the Constitution. The expression ‘female Hindu’ would take in “daughter” also. Therefore, limited interest of daughter in property would get enlarged to full right after the commencement of the Act.^{xiv} If no property is given in lieu of maintenance and only a sum of money is given, then section 14 does not apply.^{xv}

In V. Tulsamma v. Sessa Reddy,^{xvi} it was held that when some property is allotted to the widow in lieu of her claim for maintenance, she becomes its absolute owner.

In Jagat Singh v. Teja Singh^{xvii}, it was held that the right of the alliance is co-extensive with that of the widow.

In Bhura v. Kashiram^{xviii}, the Supreme Court held that the testator had given the property to Sarjabai only for a limited period, hence she would not be its absolute owner under sub-section (1) of section 14. The property would, in fact, be governed by sub-section (2) of section 14 as the court should give effect to the intention of the testator.

In Yemanappa Dudappa Marve v. Yelubai^{xix} the Supreme Court held that the respondent had a limited widow’s estate in the scheduled properties which was given to her in lieu of her maintenance and the same ripened into an absolute estate in view of the provisions of section 14 (1) of the Act. Thus, the Act made her an absolute owner.

The Apex Court has held that any property possessed by a Hindu female, irrespective of how it was acquired, becomes her absolute property after coming into force of the Act in view of the operation of section 14(1).^{xx}

In Santosh v. Saraswathibai^{xxi}, the Apex Court held that the property given to widow in lieu of her maintenance, after coming into force of Hindu Succession Act, ripens into full estate and widow becomes absolute owner in view of section 14(1) of the Act.

The Supreme Court decided a very important case namely, *Jaggannathpilai v. Kamjipadampilai*,^{xxii} in which view of Orissa and Andhra Pradesh high Courts was reversed. Here a widow before the commencement of the Act inherited certain property, of which she was only a limited owner. She disposed that property through a registered deed before the Act came in to force. After the enforcement of the Act, the transferee again transferred the same

property to the widow for consideration. The Court held that property after transfer to the widow would become her absolute property, as the property came into her possession after the enforcement of the Act.

Position of Widow after Remarriage:

According to Section 2 of the Hindu Widow's Remarriage Act, 1856, the property which a widow gets from her husband as a limited owner ceases, upon her remarriage to be her property. The question arises whether such property is also her absolute property under Section 14(1) of the Hindu Succession Act. *In Gajadhari Devi v. Gokul*^{xxiii}, it was held by the Supreme Court that if she remarries after the coming into force of the Hindu Succession Act she will incur no disqualification and her estate shall not be forfeited as contemplated by section 2 of the Hindu Widow's Remarriage Act.

Restricted Estate (Section 14(2)):

According to this sub-section women does not become the absolute owner of the property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the *gift, will or other instrument or the decree, order or award gives her a restricted right in such property.*

Sub-section (2) of section 14 must be read as a proviso or exception to sub-section (1) of section 14 and its operation must be confined to cases where property is acquired for the first time as a grant without any pre-existing right. If the female had an existing interest in the property, the interposition of any instrument will not affect the operation of sub-section (1) of section 14 and the

property will be held by the female as her absolute property.

In Jagan Singh (Dead) Through LRs. v. Dhanwanti & Another,^{xxiv} it was held that, if a Hindu female has been given only a "life interest", through Will or gift or any other document, the said rights would not stand crystallized into the absolute ownership.

In *G. Appaswami Chettier v. sarangapanichettiar*,^{xxv} the Supreme Court held that where a daughter takes a life estate under the will of her father. Section 14(2) will apply and her life estate cannot be enlarged in to an absolute estate.

General rules of succession in the case of female Hindus:

Section 15 of the Act prescribes the General rules of succession in the case of female dying intestate, and Section 16 lays down the Order of Succession. Section 15 runs as follows:

Section 15- (1) the property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,-

- (a) Firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband.
- (b) secondly, upon the heirs of the husband.
- (c) thirdly, upon the heirs of the mother and father,
- (d) fourthly, upon the heirs of the father, and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),-

- (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the

deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father, and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

When a female inherits property from her brother, inheritance to it is governed by section 15(1) of the Act 1956^{xxvi}.

