



TRANSITIONING ROLES IN HINDU JOINT FAMILIES: DEPENDENTS TO KARTA

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ABSTRACT

Usually, women in joint families of Hinduism have very few rights to ancestral property. Ancient Hindu law permitted inheritance only by male members of the family (coparceners), while women depended on male members-father, husband, son-for economic sustenance. A small step was taken with the Hindu Women's Right to Property Act, which granted the widow certain rights, albeit limited. Subsequently, inheritance laws were formally enacted under the Hindu Succession Act of 1956, but daughters were excluded from coparcenary rights over property. Another wonderful change was initiated by the Hindu Succession (Amendment) Act, 2005, which at last enabled daughters to have equal ancestral property rights since birth, i.e., to become eligible for inheriting family property on an equal basis as sons and thus be apt to also be the head (Karta) of a Hindu Undivided Family (HUF). Path-breaking court rulings further strengthened these rights. Hindu United Family acknowledges women's rights, hence significantly undermining the norms of male supremacy concerning family property issues. The 2020 historic ruling in Vineeta Sharma v Rakesh Sharma solidified the right of daughters to inherit ancestral property even when the father predeceased the operation of the Hindu Succession Amendment Act of 2005. This was a historic step towards attaining gender equality under the inheritance law. In the same vein, the Sujata Sharma v Manu Gupta case in 2015 stated that a woman could be the Karta of an HUF, which directly goes against the long-held notion that only men can be the head of a joint Hindu family. These legislative gains have reconfigured the economic rights of women in the family, entitling them to property inheritance and property ownership, and thus symbolising a fundamental departure from gender discrimination clichés. Law, even then, cannot achieve its goals via full implementation because of thick socio-cultural barriers. The strongly rooted patriarchal attitudes have

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stripped women of their rights, and the lack of knowledge regarding such legislative reforms accelerates their lifespan in non-use. This article maps the evolution of Hindu inheritance laws and how these reforms have accorded daughters an equal position as inheritors and decision-makers. It talks about the wider economic and social implications of these changes, but points towards the ongoing challenges. The path to complete gender equality in Hindu family property rights is one of sustained efforts in legal literacy, social change, and judicial enforcement, though much has been achieved.

Keywords: Hindu Succession Act, Coparcenary Rights, Gender Equality in Inheritance, Hindu Undivided Family (HUF), Patriarchy and Property Rights.

LITERATURE REVIEW

According to Hindu Personal Law, a significant change has been brought about so that a woman can be appointed as the Karta of a Hindu Undivided Family (HUF) divided by the family. This much indicates the argument in terms of a long-standing tradition, which was only bestowing the post upon the eldest male member of the family, according to legal texts such as Mulla Hindu Law.

A major change in this regard became effective when the Delhi High Court ruled that a woman can also be a Karta of a HUF. This judgement was based on the Hindu Succession (Amendment) Act, 2005, which recognised parity in rights as from birth to daughters vis-à-vis sons in relation to a coparcener. In emphasising this, the court remarked that the law was meant to abolish the gender discrimination in property rights and hence made it clear: the eldest female coparcener could just as easily assume that role as could a male counterpart.

Such a change in the law is in accord with the equality of Articles 14 and 15 of the Indian Constitution, reiterating the judiciary's commitment towards obtaining gender justice in Hindu law. In fact, permitting women to become Karta strengthens their economic independence and evens the balance of powers, so long existing, that confined them to subservient status in matters of family decision making.

Irrespective of this, social acceptance is still a big barrier against such legal measures. Most of the families are still involved in the age-old patriarchal customs and hence deny women the status of leaders in the HUF. While the legal framework is now apt for upholding gender equality, the real change is yet to be brought about through social attitudes.

This, in effect, recognises the Delhi High Court's establishment that a woman can be a Karta, a big stride in the direction of eliminating patriarchal structures from Hindu personal law. This is also part of the Indian movement toward gender equality, obviously providing legal rights on par with the constitutional promise of equal opportunities for all. Ongoing efforts are needed to ensure that these legal provisions are translated into concrete societal transformation, realising the full potential of women's rights in the social and familial context.

INTRODUCTION

The Hindu Joint Family (HJF) institution is strongly embedded in the socio-legal framework of Hindu society. It is an institution where multiple generations of a family live together, bound by common ownership of ancestral property and subject to Hindu law. The classic Karta or family head has been the most senior male who managed the family business, property, and finances. Women, even though a part of the joint family, were excluded from coparcenary rights throughout history, i.e., they were neither entitled to inherit property by birth nor managerial control over family properties. This helped to further consolidate the patriarchal nature of Hindu society, with women economically reliant on male members and with no control or voice in family inheritance. However, widespread legislative reforms and judicial decisions have changed the legal status of women in Hindu Joint Families to a position where they claim equal rights of inheritance and even assume the position of Karta. In this paper, the development of women's rights within Hindu Joint Families is discussed in relation to historical constraints, legal reforms, judicial decisions, and the social effects of these advancements.

