

Daughters' property rights

Daughters' Right To Property

Until the Hindu Succession Act, 1956, was amended in 2005, the property rights of sons and daughters were different. While sons had complete right over their father's property, daughters enjoyed this right only until they got married. After marriage, a daughter was supposed to become part of her husband's family.

Under the Hindu law, a Hindu Undivided Family (HUF) is a group comprising more than one person, all lineal descendants from a common ancestor. An HUF can be formed by people of Hindu, Jain, Sikh or Buddhist faith.

Daughters' rights

Earlier, once a daughter was married, she ceased to be part of her father's HUF.

Many saw this as curtailing women's property rights. But on September 9, 2005, the Hindu Succession Act, 1956, which governs the devolution of property among Hindus, was amended.

After the amendment, every daughter, whether married or unmarried, is considered a member of her father's HUF and can even be appointed as 'karta' (who manages) of his HUF property.

The amendment now grants daughters the same rights, duties, liabilities and disabilities that were earlier limited to sons.

However, a daughter can avail of the benefits granted by the amendment only if her father passed away after September 9, 2005. Also, the daughter is eligible to be a co-sharer only if the father and the daughter were alive on September 9, 2005.

Equal right to be coparceners

A coparcenary comprises the eldest member and three generations of a family. It could earlier comprise, for instance, a son, a father, a grandfather, and a great grandfather. Now, women of the family can also be a coparcener.

Under the coparcenary, the coparceners acquire a right over the coparcenary property by birth. The coparceners' interest and share in the property keep on fluctuating on the basis of the number of members according to the birth and death of the members in the coparcenary.

Both ancestral and self-acquired property can be a coparcenary property. While in case of ancestral property, it is equally shared by all members of the coparcenary, in case of self-acquired, the person is free to manage the property according to his own will.

A member of the coparcenary can also sell his or her share in the coparcenary to a third party. However, such a sale is subject to the Right of Pre-emption of the remaining members of the coparcenary. The remaining members, however, have the "right of first refusal" over the property, to stop the entry of an outsider.

A coparcener (not any member) can file a suit demanding partition of the coparcenary property but not a member.

Thus, the daughter, as a coparcener, can now demand the partition of her father's property.

