

UNIT – IV

Inheritance & Succession

Historical Perspective • Hindu Succession Act, 1956
Stridhana • Amendments • Gifts & Wills

Hindu Law • Personal Laws Series

What We Will Cover

01

Historical Perspective

Traditional Hindu Law of Inheritance

02

Hindu Succession Act, 1956

Key features and scheme of the Act

03

Stridhana – Woman's Property

Concept and evolution of women's property rights

04

Amendments to the Act

Especially the 2005 Amendment

05

Gifts & Testamentary Succession

Wills and disposition of property

Traditional Hindu Law of Inheritance

Vedic Period

Primogeniture prevailed. Property passed through the male line. Daughters had limited rights; widows mainly entitled to maintenance.

Mitakshara School

Joint family property with coparcenary rights by birth. Sons acquired interest in ancestral property from birth. Dominant in most of India.

Dayabhaga School

Prevalent in Bengal and Assam. No right by birth. Inheritance opened only on the death of the owner. More individualistic approach.

Women's Position

Traditionally limited. Stridhana was the main form of property women could hold and control. Inheritance rights were severely restricted.

Two Major Schools of Inheritance

Point of Difference	Mitakshara	Dayabhaga
Right by Birth	Yes – son becomes coparcener by birth	No – right arises only on death
Joint Family	Strong coparcenary system	Weaker joint family concept
Inheritance Opens	On death, but interest already exists	Only on the death of the owner
Region	Most of India	Bengal & Assam
Doctrine	Apratibandha Daya (unobstructed)	Sapratibandha Daya (obstructed)

Key Features of the Act

The Hindu Succession Act, 1956 codified and reformed the law of intestate succession among Hindus. It applies to Hindus, Buddhists, Jains and Sikhs. It significantly improved the position of women compared to traditional law.

Uniform Scheme

Laid down a uniform scheme of succession for males and females (with differences).

Class I Heirs

Preferred heirs include son, daughter, widow, mother, and children of predeceased children.

Abolition of Limited Estate

Section 14 converted women's limited estate into absolute ownership.

Coparcenary Retained

Mitakshara coparcenary was retained (until major change in 2005).

Order of Succession (Males)

Class I Heirs

Son, daughter, widow, mother, children of predeceased son/daughter, widow of predeceased son, etc. Take simultaneously and to the exclusion of others.

Class II Heirs

Father, brother's son, sister's son, brother's daughter, sister's daughter, father's parents, etc. Take only if no Class I heir exists.

Agnates

Relations wholly through males. Inherit if no Class I or Class II heir.

Cognates

Relations not wholly through males. Inherit after agnates.

Concept and Significance

Stridhana literally means “woman’s property”. Under traditional Hindu law, it referred to property which a woman could hold, enjoy and dispose of (with varying degrees of freedom depending on the school and the source of the property).

Sources of Stridhana

Gifts from parents, husband, relatives at marriage, inheritance in certain cases, earnings, and property acquired by self-exertion.

Power of Disposal

Over certain kinds of Stridhana, a woman had absolute power of disposal. Over others, her power was limited (especially during coverture).

Succession to Stridhana

Special rules of succession applied. Order of heirs differed from ordinary property and varied between schools.

Modern Position

Section 14 of the Hindu Succession Act converted most limited estates of women into absolute property, largely superseding old Stridhana distinctions.

Conversion of Limited Estate

Section 14(1) provides that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner thereof and not as a limited owner. This was a revolutionary provision that transformed women's property rights.

Retrospective Effect

Applies to property acquired before or after the Act, provided she was in possession.

Full Ownership

She can sell, gift, will or otherwise dispose of the property as absolute owner.

Section 14(2) Exception

Does not apply where property is acquired under a gift, will, or decree that itself creates a limited estate.

Hindu Succession (Amendment) Act, 2005

The 2005 Amendment is the most significant reform after 1956. It conferred equal coparcenary rights on daughters in Mitakshara joint family property, placing them on the same footing as sons.

Daughter as Coparcener

Daughter becomes a coparcener by birth in the same manner as a son, with same rights and liabilities.

Equal Rights

She can demand partition, has the same share, and can become the Karta in appropriate cases.

Retrospective Aspect

Applies to daughters living at the time of the Amendment (subject to judicial interpretation on pending partitions).

Impact

Major step towards gender equality in Hindu joint family property. Overruled earlier discriminatory position.

Disposition of Property by Gift

Essentials of a Valid Gift

Donor must have capacity, clear intention to donate, acceptance by donee, and delivery of possession (in case of movable property).

Subject Matter

Any property which the donor owns and can transfer. Gift of undivided coparcenary interest has special rules.

Formalities

Gift of immovable property requires a registered instrument signed by the donor and attested. Movable property can be gifted by delivery.

Revocation

A completed gift generally cannot be revoked except in limited cases (e.g., gift made under undue influence, or conditional gift where condition fails).

Disposition by Will

A Hindu can dispose of his property by will. The power of testamentary disposition was recognized and expanded under the Hindu Succession Act. Subject to certain restrictions, a Hindu can will away his separate property and, after 2005, his share in the joint family property.

Capacity

Any major Hindu of sound mind can make a will.
Minors and persons of unsound mind cannot.

Formalities

Governed by the Indian Succession Act, 1925.
Generally requires writing, signature and attestation by two witnesses.

Scope

Can dispose of separate property freely.
Coparcenary interest can also be disposed of by will (especially after the 2005 changes).

Restrictions

Cannot completely disinherit certain heirs in a way that violates mandatory provisions, but generally wide freedom exists.

KEY TAKEAWAYS

Summary of Unit-IV

01

Traditional Law

Mitakshara (right by birth) and Dayabhaga (no right by birth) were the two major schools.

02

Hindu Succession Act, 1956

Codified intestate succession and significantly improved women's property rights.

03

Stridhana & Section 14

Section 14 converted limited estates of women into absolute ownership.

04

2005 Amendment

Daughters became equal coparceners by birth in Mitakshara joint family property.

05

Gifts & Wills

Hindus have wide power to dispose of property by gift and by testamentary succession.

Thank You

“The law of succession reflects the evolving balance between tradition, equality and individual freedom.”

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