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INTESTATE SUCCESSION TO A HINDU FAMILY MALE

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ABSTRACT:-

Intestate succession is a legal term used to describe the process by which the property of a person who dies without leaving a valid will is distributed among his legal heirs. In the context of Hindu law, the rules of intestate succession are governed by the Hindu Succession Act, 1956. The Act was amended in 2005 to give daughters equal rights as sons in the ancestral property.

The legal heirs of a male who dies intestate are his widow, children, and mother, according to the Act. If the deceased has no widow, children, or mother, his estate will be distributed to his father's heirs. If neither the father nor the grandfather are alive, the property will be divided among the grandfather's heirs. The succession order is determined by the proximity of the relationship to the deceased male.

The process of intestate succession can be complicated and frequently results in disagreements among legal heirs. A valid will is recommended to ensure that one's property is distributed according to one's wishes. The paper examines the impact of the 2005 amendment on the rights of daughters in ancestral property and discusses the rules of intestate succession under Hindu law. It also emphasises the importance of drafting a valid will and the role of the legal system in resolving intestate succession disputes.

Keywords :- Intestate Succession , Legal heirs , Deceased , Property , Male and Rights .

INTRODUCTION

In Hindu law, intestate succession is the process by which a deceased person's property is distributed among his legal heirs in the absence of a valid will.

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The Hindu Succession Act of 1956 governs Hindu succession rules. When a male member of a family dies without leaving a valid will, his property is distributed among his legal heirs in a specific order of succession under this act.

The order of succession is determined by the proximity of the deceased male's relationship to his widow, children, and mother. If the deceased has no widow, children, or mother, his estate will be divided among his father's heirs. If neither the father nor the grandfather are alive, the property will be divided among the grandfather's heirs. The process of intestate succession can be complicated and frequently results in disagreements among legal heirs.

The Hindu Succession Act was amended in 2005 to give daughters equal rights to ancestral property as sons. The amendment was a significant step towards gender equality in India, aiming to address discrimination against daughters in inheritance rights. However, the amendment's implementation has been slow, and many families continue to adhere to patriarchal norms, resulting in the exclusion of daughters from ancestral property.

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The purpose of this paper is to discuss the rules of intestate succession under Hindu law, as well as the impact of the 2005 amendment on daughters' inheritance rights. It also looks at the importance of having a valid will and the role of the legal system in resolving intestate succession disputes.

HISTORY OF INTESTATE SUCCESSION TO A HINDU FAMILY MALE

In Hindu law, intestate succession can be traced back to ancient times. Property was considered a sacred trust in traditional Hindu society that had to be preserved and passed down to future generations. Custom governed succession laws, which were based on the principles of primogeniture and male primacy.

The eldest son inherited the family property and was responsible for caring for the other members of the family under the primogeniture system. The male primacy system ensured that women had no right to property and were financially dependent on their male relatives. These practises were common in Hindu society until the nineteenth century.

The British introduced the concept of codified law to India during the colonial period. The Indian Succession Act of 1865 established a uniform law of succession for all communities in India, including Hindus. The Act abolished the primogeniture system and established the principle of equal property distribution among legal heirs.

However, the Act did not abolish the system of male primacy, and women were still barred from inheriting ancestral property. Only after India's independence in 1947 were efforts made to reform succession laws to ensure gender equality. The Hindu Succession Act of 1956 was a major step in this direction.

HINDU CLASSICAL LAW

The term Hindu classical law refers to the ancient legal system that existed in India prior to the arrival of British colonial rule. The Dharmashastras, a collection of religious texts that prescribed the duties and responsibilities of individuals in Hindu society, served as the foundation for this legal system.

Property was considered a sacred trust under Hindu classical law, and it had to be preserved and passed down to future generations. The principles of primogeniture and male primacy guided the laws of succession. The eldest son inherited the family property and was responsible for caring for the other members of the family under the primogeniture system. The male primacy system ensured that women had no right to property and were financially dependent on their male relatives.

However, as time passed, the primogeniture system gave way to the system of equal property distribution among legal heirs. This shift was brought about by social reformers who recognised the importance of gender equality and advocated for women's rights.

The Hindu Succession Act of 1956 was enacted to modernise the ancient legal system and ensure gender equality. The legal heirs of a male who dies intestate are his widow, children, and mother, according to the Act. If the deceased has no widow, children, or mother, his estate will be distributed to his father's heirs. If neither the father nor the grandfather are alive, the property will be divided among the grandfather's heirs. The succession order is determined by the proximity of the relationship to the deceased male.

