

**VINEETA SHARMA VS. RAKESH SHARMA AND ORS.**

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**Sanskriti Arya\*****INTRODUCTION**

It is not challenging to discern the fact that women have been consistently granted restricted rights in virtually every domain since history. Male children have exclusive advantages and privileges within society. An analogous form of disparity between genders was observed in the Joint Hindu Family's conception of ancestral property succession. Females, specifically daughters, weren't given the privilege of inheriting the property owned by their parents. Historically, males have held the advantage in inheriting property. Interestingly, since, evolution is what remains constant; therefore, it appears that this gender disparity in property rights required attention. In 2005, the Hindu Succession Act of 1956 underwent a renowned and significant revision, which was accompanied by the pivotal decision in the Vineeta Sharma vs Rakesh Sharma ruling.

**FACTS OF THE CASE**

In this particular instance at hand, Sh. Dev Dutt Sharma, the father, who was the head of the family had a wife and 3 children. Vineeta Sharma, the applicant, initiated a lawsuit against members of her family, involving her sibling Rakesh Sharma, in an attempt to obtain a portion of the ancestral holdings. Mr. Dev Dutt Sharma died on December 11, 1999, prior to September 9, 2005. The applicant asserted that, as a daughter, she was obligated to receive a quarter of her father's property interest.

However, in accordance with the 2005 amendment to Section 6 of the Hindu Succession Act, 1956, the High Court of Delhi rejected the petitioner's assertion of the ownership of property. Subsequently, an appeal to the Supreme Court was submitted.

**ISSUES OF THE CASE**

1. Does Section 6 of the Hindu Succession (Amendment) Act, 2005 stipulate that the father must be living as of November 9, 2005?

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2. Whether the amended provisions of Section 6 are prospective, retroactive, or retrospective in nature?
3. Is it viable for a daughter born prior to September 9, 2005, to assert coparcenary rights?

## JUDGEMENT

“The court’s decision declares section 6 as retroactive”

Justices Arun Mishra, M. R. Shah, and S. Abdul Nazeer were the 3 justices sitting in judgment on the case. It concluded that the inheritance rights pass over from the father to his living daughter rather than that of an alive coparcener to his alive daughter, overturning the Phulvati v. Prakash decision in the course of proceedings. The court declares that the girl is acknowledged as a Coparcener right from birth, irrespective of the fact that her biological father is still living, following the settling of the preceding arguments. The panel of judges came to the conclusion that Section 6's<sup>1</sup> provisions were applicable retroactively<sup>2</sup>, not prospectively. Additionally, it concluded that as a notional partition doesn't constitute a real partition, the Section 6 clause isn't applicable to a fictitious partition applied to calculate a coparcener's share following his demise. Considering that the notional split specifies the shares' boundaries precisely it is just a partition—and isn't the actual partition; it is merely imagining the split and figuring out the estimated share. Therefore, the notional partition theory that was supported in Phulvati v. Prakash<sup>3</sup> was overturned by the court through this particular case.

However, it was also suggested that it also becomes possible to nominate a daughter to serve as Karta. Referring to the 2015 case of Sujata Sharma v. Manu Gupta<sup>4</sup>, the High Court of Delhi established the fact daughters could potentially be designated a karta within a Hindu family, regardless of their marriage status<sup>5</sup>. Nonetheless, this argument awaits a ruling from the Supreme Court.

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<sup>1</sup> The Hindu Succession Act, 1956, § 6

<sup>2</sup> Vineeta Sharma vs. Rakesh Sharma and Ors., MANU/SC/0582/2020

<sup>3</sup>Prakash v. Phulavati, (2016) 2 SCC 36

<sup>4</sup> Manu Gupta v. Sujata Sharma, 2023 SCC OnLine Del 7722

<sup>5</sup> Suraj Bunsu Koer v. Sheo Proshad Singh, 1879 SCC OnLine PC 2

## IMPACT

### Judgment's impact upon the validity of Section 6

Section 6 had been interpreted to a wider extent in this instance by the legislature, with an aim of advancing the ideal of equitable treatment for daughters and sons. The current ruling has addressed multiple concerns associated with the implementation of Section 6. The Supreme Court has definitively resolved the uncertainty concerning the validity of this regulation. The current decision reverses the decision in *Prakash v. Phulavati*<sup>6</sup> and, it also disregards the reasoning presented in *Danamma @ Suman Surpur and Anr v. Amar*<sup>7</sup>. In addition, it illustrates the comprehensive notion of equal treatment for all.