In Gurbachan v. Khichar Singh, it was held that, son and daughter include son and daughter by natural birth legitimate or illegitimate^{xxvii}.

Succession on death of Hindu female:

The object of section 15(2) is to ensure that the property left by a Hindu female does not lose the real source from where the deceased female had inherited the property, one has no option but to hold that son or daughter (including the children of any pre-deceased son or daughter) of such a Hindu female will mean the son or daughter begotten by the Hindu female from the husband whose property she had inherited, and not the son or daughter whom she had begotten from a husband other than the one, whose property she had inherited. If such property is allowed to be drifted away from the source through which the deceased female has actually inherited the property, the object of section 15(2) will be defeated.^{xxviii}

Hindu female inherited property from her deceased husband. If the property is allowed to be inherited by a son or daughter, whom the deceased female had begotten not through her husband, whose property it was, but from some other husband then, section 15(2) (b) will become meaningless and redundant.

The intent of the Legislature is clear that the property, if originally belonged to the parents of the deceased female, should go to the legal heirs of the father. So also under clause (b) of sub-section (2) of section 15, the property inherited by a female Hindu from her husband or her father-in-law, shall also under similar circumstances, devolve upon the heirs of the husband. It is the source from which the property was inherited by the female, which is more important for the purpose of devolution of her property. The fact that a female Hindu originally had a limited right and later acquired the full right, in any way, would not alter the rules of succession given in sub-section (2) of section 15.^{xxix}

The mother became an absolute owner of the property which she inherited from her husband after his death in 1950 but after the Hindu Succession Act, 1956 came in force, before 1956 her interest being limited. Hence, it has been held that the property after the death of the mother shall be inherited by her son and daughter under section 15(1) (a) and not under any other provision of law.^{xxx}

Order of succession (Section 16):

Section 16 of the Hindu Succession Act provides the order of succession and manner of distribution among heirs of a female

Hindu, whereas Section 15 enumerates the heirs of Hindu female and does not deal with the distribution of the intestate property among the heirs or the order of the succession among them. Section 16 run as follows;-

Rule 1. - Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry and those including in the same entry shall take simultaneously.

Rule 2. - If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3.-The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub-section (2) to section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death.

In Mst. Mohinder v. Kartar Singh,^{xxvi} the Supreme Court held that any property held by a female Hindu as a limited estate being in her valid possession on the date of the enforcement of the Act, become her absolute estate. Accordingly, on the death of that female Hindu, the property left behind shall be inherited by the heirs mentioned in clause 1(a) of Section 15 subject to section 16. Thus where a female inherited certain property

from her husband as a limited owner and becomes an absolute owner on the date of the enforcement of Hindu Succession Act, 1956 and later on died, then the daughter of her predeceased son would become the preferential heir over the sister of her deceased husband.

Special provision respecting dwelling houses:

Section 23 of the Act repealed by the Section 4 of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), with effect from. 9-9-2005. **Statement of Objects and Reasons [The Hindu Succession (Amendment) Act, 2005];**

Section 23 of the Act disentitles a female heir to ask for partition in respect of a dwelling house wholly occupied by a joint family until the male heirs choose to divide their respective shares therein. It is also proposed to omit the said section so as to remove the disability on female heirs contained in that section.

The question that judiciary shouldn't interfere in personal laws. The court considered that it will be a blemish that even when the Hindu society was thriving towards gender equality, the succession laws discriminate. It was said that a legislation which discriminates *only* on the basis of gender, can be questioned, as was done when §§ 10 and 34 of the Indian Divorce Act were amended (*in the cases of Ammini E. J. v. Union of India*^{xxvii} and *N. Sarda Mani v. G. Alexander*^{xxviii}

Conclusion:

Moreover, there have been progressive changes in the Hindu law itself, e.g. the

Amendment in §6 giving women the right to coparcenary and deletion of §23 which deprived women of sharing the dwelling house by the 2005 amendment. It was recognized that although there can be different laws for different religions, there cannot be different laws for different sexes and thus the judiciary has a right to interfere in the latter case. So, inheritance rights are very much important especially for the upliftment of women in the society.

