

A Study on the Interpretation of Hindu Law Schools in Joint Family Property and It's Adaptation in Modern India and Indian Judicial System

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Abstract—This study explores the interpretation of the Hindu law schools—primarily it focuses on the Mitakshara and Dayabhaga schools—in the context of the Hindu Joint Family Property, and examines their evolution and adaptation within the modern India and its judicial system. Rooted in the ancient Indian scriptural traditions, Hindu law has governed the inheritance and management of the joint family property for centuries. While both Mitakshara and Dayabhaga provide distinct frameworks regarding ownership, succession, and rights within a joint family, the contemporary legal landscape has seen significant transformation due to legislative reforms, landmark judicial pronouncements, and the influence of constitutional values like gender equality.

This research delves into the foundational principles of these schools, contrasts their interpretations of coparcenary rights, and evaluates their relevance in light of modern legislative interventions such as the Hindu Succession (Amendment) Act, 2005. The paper also assesses how Indian courts have reconciled traditional doctrines with the demands of a progressive legal order, especially in areas like women's inheritance rights, partition, and the legal status of ancestral property. Through a doctrinal and jurisprudential analysis, the study seeks to highlight the dynamic interaction between age-old legal traditions and contemporary judicial reasoning, offering insights into the ongoing redefinition of family and property in Indian law.

I. INTRODUCTION

The Hindu joint family system, deeply rooted in ancient Indian tradition, has long served as a cornerstone of societal organization and inheritance. Central to this framework is the concept of joint family property, governed historically by two principal schools of Hindu law: the Mitakshara and the Dayabhaga. These schools have offered distinct interpretations of inheritance, ownership, and coparcenary rights within a joint family structure.

Over time, as India transitioned into a modern legal state, the application and relevance of these traditional principles have evolved significantly. This study explores the foundational interpretations of joint family property under the Hindu law schools and examines their transformation and adaptation within the contemporary Indian legal system. By analysing landmark judicial pronouncements and legislative reforms, it seeks to understand how age-old doctrines have been reconciled with the principles of equality, individual rights, and social justice in modern India.

KEYWORDS:

THE KEYWORDS OF THE TOPIC ARE AS FOLLOWS:

- Hindu Law
- Joint Family Property
- Mitakshara School
- Dayabhaga School
- Coparcenary.
- Inheritance
- Hindu Succession Act
- Legal Interpretation
- Traditional Reforms.
- Judicial Reforms.
- Traditional law and Modernization of Hindu law.

II. DEFINITION OF HINDU LAW

THE Hindu law is a set of derivative customs, usages, traditions, believes and modern legislative structures. The primary sources for the study of the Hindu Law are revolved around the religious texts of Dharam shastras.

The research done by Delhi University discovered that the Vedic Period is 8000 years old.

The Dharam shastras are composed around the period of 500 B.C.E TO 500 C.E. These sacred texts i.e. the Dhramshastras are revealed divinely to the Rishis.

III. HINDU JOINT FAMILY PROPERTY

Hindu Joint Family can be, simply, defined as a family arrangement consisting of all the lineal male descendants from a common ancestor including the wives and unmarried daughters of such descendants.

The features of a Hindu Joint Family include the concepts like that of a common ancestor, which is a very fundamental element of all Joint Families, such that without it no Joint Family can come into existence, however the existence of a common ancestor is not necessary for its continuation. Other features include: It being a creature of law i.e., it comes into existence by the virtue of law and not by any agreement of the members; It has no separate legal existence, apart from the members of the Joint Family; It also confers certain rights on its members like It has a presumption of jointness i.e., a family is considered to be joined, unless otherwise evidence of its partition has been brought before court.

As stated earlier, a Joint Hindu Family comprises of a common ancestor along with all the male are the lineal descendants of the common ancestor, irrespective of their generation, it also includes mothers, wives and unmarried daughters. As per the Indian culture, an unmarried daughter is considered to be a member of her father's Joint Family. However, after marriage she becomes the member of her husband's Joint Family. This is due to the patriarchal notion of our society which considers daughters to belong to her husband's family i.e., her original family is that of her husbands'. However, in case of divorce or the daughter becoming a widow or in any circumstance where she permanently leaves her husband's house and returns to her father's home, she would be counted as a member of her father's family, as long as she has permanently shifted from her husband's family to her father's family. In case the daughter returns with her kids, then the kids would not be considered as a part of her father's Joint Family and they would remain as the members of her husband's Joint Family. Even though a child in the womb of a daughter, who has returned to her father's home, is not considered a member for taxation purpose, it is still considered to exist and a

member of the Joint Family for certain purposes under the Hindu Law.