## ANALYSIS

Upon hosting an in-depth analysis of the current case, it could be deduced that the Supreme Court has competently addressed the void left by prior contradictory decisions and succeeded in interpreting the legislation in a manner that reflects its stated goal to diminish the male-dominated position over females in subjects of succession and inheritance.

The ruling rendered in this particular case has effectively resolved the uncertainty and lack of clarity encircling Section 6<sup>8</sup> of the Hindu Succession (Amendment) Act, 2005. The conclusion reached was in harmony with Article 14<sup>9</sup>, which guarantees the right to equality.

Nevertheless, this judgement has constraints by the fact that it primarily applies to property obtained through self-acquisition as opposed to Hindu undivided household or ancestral property. Presently, an exceedingly tiny proportion of Hindu Undivided Families persist in existence, as the majority of them are now dispersed. In actuality, such rights of inheritance reside primarily in the family patriarch of the male lineage.

### Legal Implications

Antecedent until the 2005 Amendment, The Hindu Succession Act of 1956 excluded

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<sup>6</sup> *Prakash and Ors. vs. Phulavati and Ors.*, MANU/SC/1241/2015

<sup>7</sup> *Danamma v. Amar*, (2018) 3 SCC 343.

<sup>8</sup> Hindu Succession (Amendment) Act, 2005, § 6

<sup>9</sup> INDIA CONST., art.14

daughters from being coparceners from birth. Consequently, they lacked an innate entitlement to inherit patrilineal assets in the same manner as sons. By revising Section 6 within the Act and extending coparcenary rights unequivocally to daughters from the instance following their birth, the 2005 Amendment contested to remedy this ancient disparity in gender.

In the Vineeta Sharma<sup>10</sup> ruling, substantial legal implications were associated with the retrospective interpretation of the issue discussed. The ruling of the court to confer coparcenary rights upon daughters, regardless of the demise of their fathers prior to the enactment of the 2005 Amendment, significantly broadened the amendment's extent and profoundly transformed the inheritance framework throughout the Hindu coparcenary structure<sup>11</sup>. The above interpretation formulated the coparcenary privilege of the daughter as an acquired right that commences at birth and is irrelevant to the demise of her father.

### Social and Ethical Implications

The verdict holds substantial moral and social implications. This development represents a milestone in the pursuit of gender parity with respect to inheritance rights. The decision to acknowledge daughters as coparceners with equivalent privileges strengthens their economic agency promotes their fiscal autonomy, and fortifies their societal position within the familial framework<sup>12</sup>. It is in accordance with the constitutionally entrenched foundational right to equality under Article 14.

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This decision by the court to award daughters equal entitlement to inherit is a substantial step towards promoting gender parity within the household. In doing so, the court tackles entrenched gender biases that are pervasive within conventional Hindu succession statutes. By mending past injustices as well as equipping females to voice their lawful rights to ancestral property, this move advances social justice.

Moreover, the court ruling endorses the ethical tenet of gender inclusiveness. It eliminates a lengthy legal framework that handed males an advantage in matters pertaining to inheritance. The court's recognition of the parental rights of daughters universally serves to

<sup>10</sup> Vineeta Sharma vs. Rakesh Sharma and Ors., MANU/SC/0582/2020

<sup>11</sup> Singh, Isha Kalwant, *Rights of Hindu Women in Ancestral Property: A Review of Succession Laws*, SUPREMO AMICUS, 2, 2017, pp. 163-175. <https://heinonline.org/HOL/P?h=hein.journals/supami2&i=172>.