The Hindu Succession Act, 1956, legislated the law of inheritance among Hindus but continued to reinforce the gender disparity in the right to property. Women were also given inheritance rights in property, but they were not coparceners—a privilege reserved for members of the joint family who happened to be male. Therefore, women could not be the Karta of a Hindu Joint Family because such a role was inherent in the right of coparceners. But social change and the struggle for gender equality produced landmark legal reforms. The Hindu Succession (Amendment) Act, 2005, was a revolution since daughters had already been bestowed coparcenary rights equal to those of sons, and thus, daughters had already been granted the status of legal heirs of ancestral property. This amendment accorded women the right to inherit managerial positions in joint families and ended centuries of male monopoly over Hindu family property.

The legislative history of the right to property of women has also been created by historical court decisions. Indian courts have been instrumental in interpreting and widening the ambit of the 2005 amendment so that women not only become equal heirs but can even be the Karta of a Hindu Joint Family. Perhaps one of the most historic judgments on the topic was rendered in *Mrs. Sujata Sharma v. Shri Manu Gupta & Ors.* (2015),¹ in which the Delhi High Court legislatively recognised that a woman may be the Karta of a Hindu Undivided Family (HUF). The judgment was revolutionary in the sense that it legislated for the very first time that a joint family might be headed by men only.

This categorisation of a woman as a Karta is a giant leap towards the enforcement of gender justice in Hindu law. It is not just an economic empowerment of women, but it also redefines their roles in household management. But with these new changes brought about by the legislation, social acceptability is a daunting task.

Traditional families persist in rejecting the idea of women controlling family property, primarily due to strong, deep-rooted patriarchal conventions. In addition to this, unawareness and illiteracy under the law prevent the majority of women from exercising their rights.

The essay is trying to inquire into the evolution of women of Hindu Joint Families, from the dependent to the Karta. It wants to examine the process by which legislative reforms and judicial decisions, step by step, chip away at gender discrimination from Hindu inheritance trends. Through a nuanced examination of historical cases and socio-legal consequences of such legal modifications, the study plans to establish the gains attained and also the challenges remaining on the path of gender equity in Hindu family law.

The discourse will commence with the description of women's traditional role in Hindu Joint Families and how they were legally and socially denied property. This shall be complemented by an analysis of the Hindu Succession Act, 1956, and how it endeavoured but failed to achieve genuine gender equity. The next part will talk about the Hindu Succession (Amendment) Act, 2005, and how it changed the legal status of women in joint families by providing them with equal coparcenary rights.

The article will also cover some landmark court judgments with respect to inheritance rights for women. An important case involving the case of *Vineeta Sharma v. Rakesh Sharma*² was

¹ *Sujata Sharma v Manu Gupta* (2016) Delhi High Court, RFA No 211/2016

² *Vineeta Sharma v Rakesh Sharma* (2020) Supreme Court of India, Civil Appeal No 5360 of 2018.

decided in the year 2020, which finally closed a long debate on whether the amendment of the year 2005 brought about any retrospectivity in the applicability of the Hindu Succession Act. The ruling of the Supreme Court, which stated that daughters are coparceners by birth and entitled to equal rights to rehabilitation into ancestral property without regard to whether or not their father was alive at the time of the amendment.

Last but not least, the paper shall address the legal and social impact of conferring Karta status on women in terms of both economic empowerment for women and addressing the still-present barriers faced by them to proceed towards enjoying equal rights of property. Last but not least, the paper shall conclude with a mention of how awareness of law and regular mobilisation are key to ensuring rights owed to women in law get translated into their effectiveness within society.

Therefore, the elevation of women's status in Hindu Joint Families from mere dependents with restricted rights to Karta is not just a jurisprudential triumph but a crucial step towards economic empowerment and gender equality. Although legislative and judicial advances have been achieved, equality can be attained only when legal realities are supported by social attitudes and empower women to occupy their rightful role as equals in guiding the Hindu Joint Family property.