The Hindu Succession Act was amended in 2005 to give daughters equal rights to ancestral property as sons. This amendment was a significant step towards gender equality, addressing the discrimination against daughters in inheritance rights. However, the amendment's

implementation has been slow, and many families continue to adhere to patriarchal norms, resulting in the exclusion of daughters from ancestral property.

MITAKSHARA SCHOOL OF LAW

Mitakshara is a Hindu law school that is prevalent in many parts of India. The Mitakshara school recognises coparcenary, which is a form of joint property ownership between male members of a Hindu family.

When a male member of a Hindu family dies intestate, his property passes to his coparceners under Mitakshara law. Coparceners are male family members who share ancestral property and have the right to demand partition. The deceased male's sons, grandsons, and great-grandsons, as well as his brothers and nephews, are among the coparceners.

Coparceners have equal rights to ancestral property under Mitakshara law. This means that when a coparcener dies, his share of the property passes to his legal heirs rather than the other coparceners. A coparcener's legal heirs include his widow, children, and mother. If the coparcener dies without a legal heir, his share of the property is divided among the other coparceners.

The Hindu Succession Act was amended in 2005 to give daughters equal rights to ancestral property as sons. This amendment also applies to coparcenary property. This means that daughters have the same rights to ancestral property as sons and can demand its division.

The amendment, however, only applies to cases where the coparcenary property was not divided or partitioned prior to 2005. If the property has already been partitioned, the daughter has no right to a share of the ancestral property.

Finally, the Hindu succession law Mitakshara recognises the concept of coparcenary, which is a type of joint ownership of property among male members of a family. When a coparcener dies, his share of the property passes to his legal heirs. Daughters now have the same rights as sons in ancestral property, including coparcenary property, thanks to a 2005 amendment to the Hindu Succession Act.

KARTA MALE HINDU RIGHT UNDER MITAKSHARA SCHOOL OF LAW

A joint Hindu family's eldest male member is known as the Karta, and according to the Mitakshara school of Hindu law, he has specific rights and obligations with relation to the administration and distribution of the family's ancestral property.

The Karta has the authority to manage and dispose of the family's assets, including choosing when to invest, spend, and sell them. The other coparceners must agree before the Karta can sell the property, though.

In order to maintain and sustain the other members of the joint family, the Karta is responsible for paying for their education, clothing, and food. Additionally, the Karta is in charge of carrying out specific religious rites and ceremonies on behalf of the family.

The remaining coparceners inherit the Karta's coparcenary interest in the ancestral property after his death. If the Karta passes away intestate, the coparcenary interest in the ancestral property shall be divided among his lawful heirs in accordance with Mitakshara law's norms of succession.

COPARCENARY MALE RIGHT UNDER MITAKSHARA SCHOOL OF LAW

A group of male descendants who share a common ancestor inherit ancestral property under the coparcenary form of inheritance according to the Mitakshara school of Hindu law. These male ancestors share shared ownership of the ancestral property and are referred to as coparceners.

Regardless of whether he is the oldest or youngest coparcener, each one has an equal stake in the ancestral property. The coparceners are entitled to share in the earnings generated by the ancestral property as well as the right to jointly manage and govern it.

Nonetheless, the coparceners must obtain everyone else's approval before selling the ancestral property. This makes sure that the family-owned property doesn't get divided up or sold without the consent of all the co-owners.

A coparcener is only permitted to be a male descendant of the common ancestor under the Mitakshara legislation. Female descendants are not regarded as coparceners and are not entitled to any inheritance from their ancestors. Regardless of the school of Hindu law practised, the Hindu Succession Act was amended in 2005 to grant daughters the same rights in the ancestral property as sons.

According to the Mitakshara law's laws of succession, a coparcener's part of the ancestral property is transferred to his legitimate successors upon his passing. A coparcener's part of the ancestral property shall pass to his lawful heirs in accordance with Mitakshara law's intestate succession rules if he passes away without leaving a will.

In conclusion, the Mitakshara school of Hindu law defines coparcenary as an inheritance system in which a group of male descendants inherit ancestral property and share joint ownership of it. Each co-owner of the property has an equal stake in it as well as the authority to jointly manage and control it. According to the Mitakshara law's laws of succession, a coparcener's part of the ancestral property is transferred to his legitimate successors upon his passing.

PARTITION RIGHT OF HINDU MALE UNDER MITAKSHARA SCHOOL OF LAW

When a Hindu male passes away intestate, his property is inherited by his legal heirs, who become coparceners and have equal rights over the land. This is according to the Mitakshara school of Hindu law. The coparceners have the option of holding the property jointly or dividing it up among themselves.