<sup>12</sup> Saxena, Poonam Pradhan, *Reinforcing Patriarchal Dictates Through Judicial Mechanism: Need To Reform Law Of Succession To Hindu Female Intestate*, JOURNAL OF THE INDIAN LAW INSTITUTE, vol. 51, no. 2, 2009, pp. 221–36. JSTOR, <http://www.jstor.org/stable/43953440>.

uphold the tenet of equitable claim for every child, regardless of their gender.

### **Implications for Future Cases**

Future disputes concerning succession rights across Hindu families will likely be influenced by the pattern of precedent established by this case, identical disputes are likely to be adjudicated in a manner consistent with the rationale and interpretation presented in this instance. Its purpose is to provide direction in order to guarantee gender equality and maintain the fundamental tenets of fairness regarding inheritance.

Strengthening *Vineeta v. Rakesh Sharma*: here is an evaluation of some precedents, statutes, and legal doctrines pertinent to the issue –

- **Statutory Interpretation**

The object of conflict pertains to Section 6 of the Hindu Succession Act of 2005. Succession as well as inheritance regulations for Hindus are regulated by the Hindu Succession Act of 1956. However, over a long stretch of time, the Act primarily acknowledged males who are descended from shared ancestors as coparceners. Despite being eligible to inherit a portion of the estate bequeathed by a deceased coparcener, the daughter failed to receive coparcenary status.

In a bid to eliminate gender-discriminatory measures and ensure that women receive equal rights under inheritance laws, the legislature initiated the Hindu Succession (Amendment) Act, 2005, which included a revision to Section 6 of the preceding Act.

By virtue of the altered section, Hindu women were bestowed with an inherent ability to serve as coparceners. As of September 9, 2005, the amendment went into operation, designating a daughter of a coparcener as being a coparcener by birth. The new status would render her rights equivalent to the status of a son, and she would have recourse to identical privileges and responsibilities regarding coparcenary assets just as if she were born a son<sup>13</sup>. Nevertheless, none of the property disposal or transfer that occurred prior to December 20, 2004, which comprises partitions or legacy dispositions, would be rendered void.

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<sup>13</sup>Mishra, Vivek Raj. (2022). *Women's rights in relation to the Hindu Succession Act, 1956*. INDIAN JOURNAL OF INTEGRATED RESEARCH IN LAW, 2(6), 1-8.

- **Precedents**

Even though the Amendment of 2005 marked a significant milestone in the journey towards awarding women equitable rights to inherit, a great deal of work still remains. Concerns emerged questioning the interpretation of the newly revised clause, explicitly as to whether it will be retroactive or prospective in character. Is it necessary for the father of a daughter, by whom the woman will acquire this right, to be living as of September 9, 2005? Diverse benches of Apex Court expressed contrasting views concerning the issue at hand.

In *Prakash v. Phulavati*<sup>14</sup>, a bench of two judges of the Supreme Court determined that the new provision pertains to living daughters of alive coparceners as of 09.09.2005, regardless of their date of birth. The court ruled that bestowing coparcenary title on women whose dads were deceased before 09.09.2005 might retrospectively apply the modification, which didn't meet its purpose. The apex court affirmed this in *Mangammal v. TB Raju*<sup>15</sup>.

Conversely, an additional bench of this Court confirmed the daughter's coparcener status despite the fact that her father passed away in 2001 in *Danamma a Suman Surpur v. Amar*<sup>16</sup>. Nevertheless, the question was if a girl born earlier to the 2005 amendment was eligible for a portion of the ancestral property. The court determined that proof of birth fosters a coparcenary and imparts a child her coparcenary status, regardless of her date of birth<sup>17</sup>. The present case overlooked a father's life circumstances at amendment, hence it leaned with a ruling in *Phulavati*<sup>18</sup>.

- **Legal Doctrines**

Equality between the sexes can be achieved in the Indian context only if the women are economically independent, with equal rights under the coparcenary system<sup>19</sup>.