JUDICIAL PRONOUNCEMENTS

The evolution of Hindu inheritance laws has been significantly shaped by judicial interpretations, particularly in relation to the rights of coparceners and the role of the Karta in a Hindu Undivided Family (HUF). The landmark case of Commissioner of Wealth Tax vs Chander Sen³ was pivotal in clarifying that under Section 8 of the Hindu Succession Act, 1956, property inherited by a son from his father is to be treated as his individual property rather than as part of the HUF. The Supreme Court held that the inheritance of Chander Sen from his father would become his property and would not be included in the estate of the Hindu Undivided Family (HUF), which in itself was a major departure from the precepts of ancient Hindu law. This was contrary to the assumption that any inheritance received from a father was automatically treated as joint family property. The affirmation of individualistic entitlement for

³ Commissioner of Wealth Tax v Chander Sen (1986) Supreme Court of India, AIR 1986 SC 1753; (1986) 3 SCR 254.

exclusive ownership diminished the automatic dependence of sons on a joint family structure and reinforced the right to manage freely inherited assets with independence.

Likewise, the Supreme Court in *Omprakash and Others v. Radhacharan and Others*⁴ held that there would be an explanation regarding how the self-acquired property of Hindus would be inherited by such women. The court sanctioned the gender bias that the Hindu Succession Act of 1956 demonstrated, as it stated that the property of a woman could pass, under Section 15(1), to those heirs of her husband and not to those of her own family. It was a hotly debated judgment because it did not even consider the fact that the woman under consideration, Narayani Devi, had been financially stable and left by her in-laws. The judgment was in no way regarded as liberating, defended itself by the patriarchal definition and left hanging in ambiguity the issue of gender justice.

It was a significant question before the court in *Smt. Pushpalatha N.V. v. V. Padma* (2010)⁵ as to whether the property inherited from a father would remain ancestral or become the individual property of the inheritor. The court held that the property which came to Vasanta Kumar from his father could be treated as ancestral property, which would then remain within the HUF and not become his exclusive asset. Thus, it gives a completely different perspective about inheritance by amending the Hindu Succession Act, which was amended in 2005 by giving equal rights to daughters as that of sons in case of inheritance in Hindu Joint Families. Henceforth, it ensured that daughters became equal coparceners, meaning that, like their male relatives, they would have rights to ancestral property now.

A leading ruling corroborating this was the Supreme Court judgment of *Ganduri Koteswaramma v. Chakiri Yanadi* (2011).⁶ The court clarified that daughters would get their share, albeit a preliminary decree covering property division earlier than the 2005 amendment. The inheritance claims thus could be contemplated afresh, ensuring that daughters would not be denied consideration just because of the pretreatment in *Prakash v. Phulavati* (2015),⁷ the Supreme Court held that the amendment of 2005 was not retroactive. This meant that daughters could only claim coparcenary rights if their father was alive on September 9, 2005. If he had passed away before this date, the daughter would have had no inheritance rights. This

⁴ *Omprakash v Radhacharan* (2007) Supreme Court of India, Civil Appeal No 1295 of 2007.

⁵ *Smt Pushpalatha NV v V Padma* (2010) Supreme Court of India, Civil Appeal No 3829 of 2010.

⁶ *Ganduri Koteswaramma v Chakiri Yanadi* (2011) Supreme Court of India, Civil Appeal No 3804 of 2011.

⁷ *Prakash v Phulavati* (2015) Supreme Court of India, Civil Appeal No 7215 of 2013.

simplified the law but was widely criticised for generating an unfair difference in the time of death of a father, thus impeding true gender justice.

Another important decision in respect of *Sujata Sharma v. Manu Gupta* (2016) was that the Delhi High Court held that the eldest daughter of a Hindu Undivided Family (HUF) could be a Karta or head of the family if she is a coparcener. This was an excellent step in breaking the stereotype that only men can hold such a post. Though a very empowering judgment, it still left cultural-religious aspects like whether a female Karta could perform family traditional worship unturned. Last but not least, that case will be *Vineeta Sharma v. Rakesh Sharma* (2020), which has cleared the cobwebs cast by *Prakash v. Phulavati*, declared the daughters as coparceners from birth, just as the sons, so that they do not get a share only if their father passed away in 2005. Daughters can now boast of equal ownership rights in ancestral property, further establishing justice in gender in Hindu inheritance laws.

Judgments have reshaped the face of Hindu succession laws over time, such that even a daughter feels the rightful share in family property. Cases like *Commissioner of Wealth Tax v. Chander Sen* provide for individual ownership of inherited property, while judgments like *Vineeta Sharma v. Rakesh Sharma* amply emphasise equal rights for daughters. However, some surviving laws still have a reflection of ancient prejudice. Further legal reforms are needed to complete the elimination of gender discriminatory inheritance laws in Hinduism.