The whole structure of the Joint Family highly resembles to that of a corporation. However, the two are very different from each other. A Joint Family is not a juristic person and it does not have any legal entity distinct and separate from its members. Addition of the members of the Joint Hindu Family is through birth and removal of members is through death which does not affects the character of the family, it only affects the quantum of interest of the members which also cannot be ascertained until partition.

MITAKSHARA SCHOOL OF HINDU JOINT FAMILY:

Mitakshara school is followed in all the states of India except Bengal and Assam and is based on a book called "Mitakshara" which is a commentary on the YagnaValkya Smriti compiled by Vigneshwara who was an eleventh century scholar.

However, it's practices varies from state to state and region to region.

Mitakshara follows the "Janma Swatwavad" or acquisition of right by birth.

DAYABHAGA SCHOOL OF HINDU JOINT FAMILY:

Dayabhaga school is followed in the States of Bengal and Assam and is based on a book called "Dayabhaga" which is also a commentary on YagnaValkya Smriti, but is compiled by Jimuthvahana. Dayabhaga follows the theory of "Upama Swatwavad" or acquisition of right on the demise of the previous owner.

CONCEPT OF COPARCENARY IN HINDU JOINT FAMILY:

Coparcenary is a small body of persons within the Hindu Joint Family, which includes the members who acquire an interest in the Hindu Joint Family Property by birth, and it also consists of the father and his three male lineal descendants. Similar to Joint Family, father-son relation continuation is not necessary, as long as the person is not removed more than 4 degrees from the last holder of the property. Therefore, they can also exist coparcenary between grandfathers, grandsons, uncles, nephews and so on.

1. COPARCENARY UNDER MITAKSHARA SCHOOL OF HINDU LAW:

- a) All the male lineal descendants up to the 3rd generation, acquire on birth ownership rights in the ancestral property of such person.
- b) Such descendants (coparceners) can ask for partition.
- c) Until partition, each member enjoys ownership over the whole of the property conjointly with the others. (Unity of ownership)
- d) Since there is co-ownership of property, therefore, the possession and enjoyment of such property is also common. (Unity of possession)
- e) No alienation of property can be done by anyone, except in necessity, without the permission of the coparceners.
- f) Interest of a coparcener that has died, lapses on his death to the survivors. (Doctrine of Survivorship).

2. CONCEPT OF COPARCENARY UNDER DAYABHAGA SCHOOL OF HINDU LAW:

There is no coparcenary between the father and the son or the grandfather and son or so on. This means that the son has no interest on either the ancestral property or the self-acquired property of his father. The coparcenary only comes in existence during the death of his father, which the brothers inherit after the death of the father. On the father's death, the property is shared equally among all the coparceners, further, in the shares of each of the coparceners, their children would have no right unless the coparcener dies. However, if a coparcener is dead before obtaining his share, then his children can take the same share from the property which they would have gotten, if their father was alive and had obtained his share from the property. An incredible point in the Dayabhaga coparcenary is that, it considers women coparceners as well. Therefore, a daughter can inherit from his father and become a coparcener.

SOME IMPORTANT POINTS with regards to the coparcenary are as follows:

- a) No "right by birth" in the property.
- b) There is only "unity of possession" of defined shares and no "unity of ownership."
- c) Coparceners have defined shares in the joint family property and are considered as the owner of share and considered to have absolute rights in such shares.
- d) There is no devolution of property by survivorship, but only by succession.

- e) Could be male or female
- f) Every adult coparcener is entitled to enforce partition of coparcenary property.

IV. CONCEPT OF INHERITANCE IN THE HINDU JOINT FAMILY

Inheritance specifically refers to the legal process by which heirs receive property, either by law (intestate) or by will (testamentary succession).