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<sup>14</sup> *Prakash v. Phulavati*, MANU/SC/1241/2015

<sup>15</sup> *Mangammal v. T.B. Raju*, (2018) 15 SCC 662

<sup>16</sup> *Danamma v. Amar*, (2018) 3 SCC 343.

<sup>17</sup> Anuj Goyal, *Women Rights in Hindu Succession Act 1956*, vol. 2 issue 6, INTERNATIONAL JOURNAL OF LAW MANAGEMENT AND HUMANITIES, 336 (2023).

<sup>18</sup> *Prakash v. Phulavati*, (2016) 2 SCC 36

<sup>19</sup> Rajshree, *Gender Equality under the Hindu Succession Act*, 4 INTERNATIONAL JOURNAL OF LAW MANAGEMENT AND HUMANITIES, 2360-22364(2021).

[https://heinonline.org/HOL/Page?public=true&handle=hein.journals/ijlmhs12&div=224&start\\_page=2360&collection=journals&set\\_as\\_cursor=5&men\\_tab=srchresults#](https://heinonline.org/HOL/Page?public=true&handle=hein.journals/ijlmhs12&div=224&start_page=2360&collection=journals&set_as_cursor=5&men_tab=srchresults#)

The notion of coparcenary proved to be the fundamental pillar of the evaluation of law, it alludes to the equitable entitlement of all progeny (daughters are now included in accordance with the change) to their family's estate. The court underlined that this privilege doesn't come about by the demise of a father but rather by birth. Moreover, the court elucidated the differentiation across a real partitioning and a fictitious division<sup>20</sup>, highlighting that a fictitious partition executed prior to the 2005 Amendment wouldn't hinder a daughter's coparcenary entitlement.

The Court of Appeals, in the case of *State of Maharashtra v. Narayan Rao Sham Rao Deshmukh*<sup>21</sup>, stipulated clarification that a fictitious division wouldn't culminate in the dissolution of a joint family or detach the female applicant out of the joint household on the demise of the male member, despite the female's portion being secured and established via the notional partition tool. It was recalled that to stretch the legal pretext of imaginary partition besides its rational conclusion would be to infer that Explanation I to Section 6<sup>22</sup> denotes the ending of the coparcenary.

## RECOMMENDATIONS

A fresh dawn for gender parity across the Hindu coparcenary structure officially started with the precedent-setting *Vineeta Sharma v. Rakesh Sharma*<sup>23</sup> judgment. In conjunction with the judgment's broad application to the HAS Amendment 2005, women born preceding this amendment were designated as coparceners and were accorded equal claim to inherit parental property.

The statute's prime objective was to erase inequality from the fabric of the community. In addition to this, the 174th report of the law commission<sup>24</sup> outlined two other key things:

1. Firstly, the Mitakshara system must be maintained. Under the leadership of Rau, a committee rejected the proposed system.
2. Secondly, prior to the enactment of the Acts, males were the sole beneficiaries of

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<sup>20</sup>Diwan, Paras. *Ancestral Property After Hindu Succession Act 1956—joint family property or separate property? A muddle under partition cases*, *JOURNAL OF THE INDIAN LAW INSTITUTE*, vol. 25, no. 1, 1983, PP. 1–16. *JSTOR*, <http://www.jstor.org/stable/43950853>.

<sup>21</sup> *State of Maharashtra v. Narayan Rao Sham Rao Deshmukh and Ors.*, MANU/SC/0309/1985

<sup>22</sup>Hindu Succession Act, 2005, § 6, exp. I.

<sup>23</sup> *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1

<sup>24</sup> Law Commission, *Property rights of women: proposed reforms under Hindu Law* ( Report no. 174, May 2000), [https://lawcommissionofindia.nic.in/report\\_fifteenth/](https://lawcommissionofindia.nic.in/report_fifteenth/)

the rights to become coparceners and inherit property but subsequently males and females were granted equal privileges.<sup>25</sup>

The primary objective of the legislation was to implement and eliminate the essential reform in the joint family structure and to designate, "Property of a female Hindu to be her absolute property."<sup>26</sup>

But Sec. 14 was criticized in *Eramma v. Veerupana*<sup>27</sup>. After a man died, his three wives disputed how his possessions would be split up following his demise, the court stated: "Section 14 is of no benefit because when the possession was being taken, she had no ownership right over the property and therefore was no less than a trespasser."