Endnotes:

- ⁱⁱ The Law Commission of India in its 174th Report on "Property Rights of Women: Proposed Reforms under the Hindu Law" in May 2000
- ⁱⁱⁱ AIR 2010 Karnataka 124.
- ^{iv} Supreme Court of India ,CIVIL APPEAL NO. 8538 OF 2011(Arising out of SLP (Civil) No. 9586 of 2010
- ^v MANU/SC/4318/2006
- ^{vi} 2010(1)ALLMR(SC)490
- ^{vii} AIR2006SC3332
- ^{viii} 2009)9SCC52
- ^{ix} 2009)9SCC2649
- ^x AIR 2008 orissa103
- ^{xi} Mulla, Principles of Hindu Law ,Ed xvi(reprint 1994) page806
- ^{xii} AIR 1967 SC 1786.
- ^{xiii} AIR 1959 SC 577.
- ^{xiv} Jose v. Ramakrishnan Nair Radhakrishnan, AIR 2004 Ker 16
- ^{xv} Sulabha v. Abhimanyu, AIR 1983 Ori 71.
- ^{xvi} AIR 1977 SC 1944.
- ^{xvii} AIR1970P&H 309 (FB).
- ^{xviii} AIR 1994 SC 1202.
- ^{xix} AIR 2003 Karn 396.
- ^{xx} Chaudhary v. Ajudhia, AIR 2003 NOC 126 (HP).
- ^{xxi} AIR 2006 Kant 85
- ^{xxii} AIR 1987SC1493
- ^{xxiii} AIR 1990 SC 46.
- ^{xxiv} (2012)2 SCC 628 ,

- Mst. Karmi v. Amru& Others., AIR 1971 SC 745,
- Navneet Lal @ Rangi v. Gokul & Others., AIR 1976 SC 794. &
- Sadhu Singh v. Gurdwara Sahib Narike & Others. AIR 2006 SC 3282.
- ^{xxv} AIR 1978 SC 1051
- ^{xxvi} Balasaheb v. Jaimala, AIR 1978 Bom 44
- ^{xxvii} AIR 1971 Punj 240.
- ^{xxviii} DhanisthaKalita v. RamakantaKalita, AIR 2003 Gau 92.
- ^{xxix} Bhagat Ram (D) by L.Rs. v. Teja Singh (D) by L.Rs., AIR 2002 SC 1.
- ^{xxx} Debahari Kumbhar v. Sribatsa Patra, AIR 1994 Ori
- ^{xxxi} AIR 1991 SC 257
- ^{xxxii} AIR 1995 Ker 252
- ^{xxxiii} <http://ikanoon.org/850953>

References:

1. Bhatnagar, *Law Relating to Women and Their Rights*, Ashoka Law House, New Delhi.
2. Kuppaswamy, B. *Social Change in India*, 2nd Ed., New Delhi, Vikas Publications (1975)
3. Manjula Batra *Women And Law* Pioneer Books, New Delhi,(2001
4. Maya Majumdar, *Protecting our Women Dominant Publishers and Distributors*. Volume I, II and II, (2001)
5. Roma Mukherjee *Women and law and Free Legal Aid in India*. Deep and Deep Publication, (2000)
6. S.K. Ghosh *Indian Women through the Ages*, New Delhi: Ashish Publishing House, (1993)
7. S.R. Myneni, *Women and Law* , Asia Law House, (2002)
8. Sadhana Arya, *Women, Gender equality and the State*, Deep and Deep Publication, (2000)

www.research-Chronicler.com

ISSN - 2347 - 503X

Editor-In-Chief

Prof. K. N. Shelke

Dhanashree Publications

Flat No. 01, Nirman Sagar Coop. Housing Society, Thana Naka,
Panvel. PIN - 410206. Cell: 07588058508