In Hindu Joint Families, this mainly involves coparcenary property and self-acquired property, and the two major schools handle them differently. Which are as follows:

1. Inheritance under Mitakshara School:

Inheritance of Coparcenary Property:

- By birth: Each male coparcener acquires a right in the ancestral property automatically at birth.
- Earlier: Only male members were coparceners.
- Post-2005: Daughters are also equal coparceners (as per the Hindu Succession (Amendment) Act, 2005).

On Death of a Coparcener (Before 2005):

- His share goes to surviving coparceners — not his heirs.
- This is called survivorship.

After 2005 Amendment:

- The survivorship rule was abolished.
- Now, a deceased coparcener's share goes to his heirs under intestate succession, including his daughter.

Example:

Suppose a Hindu man dies leaving behind a wife, one son, and one daughter. Earlier, the son would take the father's share by survivorship. Now, under the amended law, all three — wife, son, and daughter — inherit equally as Class I heirs.

Inheritance of Separate/Self-acquired Property:

- Even before 2005, such property was inherited by Class I heirs under the Hindu Succession Act, 1956.
 - Includes: widow, son, daughter, mother, etc.
- ### 2. Inheritance under Dayabhaga School

Key Principles:

- There is no right by birth in ancestral property.
- A person becomes owner of property only after the death of the previous holder.

- So, inheritance, not survivorship, is the rule.

On Death of the Property Holder:

- His heirs inherit the property individually, and a coparcenary may form after inheritance.
- Even female heirs like a widow can inherit fully — a stark contrast from earlier Mitakshara norms.

Example:

A Dayabhaga Hindu dies leaving a widow and two sons. His property is inherited equally by all three, and then they may hold it jointly or separately.

Women's Rights under Dayabhaga:

- A widow can inherit property and also manage joint family property.
- This was more progressive than Mitakshara before the 2005 amendment.

Relevant Case Laws

Vineeta Sharma v. Rakesh Sharma (2020)

- Affirmed that daughters are coparceners by birth, even if the father died before 2005.
- Important for understanding post-amendment inheritance.

Gurupad v. Hirabai (1978)

- Clarified how a widow's share is calculated when her husband dies undivided from the Hindu joint family.

CIT v. Gomedalli Lakshminarayan (1935, Privy Council)

- Explained that in Dayabhaga, heirs succeed individually, and coparcenary is not by birth.

V. HINDU SUCCESSION ACT, 1956

The Hindu Succession Act, 1956 was enacted to codify and standardize the laws relating to intestate (without a will) succession among Hindus. It applies to:

- Hindus by religion
- Buddhists
- Jains
- Sikhs

It does not apply to Muslims, Christians, Parsis, or Jews.

Key Features of The Hindu Succession Act, 1956 are as follows:

- Governs intestate succession and inheritance of property.
- Applies to both males and females.

- Initially, the Act was biased towards male heirs in terms of coparcenary property, especially under the Mitakshara school.

Hindu Succession Law Amendment (2005) Act:

- Gave equal rights to daughters as coparceners (i.e., joint-heirs) in a Hindu Undivided Family (HUF).
- A daughter now has the same rights and liabilities as a son in ancestral property.

Legal Interpretations in Context of the Two Schools:

1. Mitakshara School

- Predominant in most of India (except Bengal and Assam).
- Recognizes coparcenary — a narrower body within the joint family consisting of male lineal descendants up to four generations.
- Right by birth: Property is inherited by birth (before the 2005 amendment, only by sons).
- Survivorship Rule: Property would go to surviving male coparceners, not by inheritance.

Post-2005 Amendment:

- Daughters are coparceners by birth.
- They have the same rights and liabilities as sons.
- The doctrine of survivorship was abolished — property now devolves by inheritance (Section 6).

2. Dayabhaga School

- Prevalent in West Bengal and Assam.
- Does not recognize the concept of birthright in property.
- Property is treated as the absolute property of the father during his lifetime.
- Inheritance occurs only after the father's death.
- No concept of coparcenary during the father's lifetime.

Legal Interpretation:

- The Hindu Succession Act overrides traditional Dayabhaga rules where applicable.
- Since there's no coparcenary, the 2005 amendment has less impact here, but women still have equal inheritance rights.