In *Mangal Singh v. Smt. Rattno*<sup>28</sup>, appellate court had to determine what widows' rights as well as possessions were, however, it ruled that women relish entirety in ownership of their deceased husband's inheritance. Later, in *Jaganathan Pillai v. Kunjithapadam Pillai*<sup>29</sup>, the court awarded the widow greater justice, devoured sec.14 appropriately, and raised her status. In this instance, the court concluded that women possess their property with no limitations.

The *Vineeta Sharma v. Rakesh Sharma* ruling, although progressive, has sparked debates regarding the necessity for additional legislative clarification and possible modifications<sup>30</sup>.

Various prospective recommendations of the Law Commission that seek to enhance the rights of daughters may encounter opposing opinions. The following discourse offers a comprehensive evaluation of potential recommendations from the standpoint of the Law Commission, accompanied by a dissection of counterarguments and strong rebuttals:

### **Codifying of Retrospective Implementation**

The retrospective applicability of the 2005 Amendment was recognized via legal

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<sup>25</sup>Parth Jaisinghani, *Daughter's estate under Hindu law*, CENTRE FOR ACADEMIC LEGAL RESEARCH, [https://calr.in/daughters-estate-under-hindu-law-a-critical-analysis/#\\_ftnref1](https://calr.in/daughters-estate-under-hindu-law-a-critical-analysis/#_ftnref1)

<sup>26</sup> The Hindu Succession Act, 1956, §14, No.30, Acts of Parliament, 1956

<sup>27</sup> *Eramma v. Veerupana*, AIR 1966 SC 1879

<sup>28</sup>*Mangal Singh v. Smt. Rattno*, AIR 1967 SC 1786

<sup>29</sup>*Jaganathan Pillai v. Kunjithapadam Pillai*, AIR 1987 SC 1493

<sup>30</sup> Singhal, Shivani, *Women as Coparceners: Ramifications of the Amended Section 6 of the Hindu Succession Act, 1956*, STUDENT BAR REVIEW, vol. 19, no. 1, 2007, pp. 50–67. JSTOR, <http://www.jstor.org/stable/44308350>.



application<sup>31</sup> in the Vineeta Sharma judgment. Nevertheless, the Law Commission could put forward an amendment to legislation that sets forth this concept explicitly.

- **Positive Aspects:** This would deliver unequivocal certainty in the law and eradicate ambiguities surrounding the coparcenary rights of daughters, particularly in scenarios involving partitions that existed prior to the amendment.
- **Application:** implementation would be prevented in the future if an explicit statutory provision specified the retrospective implementation; this would set an example for future litigation concerning this matter.
- **Contrary Viewpoint:** Critics may contend that the process of codifying retrospective implementation inequitably disturbs vested privileges that sons secured pursuant to the legislation prior to 2005. Sons who were inheritors of a greater portion of the previous legislation may perceive that their rights are getting eroded.
- **Rebuttal:** The coparcenary claim of the daughter is conferred at birth, rather than at the time of the father's demise. The 2005 Amendment was not intended to nullify any entrenched rights; rather, it merely acknowledged this already present right.

Despite potential disruptions, the societal and ethical advantages associated with gender equality transcend any concerns that may surface. This amendment remedies the injustice of the past when daughters were traditionally marginalized in matters pertaining to inheritance.

### **Elucidation regarding the Consequences of Partitions**

Notional partitions (used to determine shares) were differentiated from genuine partitions splitting coparcenary by the legal system<sup>32</sup>. Nevertheless, there is unpredictability surrounding the context in which pre-amendment division affected the coparcenary privilege of a daughter.