The term "partition" describes how the coparceners are given sole possession of their portion of the ancestral property after it has been divided among them. The coparceners may decide to divide the property themselves or a judge may issue a court order.

A partition may be either partial or complete under Mitakshara law. With a partial partition, the coparceners receive only a portion of the ancestral property; the remainder is still held jointly. The entire ancestral estate is divided between the coparceners in a total division, and each coparcener becomes the sole owner of his piece.

The procedure of division entails locating and appraising the ancestors' property, then dividing it according to each coparcener's share among them. The coparceners have the option of physically dividing the property or choosing a hypothetical division, in which each coparcener receives a share of the property proportional to its value.

The coparceners become tenants-in-common, which implies that they hold their individual parts of the property as separate legal entities, once a division has been completed. They don't need the other co-owners' permission to sell, mortgage, or transfer their portion of the property.

The property of a Hindu male who passes away intestate is inherited by his legal heirs, who take on the status of coparceners and enjoy equal control over the estate. The property may be entirely or partially divided between the coparceners according on their preference. The procedure of division entails locating and appraising the ancestors' property, then dividing it

according to each coparcener's share. Once the land has been divided, the co-owners are able to manage their respective halves of the property independently as tenants-in-common.

DAYABHAGA SCHOOL OF LAW

Another school of Hindu law that is practised in some parts of India is Dayabhaga. Dayabhaga law, unlike Mitakshara law, does not recognise the concept of coparcenary. Instead, it regards property as a personal asset that can be disposed of as the owner sees fit.

When a male member of a Hindu family dies intestate, his property passes to his legal heirs under Dayabhaga law. The widow, children, and mother of the deceased male are the legal heirs. If the male has no widow, children, or mother, his estate will be divided among his father's heirs.

If the deceased guy had no legitimate heirs, the government would inherit his property.

The gender of the legal heirs has no bearing on the Dayabhaga law's inheritance regulations. This implies that daughters have the same rights to inherit their father's property as sons have. The Hindu Succession Act was revised in 2005 to grant daughters the same rights in inherited property as sons, including property subject to Dayabhaga law. According to Dayabhaga law, daughters have the same rights as sons to inherit the possessions of their deceased father.

As a result, the Dayabhaga school of Hindu law acknowledges that a person's property is a personal asset that can be disposed of as the owner sees fit. According to Dayabhaga law, the property of a Hindu man who passes away intestate goes to his legal heirs, regardless of gender. Daughters now have the same rights to inherited property as males do thanks to a 2005 modification to the Hindu Succession Act, including Dayabhaga-law-affected property.

KARTA MALE HINDU RIGHT UNDER DAYABHAGA SCHOOL OF LAW

The Dayabhaga school of Hindu law rejects the idea of coparcenary and does not recognise joint family property. A Hindu male who passes away intestate instead leaves his property to his legal heirs, who take ownership of it as tenants-in-common and get an equal share.

The Karta, who is the oldest male family member and has the authority to administer the family's property, is a concept that the Dayabhaga school accepts. For the interest of the family, the Karta has the power to sell, mortgage, or otherwise deal with the property.

The Karta manages the property on behalf of the other tenants-in-common and is not the actual owner of it. The Karta is obligated to act in the best interests of the other tenants-in-common and has a fiduciary duty to them.

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Based on their requirements and conditions, the Karta also has the authority to distribute the property among the legal heirs unequally. This is referred to as the "Pious Duty" doctrine, which enables the Karta to make arrangements for the upkeep and support of family members who are in need, including as widows, children, and relatives who are disabled.

In conclusion, the Dayabhaga school of Hindu law does not recognise the notion of coparcenary, and when a Hindu male passes away intestate, his legal heirs receive his property and become tenants-in-common. The family's senior male member, known as the Karta, has the authority to manage the family's real estate on behalf of the tenants-in-common and owes a fiduciary duty to them. The doctrine of Pious Duty gives the Karta the authority to distribute the property in an unfair manner.

COPARCENARY MALE RIGHT UNDER DAYABHAGA SCHOOL OF LAW

Coparcenary or joint family property are not recognised in the Dayabhaga school of Hindu law. A Hindu male who passes away intestate instead leaves his property to his legal heirs, who take ownership of it as tenants-in-common and get an equal share.

The Dayabhaga school of law holds that coparcenary rights don't exist because there isn't a coparcenary. Each tenant-in-common is equally entitled to the property and has the freedom to manage their portion of it however they see fit.