IMPACTS OF CHANGES IN HINDU SUCCESSION LAWS SOCIO-LEGAL

An example of continuous existence in both societies is the prohibition on property inheritance by daughters. An example is the Hindu tradition. In the traditional Hindu family, rights over ancestral property were very limited for women. Thus, she was always outside the purview of family asset decisions. With this came the principle of survivorship in property inheritance. All the shares of the goods continued to exist only in the male members of the family. Such daughters had not put in a claim and mostly relied on paternal relatives.

However, the daughters got equal rights regarding succession as sons too, under the Amendment Act of 2005 to the Hindu Succession Act, which was one of the major legal reforms. The judgment was followed later by Supreme Court decisions where they made daughters equal coparceners in Hindu Undivided Families.

Most importantly, one reform from all these changes related to the ability of daughters to become the Karta (head) of an HUF. The historic ruling in *Sujata Sharma v. Manu Gupta* by the Delhi High Court in 2016 stated that, if the oldest coparcener in an HUF is a daughter, then she would have the right to be the Karta. This judgment indeed would be a great achievement toward gender equality, for it would allow women to be Karta-carrying and thus involved in the decision-making process of a family property, something that has so far been barred to all except male members.

In fact, with all these developments, there is still the ever-present challenge. Societal norms have always been slow to change, and thus, the very basic issues remain about the traditional religious duties of the Karta. In Hindu customs, some rituals such as the Pind Daan have been traditionally fulfilled by the male members of the family. Yet the courts have not yet laid down whether daughters taking up the role of Karta must partake in the Karta rituals; a complete debate can be said to have ensued. Feminist movements have taken a very long, gradual, but nevertheless very transformational journey to gender equality in Hindu inheritance laws.

Before the 2005 amendment to the Hindu Succession Act, he or she would never have coparcenary rights as an unmarried daughter, nor would the daughter be a coparcener in family property, nor would she have any control over it. Though the 2005 amendment created equal rights of coparcenary in daughters converting Karta discrimination jurisdiction, it was debatable until the famous *Sujata Sharma v. Manu Gupta* of 2016, which had decided that the eldest of daughters could also be a Karta. Thereafter, the court fortifiably furthered this position in the case of *Vineeta Sharma v. Rakesh Sharma* (2020) by stipulating that a daughter's right as a coparcener shall not depend on whether her father was alive or not when the 2005 amendment was brought into effect.

Not long ago, the legal discrimination against women in Hindu inheritance laws that had been going on for ages came to an end. Nevertheless, much remains to be done: some social-cultural barriers against women still prevail, especially concerning traditional religious obligations imposed on male family members to perform ancestral rites (Pind Daan). Courts, to date, have not provided any definitive decision regarding whether women, being Kartas, should also carry out these duties.

All in all, although important legal reforms have been initiated to confer equal property rights to daughters, the next challenge appears to be the smoothing of acceptance by society itself and

the eventual setting into force of women's rights. The actual implementation of these rights is required to bring full gender equality in the Hindu inheritance laws.

CHALLENGES AND ROAD AHEAD

The law has now recognised women as head (Karta) of the Hindu Undivided Family (HUF); yet several challenges from different quarters make it difficult for women to exercise that right. Mostly, a deep-rooted social and cultural resistance exists in various rural pockets, where traditional notions glorifying male authority prevail. Nevertheless, many families consider men the primary decision-makers, and if women want to assert their leadership role in family affairs, even if entitled to do so by the law, opposition is commonplace. To eradicate these grounded societal norms, a continuous process of awareness, education, and attitudinal change is warranted.

Another significant hurdle, besides social resistance, remains in terms of the ambiguity that arises concerning those religious obligations that are tied to the office of Karta. As traditionally believed, Karta has been considered the prominent figure to conduct crucial Hindu rites, such as Pind Daan, which customarily have been performed by men. The courts have now taken the stand to include daughters as being potentially entitled to the position of Karta; yet there remain doubts not only regarding the liability but also regarding the legitimacy of their performance of the primary religious acts. Without judicial clarity, there will be family-based disputes and resistance from conservative communities.

Legal knowledge is another great barrier to be crossed. Many women do not know their rights or lack the resources to advance this inheritance claim and Karta status, particularly in villages. Should they claim their rights, they could face strong opposition from their family or community, creating accessible avenues for legal education, awareness initiatives, and low-cost legal services may allow more women to assert their rights.