- **Recommendation:** It is suggested that the Law Commission bring forward

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<sup>31</sup> Prakash v. Phulavati, (2016) 2 SCC 36

<sup>32</sup> Virendra Kumar, Crucifying the Concept of Mitakshara Coparcenary at the Altar of notional partition, 53 JILI (2011) 413

legislative phrasing that explicitly safeguards the coparcenary right of a daughter, regardless of the occurrence of a hypothetical partition beforehand.

- **Benefits:** The following might avoid disputes stemming from previous transactions while offering much-needed transparency.
- **Counterargument:** Contrary to the aforementioned point, a different perspective could contend that it is not feasible to ascertain the exact implications of pre-amendment divisions on daughters' rights. Installing new regulations retroactively on previous transactions might end up in complications and administration barriers.
- **Rebuttal:** Legislative terminology proposed by the Law Commission ought to be plain and brief in order to mitigate implementing challenges.
- A seamless transition can be achieved by furnishing claims originating from prior partitions with explicit guidance and an appropriate timeframe.

### **Uniformity Among Co-parcenary Structures**

Diverse schools of legislation (e.g., Mitakshara, Dayabhaga) in Hinduism have distinctive coparcenary regulations that govern their respective inheritance structures. Mitakshara<sup>33</sup> was approached by Vineeta Sharma.

- **Recommendations:** Diverse schools of legislation (e.g., Mitakshara, Dayabhaga) in Hinduism have distinctive coparcenary regulations that govern their respective inheritance structures, the Commission could contemplate the prospect of implementing these tenets to different coparcenary systems.
- **Procedure:** It is imperative to engage in consultations with legal professionals and stakeholders covering multiple areas in order to comprehensively grasp the obstacles and prospects at hand.
- **Outcome:** Establishing precedent-setting legislation (which states may choose to implement) that honors multiple customs while adhering to the principles set forth by Vineeta Sharma may serve as a viable course of action.

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<sup>33</sup> Aparna N.\* and Nayana Tara BG, Disruption of the Mitakshara Coparcenary | Vineeta Sharma v. Rakesh Sharma: A case comment, 2021 SCC OnLine Blog OpEd 150

- Counterargument: Opponents of this posture may encounter dissent from individuals who advocate for the conservation of unique traditions prevalent in various Hindu institutions of law. A plan that fits all situations could fail to be optimal for every region.
- Rebuttal: The Law Commission may suggest a structure that acknowledges and honors the varied customs present in Hinduism.

A prototype law may be formulated that maintains the fundamental tenets of equal treatment for women that were laid down in the Vineeta Sharma case while permitting individual states to modify the structure to suit their particular circumstances. This practice guarantees obedience to fundamental principles while acknowledging and accommodating regional discrepancies.

### **Additional Discussions**

The burden of proving for daughters asserting paternal rights could potentially be a subject of challenge, particularly among those whose fathers passed away before the amendment.

- Rebuttal: The Law Commission may propose that methods for asserting coparcenary rights be streamlined. It is feasible to investigate beliefs in support of daughters as well as well-defined protocols for offering evidence.

### **Broad Viewpoint**

Despite there being opposing viewpoints, the recommendations put forth by the Law Commission strive to strike a harmonious equilibrium between maintaining gender parity and honoring settled legal tenets. By offering insightful counterarguments and suggesting workable resolutions, the Commission can make certain that its report fosters forward-thinking and executable modifications to the Hindu succession system.

### **SUGGESTIONS**

The pivotal ruling in the instance of Vineeta v. Rakesh Sharma reflects a significant turning point in the development of Hindu succession legislation. The court initiated a paradigm shift in the equality of women by designating daughters to be coparceners, granting them equitable inheritance rights. Nevertheless, there are numerous prospects for

augmenting and perfecting the execution of this principle. In light of the precedent-setting case, a series of efficient and innovative suggestions, supported by legal guidelines, societal norms, and pragmatic multiple considerations can be put forth for bettering the present state of affairs. Some are:

### **Establishing A Centralised Online Registry For Coparceneries**

- Recommendation: a centralized online registry ought to be created to document coparcenary rights.
- Rationale: This might boost clarity and transparency surrounding coparcenary possession, especially during situations involving numerous daughters or sophisticated familial arrangements.
- Feasibility: All of this can be minimized in expense by employing current e-governance programs executed by the government. Portals on the internet that are intuitive to use may encourage registrations.
- Counterargument: One potential counterargument alludes to the safety as well as the protection of data.
- Rebuttal: In response to such concerns, comprehensive protocols for data safety and transparent control over access can be implemented.

