

RIGHTS OF WOMEN IN FATHER'S PROPERTY AFTER MARRIAGE

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ABSTRACT

India is regarded as a land of women. If we imagine India as a human form, then it is a form of women. But do the women get a perfect and equal share in the property of the father or of their biological home? The author of this paper is trying to answer this question through detailed, research. In India, we say that we are progressing but are we? In the early times, we consider a girl as someone else's responsibility to us. We think that girls can't manage things properly so at least a son is needed to manage the home affairs and finances. If the girl marries outside the community, then she is deprived of all the property by the parents. But if the boy does this then also girl married him because of property. But no one understands that a woman has many roles like a daughter, sister, and mother in men's life.

Keywords: Hindu Law, Muslim Law, Christian Law, Coparcener.

INTRODUCTION

The Succession act of 1956¹ has various flaws that had to be revised to overcome by an amendment act in 2005 famously known as The Hindu Succession Act (Amendment), 2005². By the above amendment act, the girls of a coparcener were given equal rights in the property by their birth. This indicates that after this act the girls also got proper recognition in the property act.

PROPERTY LAWS IN THE MUSLIM COMMUNITY

In birthright, the son's share is over to at least one/ 2 the son so we tend to speak about orchestration between laws. The generality after this can be that the ladies are partial to that the men. But she has all the operations on the inherited property. It's her's by-laws. She has all the rights over this property. She has all the right to trade it off as her conjurations during her being alive or not alive. The Girl admit presents by the people on whose property she has rights there ought to be less percent of distrust that the gift may be a mean of dodging the laws of the

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¹ Hindu Succession Act 1956

² Hindu Succession (Amendment) Act 2005

heritage of the joker's share since, underneath Muslim Law, the shares of heritage are strict. By the time the girl is married, the child has the right to live in their parent's house, yet she also has the proper to be maintained. Simply just in case of divorce, a charge for conservation formerly more is arranged on the elders formerly 3 months of amount (staying period). Simply just in case, she has the youths that area unit suitable of exertion the duties of her conservation, the freights fell on them. Within Muslim law, the women's standing is inferior to it of the boys still not distinguished between them after she marries. She has operation over parcels and products of hers. She has the identical right of conservation as a result of the other women of her husband, and would possibly take action if he fails to try this or he discriminates between any of her women. The Apex Court has decided in various matters that in the case of divorce, a Muslim husband is vulnerable to make cheap and honest provisions for the long term of the single mate that fluently includes her conservation also. Such an affordable and honest provision extending beyond the iddat amount should be maintained by the husband among the iddat amount in terms of Section three (1 Ha) of the Muslim girls (Protection of Rights on Divorce) act, 1986³ and liability of Muslim husband to pay conservation is not consigned to staying period. The Girl will also inherit the "RIGHT TO MEHR" in step with the terms of the bond agreed to her throughout the time of marriage. She's going to inherit to the extent of one-eight if there are youths or one-fourth if there aren't any youngsters. However, the share could reduce to sixteenth, if there is fairly one mate. A Muslim could count one-third of his property by will, although to not share among the heritage. Simply objective in case of divorce or widowhood, she's entitled to conservation from her youth. The women's property is to be divided in step with the foundations of Muslim law. The woman is permitted to admit one-sixth of her departed Child's estate.

PROPERTY LAW UNDER CHRISTIAN LAW

The girl receives property shares equally with any sisters to her father's estate or her mother's. The girl has all rights over her property upon attaining maturity. By that time her natural guardian is her father. She's entitled to conservation, from her husband, still, his failure to give the identical is a note by itself ground for divorce. Upon the death of her husband, she's entitled to a one-third share of his property, the rest being divided among the youths equally. She is not

³ Muslim Girls (Protection of Rights on Divorce) Act 1986

eligible for conservation from her youth. simply just in case any of her youths die without marital origin or youths, she could inherit one-fourth of the property resources.

PROPERTY LAW UNDER HINDU LAW

India's Apex Court gave the Judgement that daughters have equal rights as sons in Hindu ancestral property. The ruling extends the compass of legislation introduced in 2005 to cases wherever the daddy had failed before the law was introduced. "Once a girl always a girl. Son may be a son until he is wedded," forenamed Justice ARUN KUMAR MISHRA. "The male member of the family is always a legal heir to the father's family property. Daughters must run equal rights as sons. Son remains a loving son throughout Life" Mishra pronounced.

Daughters have equal rights of heritage as sons to their father's, ma's property. A wedded girl has no rights to sanctum in her parent's house or conservation. A wedded girl has the proper just in case she is vacated, got severed or her husband had failed. A lady has full rights over any property that she has earned or that has been premature or Conscious to her, handed she has earned maturity. She's unengaged to count these by trade, gift, or can as she deems work.