Major Provisions:

- Section 6: Devolution of interest in coparcenary property.
- Section 8-10: General rules of succession for males.
- Section 14: Property of a female Hindu to be her absolute property.
- Section 15-16: Succession for female Hindus.

Key Amendment – Hindu Succession (Amendment) Act, 2005

- Daughters made coparceners by birth.
- Gave equal rights and liabilities in ancestral property.
- Abolished survivorship doctrine in Mitakshara.

Prominent Case Laws:

1. *Gurbux Singh v. Harminder Kaur (2010)*

- Clarified succession rights of female heirs under the Act.
- Reiterated daughters' equal rights in joint family property.

2. *Prakash v. Phulavati (2016)*

- Held that daughter must be alive on 9th Sept 2005 to claim coparcenary rights.
- Stressed the amendment is prospective in nature.

3. *Danamma Suman Surpur v. Amar (2018)*

- Contradicted *Phulavati* by granting rights to daughters even though the father had died before 2005.
- Created judicial confusion.

4. *Vineeta Sharma v. Rakesh Sharma (2020)*

- Landmark ruling by Supreme Court.
- Held that daughters are coparceners by birth, irrespective of whether the father was alive in 2005.
- Settled previous contradictions – amendment is retrospective in effect.

VI. TRADITIONAL REFORMS UNDER THE HINDU LAW OF PROPERTY

Traditional Reforms (Pre-1956 Statutory Era)

Before the Hindu Succession Act, some important legislative reforms attempted to improve the status of women and modernize the system

Hindu Law of Inheritance Act, 1929

- Allowed certain female heirs (e.g., daughter's daughter, sister) to inherit property.

Hindu Women's Right to Property Act, 1937

- Allowed widows to inherit their husband's property with limited rights.

Hindu Gains of Learning Act, 1930

- Recognized that earnings through education were individual property, not automatically joint family property.

VII. JUDICIAL REFORMS UNDER HINDUS LAWS OF PROPERTY:

Introduction: Role of Judiciary in Hindu Law of Property

The judiciary has played a transformative role in evolving Hindu property law by:

- Interpreting ancient customs in the light of modern constitutional values.

Judicial Interpretation in the Context of Mitakshara School of Hindu Joint Family:

- Post-Hindu Succession Act, 1956:

Key Shifts:

- Courts began giving greater weight to statutory inheritance over customs.
- Recognized limited estate of widows becoming absolute property under Section 14.

Major Case Laws – Mitakshara Context

1. *Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum (1978)*

- SC held that widow's limited estate becomes absolute property under Section 14(1).
- Even a notional partition share would vest in her fully.

2. *V. Tulasamma v. V. Sessa Reddy (1977)*

- Reiterated that property given to a female Hindu, even under a settlement or maintenance right, would be her absolute property.

Judicial Interpretation in the Context of Dayabhaga School:

Post-Hindu Succession Act:

- As Dayabhaga is more aligned with individual inheritance, courts easily integrated statutory provisions.

Major Case Laws – Dayabhaga Context

1. *Bhagabati Dasi v. Ananda Mohan Lahiri (1909)*

- Calcutta High Court upheld widow's right to inheritance in her husband's property.
- Reinforced spiritual benefit theory as justification for female inheritance.

2. *Sailendra Narayan Bhanja Deo v. State of Orissa (1956)*

- SC clarified that self-acquired property under Dayabhaga devolves not through survivorship, but by succession.

- Reinforced the individual ownership principle.

3. *Radha Kumari v. Dy. Director of Consolidation (1994)*

- Allahabad HC reaffirmed that even under Dayabhaga, female heirs can inherit self-acquired property equally after codification.

Judicial Contribution to Women's Rights in Property:
Judicial reforms have been instrumental in:

- Expanding women's rights under Section 14 of the Hindu Succession Act, 1956.
- Interpreting Stridhan as absolute property.
- Supporting the constitutional mandate of equality (Article 14).
- Harmonizing religious law with modern principles of justice.

VIII. TRADITIONAL LAW AND THE MODERNIZATION OF HINDU LAWS REGARDING PROPERTIES

The modernization of the Hindu laws regarding property is a significant and transformative process in the Indian legal history. It represents the shift from the traditional Hindu law—rooted in the ancient scriptures and patriarchal customs—to a more codified, equitable, and secular legal framework. This transformation is largely driven by the colonial and the post-colonial legislative efforts, judicial interpretations, and socio-political movements etc demanding equality, particularly for women.