Journal of Legal Research and Juridical Sciences

### **Coparcenary Presumption for Daughters**

- Suggestion: establish a presumption of law surrounding the coparcenary privileges of daughters, thereby transferring one's burden of proof. Recorded data, such as pre-amendment divisions, will be necessary for sons to establish otherwise.
- Justification: This simplifies the procedure for daughters, particularly those whose fathers passed away prior to the amendment's ratification. Additionally, it advances gender parity and corresponds to the values of the judgment.
- Feasibility: Implementing this presumption through a legislative amendment to the Hindu Succession Act is a practical and uncomplicated undertaking.
- Counterargument: this could potentially put males at a disadvantage who,

according to pre-existing arrangements, might have been entitled to inherit larger shares.

- Rebuttal: sons may assert their valid rights by substantiating their claims with verified proof of previous divisions or agreements.

### **Focused Coparcenary Learning**

- Suggestion: Incorporate modules pertaining to coparcenary privileges and inheritance legislation into academic curricula and public awareness initiatives. These should appeal to individuals of all ages and genders.
- Rationale: This stimulates persistent societal transformation by means of the facilitation of well-informed dialogues as well as the empowerment of daughters to assert their legitimate inheritance.
- Feasibility: the longevity of this initiative can be ensured through collaboration with educational bodies and civil society organizations. It would be feasible to set up legal aid clinics as well as online platforms.
- Rebuttal: Incorporating additional content into pre-existing curricula could present a formidable obstacle.
- Counterargument: Modules have the potential to be brief and seamlessly incorporated into established academic disciplines such as law or social studies.

### **Legal Clarity Regarding Partitions**

Implement an amendment to the law that unambiguously protects the coparcenary right of a daughter, regardless of the occurrence of a partition prior to the 2005 Amendment.

This can be done to ensure certainty in the law and reduce the probability of disputes stemming from previous agreements.

### **Consistency Among Coparcenary Systems**

Evaluation of whether it is feasible to implement the principles detailed in the Mitakshara coparceny case *Vineeta v. Rakesh Sharma* to additional Hindu coparcenary structures,

such as Dayabhaga should be done. One potential strategy is to arrange consultations with legal professionals from various regions in order to gain insights into obstacles and prospects.<sup>34</sup>

The suggested measures to strengthen the coparcenary rights of daughters are firmly grounded in legal principles, societal conventions, and pragmatic factors:

#### Legal Fundamentals

- a. **Doctrine Of Stare Decisis:** The building of a centralized online inheritance register corresponds to the doctrine of stare decisis. The legal framework ensures *Vineeta v. Rakesh Sharma's* realistic execution by making coparcenary privileges accessible to all.
- b. **Article 14, Equality before the Law:** Ensuring the expeditious processing of claims made by daughters along with asserting their coparcenary rights are actions that preserve the statutory guarantee of equal standing before the law as provided in A. 14 of the Constitution of India. This initiative fosters gender parity throughout the structure of inheritance.
- c. **Onus Probandi:** Transferring the burden of evidence on sons or claims for daughters' property rights fits with the standards of law. To discredit the daughter's claim (e.g., the son demanding a higher portion), the party must provide proof.
- d. **Legislative Clarity:** Outlining pre-amendment sections by law gives necessary clarity in the law. This preserves *lex scripta* (written law) and therefore eliminates legal interpretation problems.