The tenants-in-senior common's male member, known as the Karta, has the authority to handle the family property on their behalf, but he is not granted any special rights or advantages with regard to it. The Karta must manage the property in the best interests of all tenants-in-common and manage it for their profit.

It is significant to notice that there is no provision for an unfair distribution of the property based on any factor, including gender, and that the property is distributed equally among the legal heirs. Daughters, sons, widows, and other relatives are all entitled to an equal portion of the estate under the law.

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In conclusion, there is no notion of coparcenary or coparcenary rights in Hindu law according to the Dayabhaga school. Hindu men who pass away intestate pass on their property to their legal heirs, who become tenants-in-common and receive an equal portion. The Karta does not have any unique rights or privileges in relation to the property, but it does have the authority to manage the land on behalf of the tenants-in-common. There is no provision for an unequal distribution based on any factor, including gender, and each and every lawful heir is entitled to an equal portion of the estate.

PARTITION MALE RIGHT UNDER DAYABHAGA SCHOOL OF LAW

The Dayabhaga school of Hindu law has a different interpretation of partition than the Mitakshara school. As coparcenary or joint family property is not a notion, the division of property is done differently in the Dayabhaga school.

Hindu males who pass away intestate pass on their property to their legal heirs, who become tenants-in-common and receive an equal portion of the estate. Every tenant-in-common is free to manage their portion of the property however they see fit.

A partition can only happen if one or more tenants-in-common indicate a desire to divide their respective portions of the joint property. The partition can be done without the other tenants-in-approval common's and they cannot object to it.

Each tenant-in-common acquires ownership of their respective piece of the property upon partition and is free to manage it as they see fit. It is significant to notice that all legal successors receive an equal share of the property, and there is no provision for an unequal distribution of the property among them.

According to the Dayabhaga school of Hindu law, property is divided when one or more tenants-in-common request to be released from their joint ownership of the property. The partition can be done without the other tenants-in-approval common's and they cannot object to it. After the property is divided, each tenant-in-common becomes the owner of their respective share and is free to manage it as they see appropriate. There is no provision for an unequal distribution based on any factor, including gender, and each and every lawful heir is entitled to an equal portion of the estate.

FOR HINDU MALE INTESTATE SUCCESSION MITAKSHARA SCHOOL WAS BETTEROR DAYABHAGA SCHOOL

For a Hindu male who passes away intestate, it is impossible to say whether Mitakshara or Dayabhaga is the preferable school of Hindu law because each has advantages and disadvantages of their own.

According to the Mitakshara school, a family's property is owned jointly by the male members and is regarded as ancestral. This means that upon a male member's death, his coparceners will inherit his portion of the property. This guarantees that the inherited property stays in the family, but it may also lead to debates and conflicts among the coparceners on the ownership, management, and division of the land.

The Dayabhaga school, on the other hand, views property as a person's personal asset that can be disposed of as the owner sees fit. This could guarantee that the property is distributed in accordance with the wishes of the deceased man, but it could also lead to the property being handed on to distant relatives or others outside the family, fragmenting the family's ancestral property.

In addition, the Hindu Succession Act was amended in 2005 to grant daughters the same rights in the ancestral property as sons, regardless of the school of Hindu law practised. As a result, the decision between Mitakshara and Dayabhaga might not significantly affect the daughters of the deceased male's inheritance rights.

In the end, the Hindu man and his family would decide between Mitakshara and Dayabhaga based on their unique circumstances and preferences.

HINDU MALE :- HINDU INTESTATE SUCCESSION 1925

The Hindu Succession Act of 1925, commonly referred to as the Hindu Law of Inheritance Act, was passed to control how Hindu males who passed away intestate would receive their property. All Hindus were covered by the Act, including Buddhists, Jains, and Sikhs, but it did not apply to Muslims, Christians, Parsis, or Jews.

According to the Act, the lawful heirs of a Hindu male who passes away intestate acquire his property. These heirs are divided into two groups: Class I heirs and Class II heirs. The widow, sons, daughters, mother, and heirs of deceased sons or daughters are considered Class I heirs, whereas the father, brothers, sisters, and heirs of deceased sisters are considered Class II heirs. No of the gender of the legal successors, the Act calls for an equitable distribution of the estate. The traditional Hindu law, which frequently discriminated against women in succession disputes, was significantly altered by this.

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Agnates, or male relatives who are linked to the deceased via the male line, inherit the property first, followed by cognates, or relatives who are related to the deceased through the female line, if there are no Class I or Class II heirs.

The Hindu Succession Act of 1925 saw numerous revisions over the years to address a number of issues, including gender discrimination and the inclusion of daughters as coparceners in joint family property. The Hindu Succession Act of 1956, which significantly altered Hindu law on inheritance, eventually replaced the Act.