Key Features of Traditional Hindu Property Law

a. *Types of Property:*

- Ancestral property: Inherited up to four generations.
- Separate (or self-acquired) property: Earned or acquired by a person independently.

b. *Succession Rules:*

- Only male heirs were generally eligible.
- Primogeniture (preference for eldest male) sometimes practiced.
- Stridhan: Property gifted to a woman (in marriage, etc.) was her own, but its control often lay with her husband or in-laws.

c. *Rights of Women:*

- Women were largely excluded from inheritance.
- Widows could only enjoy a life interest (limited estate) in property, not full ownership.
- Daughters had no birthright in ancestral property.

Colonial Influence and Reform

During British rule, the British adopted a policy of non-interference in personal laws, but:

- Courts were often called to adjudicate based on ancient texts.
- This led to inconsistent application due to varied interpretations.

- British judges began compiling digest versions (e.g., Macnaghten's Digest) for uniformity.

Key Impact:

- Anglicization of Hindu law: Systematization and textual emphasis rather than reliance on living customs.
- Colonial codification laid the groundwork for later statutory reform.

Modernization and Codification: Post-Independence Reforms

After independence, there was a push to reform and codify personal laws to promote equality and eliminate discrimination.

a. Hindu Code Bills (1950s) – Major Milestone

A set of legislative reforms aimed at modernizing Hindu personal law. Despite political opposition, several key Acts were passed:

i. Hindu Succession Act, 1956:

- Abolished the traditional Mitakshara rule favoring male heirs.
- Introduced a uniform and secular inheritance framework for Hindus, Buddhists, Jains, and Sikhs.
- Women became full owners of property, not just life-interest holders.
- Introduced Class I heirs including daughters and widows alongside sons.
- Still retained some patriarchal features (e.g., sons continued as coparceners in Mitakshara families).

ii. Hindu Marriage Act, 1955

iii. Hindu Minority and Guardianship Act, 1956

iv. Hindu Adoption and Maintenance Act, 1956

These collectively represented a radical modernization of traditional Hindu personal laws.

Further Modernization: Gender Equality Focus

a. Hindu Succession (Amendment) Act, 2005 – Landmark Reform

- Gave equal rights to daughters as coparceners in Mitakshara joint families.
- Daughters were given the same birthright as sons in ancestral property.
- Allowed daughters to demand partition, manage joint family property, and become karta (manager) of the Hindu Undivided Family (HUF).

- Applied retrospectively, provided the father was alive on the date of amendment.

Implications:

- Marked a clear break from patriarchal norms.
- Aligned personal laws with constitutional principles of equality and non-discrimination.

Judicial Interpretations and Evolving Case Law

The judiciary has played a pivotal role in shaping modern Hindu property law:

Notable Judgments:

- *Vineeta Sharma v. Rakesh Sharma (2020)*: Confirmed that daughters have equal rights as coparceners, regardless of whether the father was alive in 2005.
- *Danamma v. Amar (2018)*: Daughters entitled to share even if born before 2005 amendment. *Prakash v. Phulavati (2016)*: Earlier view that daughter's rights were prospective, later overruled by *Vineeta Sharma*. Role of Judiciary: Continues to balance tradition with modernity. Reinforces constitutional guarantees of gender justice.

[5] <https://blog.iplayers.in/introduction-to-hindu-law-in-india/>

[6] HINDU SUCCESSION ACT, 2005.

IX. CHALLENGES AND CRITICISMS

Despite legal reforms, implementation remains uneven.

Issues: Lack of awareness among women about their rights. Social stigma around daughters claiming property. Resistance in rural and conservative areas. Delays and complications in judicial enforcement.⁸

XI. CONCLUSION:

A Journey from Patriarchy to Equality, the evolution of Hindu property law is a classic case of legal modernization. From a system deeply rooted in religious patriarchy, India has moved toward a progressive, codified, and gender-just legal framework. However, true modernization is not just legal reform—it also requires social transformation, awareness, and empowerment to ensure that the law serves its purpose on the ground

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