A lady has the whole right over her property unless she provides it or gifts it to anyone in factors or absolutely. She's the legal owner of each property whether or not it's inherited or premature or produced. The wedded girl is entitled to conservation, support, and sanctum from her husband's family, simply of the common one, and from her husband just in case of nuclear. Upon the partition of the common family estate, between her husband and his sons, she's entitled to partake suitable because of the different person. also, upon the death of her husband, she's entitled to associate degree equal portion of her husband's share, along with his youth and his mother's.

She is permitted to upkeep as per the law from her youngsters who are enough of taking care of her. She might be a category I heir to the property. An unmarried mother contains a right to want a share adequate to the share of a son if a partition of a joint family estate takes place among the sons. All property in hand her are frequently disposed of by sale, will, or gift by any method she chooses.

PROPERTY RIGHTS OF LADIES UNDERNEATH THE PARSI LAW

The Indian Succession Act of 1925,⁴ no barely applies to the Indian Christians, but additionally to the Parsi community in Bharat. The Indian Parsi women's property rights are forbidden beneath Chapter III of the 1925 Act. Section 51 of 1925 deals with the division of the intestate's property that lays down an equivalent rule for the property of each Parsi man and girl in Bharat. It states that if any Parsi men or girls died while not a can forsaking –

- A widow and kids shall receive equal share within the property;
- The only kid also will receive a share of the property
- One or each of the oldsters, together with the widow/widower and/or youngsters, the parent (or every parent) shall receive an associate degree equal share to 1/2 the share of every kid.

It clarifies that each girl and better half has equal shares within the property of their intestate husband and father, severally. Section fifty of the Indian Succession Act of 1925 provides the principle of the succession of the intestate's property. It clarifies that if any man or widow of any relative of instate remarries throughout the period of time of instate, then he/she won't be entitled to urge any share within the property of the instate. At the start, the rights don't appear to be biased or gender-discriminatory. However, if we have a tendency to monitor it closely, we are able to notice a few samples of unfairness.

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For example: - Section 53(A) of the Indian Succession Act, 1925⁵.

LEGAL JUDGEMENT AND OBSERVATIONS

1. Shayara Bano v Union of India: The custom of Talaq - e – biddat, splendidly referred to as “triple Talaq”, during which the Muslim men may divorce their wives by merely voice communication ‘Talaq Talaq Talaq’ 3 times may divorce their wives even on phone, was declared unconstitutional by a five judges bench of the supreme court. CJI Khehar was of the opinion “That no custom is often valid simply on the idea of the actual fact that it's been alive for the longest time which a correct legislation against it should be put into place with immediate effect”.

⁴ Indian Succession Act 1925

⁵ Indian Succession Act 1925, s 53A

2. *Vaijanath & Ors. v Guramma & Anr.* 18th November 1998: The word 'property' additionally as 'interest in Joint Family Property' was wide enough to include agricultural lands additionally. Therefore, on the interpretation of The Hindu Women's Right to Property Act, 1937 as enacted by the State of Hyderabad, the Act covers agricultural lands. because the court during this judgement took that the act encompasses a useful interpretation during this case because it is seeking to mitigate the hardships of a widow concerning inheritance. the subsequent act additionally received the assent of the president beneath Article 254(4), therefore, the act can prevail. As per the act the widow can get property rights.

3. *Mary Roy v State of Kerala* (1986)

The fact of the case: - Mary was a Christian widow staying at her father's house in Travancore who had faced harassment and was thrown out of a property by her own brother. As that place was the sole place to measure she resisted her brothers from going away from the place. Their refusal by her led her brothers to rent some goons for the task. The plea of the brothers was that as per the Travancore Succession Act, of 1916(as per act). The brothers relied on Section twenty-four of the Act which explicitly that "An unmarried mother encompasses a life interest within the property which a married girl WHO has received a Stridhan has no right."

The lower court of Travancore denied the case of Mary against her own sisters to get equal shares in the father's property. still, the upper court (High court) ruled in favour of Mrs. Mary Roy and gave the judgement that she has equal rights in her father's property despite being married. But indeed after the judgement of the high court in her favor, the importance of her own sisters didn't stop. So, she approached the apex court (Supreme Court) under Composition 32 of the Constitution of India challenging the constitutionality of Section 24 of the Travancore Succession Act, 1916.

CONCLUSION

After reading all these laws we can state that India is a country, in case of the heritage of property by women. In India, the laws which are related to marriage, heritage, and handover are codified in different acts for different persuasions. Since the country got its independence in 1947, there has been a growing demand and suggestion by various high courts on different cases occasions for the need for a common legislative rather than particular laws of different religions, popularly called Uniform Civil Law.