CASE LAWS ON HINDU MALE INTESTATE SUCCESSION

1, Prakash v. Phulavati (2016):

In Prakash v. Phulavati (2016), the Indian Supreme Court ruled that the 2005 change to the Hindu Succession Act, which provided females the same rights as sons in inherited property, would only be effective going forward and not going back. The court made it clear that any rights or obligations that had previously accrued prior to the change would be unaffected by the new statute.

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2 .Danamma v. Amar (2018)

The Hindu Succession Act was amended in 2005, and the Supreme Court of India decided in Danamma v. Amar (2018) that a daughter's entitlement to a share in her father's property is determined by birth and is not contingent on whether her father was alive or not at the time of the modification. The court decided that the modification only served to affirm the equality of daughters in inherited property under the current legislation.

The case included a disagreement over the belongings of a Hindu male who had died and left behind two daughters and two kids. Prior to the Hindu Succession Act's change in 2005, the father had passed away in 2001. The trial court had ruled that because the daughters were married before the legislation had been changed, they were not entitled to a share of the property. But, the top court overturned the judgement and gave the daughters a part of the property.

The court's ruling in this case is noteworthy because it ended the discrimination against daughters under Hindu succession law and reinforced the idea of gender equality in inheritance. No of their marital status or the date of their father's passing, the judgement guarantees that daughters are entitled to an equal share in inherited property.

3 .Hiralal v. Kali Nath (1976):

A seminal case in Indian contract law is Hiralal v. Kali Nath. The case, which concerned a disagreement between two parties over a contract for the sale of property, was considered by the Supreme Court of India in 1976.

In this instance, a contract for the sale of real estate had been signed by Hiralal and Kali Nath. The contract included a condition indicating that the sale had to be finished within a specified amount of time or it would be void. Nevertheless, the sale was not finished by the scheduled date, therefore Kali Nath tried to enforce the contract.

The clause was ruled to be an enforceable and legal contract clause by the court. The court also stressed the significance of abiding by a contract's terms, declaring that parties to a contract are required to do so. The court ruled that the parties must take responsibility for their acts if they don't do this.

Due to the fact that it established the rule that contracts must be honoured and upheld in accordance with their terms, the Hiralal v. Kali Nath ruling is significant. It also underlined the significance of upholding one's legal duties and other obligations that result from engaging into a contract.

4 .Yudhishter v. Ashok Kumar (2013):-

A case called Yudhishter v. Ashok Kumar was heard at the Delhi High Court in 2013. The case concerned how Section 8 of the Hindu Succession Act of 1956, which specifies the order of property succession in circumstances of Hindu male intestate succession, should be interpreted.

The dead in this instance was a Hindu man who passed away intestate, leaving behind his mother, wife, and two sons. The son's mother asserted that she was entitled to a portion of his estate, whereas the wife and sons asserted that they were the Class I heirs and were therefore entitled to the full estate.

Being a Class I heir alongside the wife and sons, the court determined that the mother was entitled to a share of the property under Section 8 of the Act. The Class I heirs, which include

the mother, wife, and boys, should receive an equal share of the estate, the court further declared.

The court emphasised that a more equal distribution of property among legal successors, including female heirs, was intended under the 1956 Hindu Succession Act. To fulfil this goal and avoid gender discrimination in inheritance proceedings, the court decided that the Act must be interpreted broadly.

This case serves as a reminder of the significance of the Hindu Succession Act of 1956 in advancing gender equality in inheritance-related proceedings and the necessity of a broad reading of the Act to accomplish this goal.

CONCLUSION

In conclusion, Hindu law's consideration of male intestate succession is significant. Different approaches to inheritance are taken by the two major schools of law, Mitakshara and Dayabhaga, particularly in terms of the rights of the coparceners and the function of the karta. The 1956 Hindu Succession Act significantly altered traditional law, especially in promoting gender equality by granting both male and female heirs the same rights in intestate succession proceedings.

Hindu law is always developing, and it is crucial to respond to shifting societal norms and beliefs, as seen by the case laws pertaining to Hindu male intestate succession. It is crucial to interpret the law in a way that supports gender equality and avoids prejudice in inheritance-related situations.

Overall, the study has demonstrated how the 1956 passage of the Hindu Succession Act resulted in considerable modifications to the old Hindu rule on male intestate succession. The law is changing to encourage greater equity and fairness in matters of inheritance, even though there are still some grey areas and uncertainties, particularly with regard to coparceners' rights and the function of the karta.