Achieving gender equality requires more than just legal reforms; it requires a change in culture. Legally challenging patriarchal views wherein men see themselves as natural leaders of families, investing in education, engagement of communities, and awareness campaigns is imperative to generate acceptance for women as leaders in Hindu Undivided Family setups. Religious leaders and scholars could also take up the cause of clearly stating the remit of women as Karta and whether women would, thus, be required to conduct the religious rituals

members have become used to considering male duties, such as Pind Daan for ancestors. Cultural apprehensions must therefore be resolved for women to truly enjoy their legal rights.

Moving forward, it is critical to complete further tilting of the scales toward the cause of gender equality by engaging in legal reforms. Certain loopholes in Hindu succession law must be tightened, and antagonistic judgments on behalf of women's property should enhance the legal standing of women in much-needed areas. Equitable inheritance for widows and unmarried daughters would become a litmus test for greater gender equality. Finally, community action is necessary to advance the mission of enfranchising women as equal and rightful members of the family joint. Where is that community action? Equipping women with mentorship, leadership skills, and legal support enables them to develop the confidence needed to inherit Karta responsibilities. Information and resources to assert rights, an awareness of such rights, are required to convert legislative reforms into actual societal transformations.

CONCLUSION

Surely a milestone recognition of women as Karta (head) of the Hindu Undivided Family (HUF), thus bringing these persons one step closer to real equality in the shape of inheritance as well as leadership of the family. This has been achieved with the Hindu Succession (Amendment) Act, 2005, and through the support of important judgments by the courts. It grants daughters equal rights to sons-in-law in matters of inheritance of property and management of household properties. It's the most significant milestone towards women's welfare in domestic affairs, though it seldom goes beyond ancient boundaries; still, there are certain obstacles in the way. The trend towards women being the head of the household is burned by tradition. Another controversial point is the role of a woman as a Karta, like performing religious rituals which otherwise have been the prerogative of men.

The rural women, most of all, cannot exercise their full rights to inheritance since they do not have legal rights-based awareness. Legal consciousness and acceptability consciousness campaigns within the community can bring about a change in the legal reforms. It would take time to transform society's belief system about women, whereas to eradicate patriarchal tradition centuries old would amount to lobbying from every direction, including education, campaigning, and legal aid. New law may open positive doors wider, but full gender equality in Hindu family law would still be out of our reach. But attempts to further limit law and

acceptance in society will make the ever-widening gap between women and men in inheritance and family leadership ever smaller.

REFERENCES

1. The Hindu Succession Act 1956.
2. The Hindu Succession (Amendment) Act 2005.
3. The Constitution of India
4. Sujata Sharma v Manu Gupta Delhi District Court <https://delhidistrictcourts.nic.in/JULY2016/Sujata%20Sharma.pdf>
5. Prakash v Phulavati (2016) 2 SCC 36 (Supreme Court of India) https://www.supremecourtfindia.nic.in/supremecourt/2015/7479/7479_2015_1_150_2299_Judgement.pdf
6. Danamma @ Suman Surpur v Amar (2018) 3 SCC 343 (Supreme Court of India) https://www.supremecourtfindia.nic.in/supremecourt/2011/11668/11668_2011_6_150_2286_Judgement.pdf
7. Sheela Devi v Lal Chand (2006) 8 SCC 581 (Supreme Court of India) <https://indiankanoon.org/doc/1659843/>
8. G. Sekar v Geetha (2009) 17 SCC 230 (Supreme Court of India) <https://indiankanoon.org/doc/372062/>
9. Ganduri Koteswaramma v Chakiri Yanadi (2011) 9 SCC 788 (Supreme Court of India) <https://indiankanoon.org/doc/1919291/>
10. Arvind Kumar, 'Reforms in Hindu Inheritance Law: A Long Road to Gender Equality' (2015) 32(1) Indian Law Review 45.
11. R Bhagat, 'Gender and Inheritance Laws in India: A Contemporary Overview' (2018) 42(2) Journal of South Asian Studies 231.
12. N Jain, 'Women's Rights in Hindu Law: A Study of Inheritance and Coparcenary Rights' (2017) 22(1) Indian Journal of Family Law 14.
13. P Sharma, 'The Gendered Nature of Hindu Inheritance Laws and Its Reformation' (2016) 54(3) Indian Law Journal 198.
14. S Rani, 'Women, Property, and Hindu Law: A Critical Perspective on the 2005 Amendment' (2015) 18(2) International Journal of Legal Studies 134.
15. R Bose, 'The Impact of Legal Reforms on Gender Equality in Hindu Family Law: A Comparative Study' (2013) 8(2) Asia Pacific Journal of Law & Social Sciences 78.

16. K Gupta, 'Reforming the Hindu Succession Act: Women's Right to Property and Societal Challenges' (2020) 29(3) Journal of Gender and Law 244.