#### Societal Norms

- a. **Gender Equality:** These guidelines advance gender equity in households. This social trend is reinforced by legislation giving daughters equivalent rights to inherit.
- b. **Corrective Justice:** The acknowledgment of the daughter's ownership rights serves as a means to rectify the historical underrepresentation of daughters within

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<sup>34</sup> Sri K. Balasubramanian, *A note on Amendment to Section 6 of Hindu Succession Act 30/1956 by Act 39 of 2005 — Need for clarification*, (2008) 3 LW (JS) 58

inheritance disputes.<sup>35</sup> It is consistent with the principle of corrective justice, which is aimed at righting injustices from the past.

- c. **Social Justice:** Compulsory coparcenary education promotes family inheritance rights conversations. This allows daughters to acquire property and promotes social fairness by providing gender-neutral juridical data.

#### Practical Aspects to Consider

- a. **Technology Leverage:** Creating an online coparcenary register might be economical as well as user-friendly by utilizing current e-governance projects.
- b. **Legislative Amendments:** The notion of inheritance status for daughters and explanation of pre-amendment divisions could be accomplished through minimal legislative alterations to the Hindu Succession Act.
- c. **Educational Accessibility:** Age-appropriate instructional resources and outreach initiatives are developed with school boards and organizations from civil society in order to render coparcenary teaching accessible to varied populations.

Overall, the rationale to broaden the coparcenary rights of daughters remains well-grounded in well-established legal principles, changing societal standards, and pragmatic factors. Through the adoption of these suggestions, the judicial system might promote the advancement of enhanced gender parity, furnish unambiguity and assurance regarding bequests, and enable daughters to assert their legitimate claims to inherited property.

#### CONCLUSION

The historic ruling in *Vineeta Sharma v. Rakesh Sharma and Ors.* is especially pertinent since 20% of the world's property continues to be owned by women.<sup>36</sup> The significance of section 6 of the Hindu Succession (Amendment) Act, 2005 finally became apparent; the statute is retroactive, therefore a daughter is granted akin birthrights as the son. The ruling deals with how a boy and a female kid within a Hindu joint family are treated distinctly.

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<sup>35</sup> Vijendra Kumar, *Equal Property Rights of Daughter Under Hindu Law: A Socio-Legal Study*, 62 JILI (2020) 217

<sup>36</sup> Monique Villa, *Women own less than 20% of the world's land. It's time to give them equal property rights*, Jan 11, 2017 <https://www.weforum.org/agenda/2017/01/women-own-less-than-20-of-the-worlds-land-its-time-to-give-them-equal-property-rights/>

Sons are frequently accorded higher priority since it is a notion that a married daughter belongs to her spouse and not to her father. As the eminent Justice Arun Mishra famously phrased, "Once a daughter, always a daughter." Sons are sons till they get wedded. Daughters across the nation received equal entitlement over their father's properties as a result of this ruling. In property problems, women are able to be dealt with justly, as they'd have been regarded in the event of a male. Even with these initiatives, daughters in India will not have complete and equal ownership rights for a while to come. Real gender parity in ownership rights will need persistent work to change cultural perceptions, increase public knowledge, and support legislative changes that guarantee women's equal consideration in inheritance disputes.





**REFERENCES****Books Used**

- i. Satyajee A. Desai, Mulla: Principles of Hindu Law, (Vol II 18th edition)
- ii. Dr. Poonam Pradhan Saxena, Family Law Lectures - Family Law II, ( 5<sup>th</sup> Ed., 2021)
- iii. Dr. Shivani Goswami, Archana Mishra, Family Law II
- iv. Tahir Mahmood, Family Law in India, (1<sup>st</sup> Edition 2020)

**Statutes**

1. Hindu Succession Act, 1956
2. The Constitution of India, 1950

**Online Sources**

1. SCC
2. Manupatra
3. Hein Online
4. Lexis Nexis
5. JSTOR
6. Cambridge University Press
7. <https://lawcommissionofindia.nic.in/>
8. <https://www.scobserver.in/journal/court-clarifies-application-of-s-6-of-hindu-succession-act-1956/>