

Coparcenary rights of women

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The coparcenary status given to daughters has been a subject of reform. The aim of the legislation was to ensure non-discrimination between sons and daughters in entitlement to an equal share in coparcenary property. With the latest verdict the SC has sought to give full effect to this intent by setting at rest doubts arising from varying interpretations.

In news: Recently the Supreme Court gave a judgement on the right of Hindu daughters to ancestral property.

Placing it in syllabus: Society- Women rights

Static dimensions

1. Rights for women under Hindu Succession Act 1956
2. Changes made through Amendment of 2005

Current dimensions

1. What is the SC ruling?

Content:

What is the SC ruling?

- In 2015, the Supreme Court in **Prakash and Others vs. Phulavati case** had said that the daughter would not get property rights if the father died before the amendment came into force.
- However, the **recent verdict by SC has clarified that the law is applicable to all property disputes filed before 2005 and pending when the law was framed.**
- The court decided that the amended Hindu Succession Act, which gives daughters equal rights to ancestral property, will have a **retrospective effect.**
- **If the daughter had died before 2005, her children will be coparceners.**

- Since the **right to coparcenary of a daughter is by birth**, it is not necessary that the father should be alive as on September 9, 2005.
- The court has thus overruled an earlier 2015 decision.
- It clarified that an **unregistered oral partition, without any contemporaneous public document, cannot be accepted as the statutory recognised mode of partition.**

Importance of the ruling:

- The **apex court has now categorically ruled that the daughters' right flows from their birth and not by any other factor** such as the existence of their fathers.
- It finds that there is no necessity for a predecessor coparcener to be alive for one to acquire that status.
- It also underscores that the legislation makes it clear that the **daughter's rights are the same "as that of a son"** .

Rights for women under Hindu Succession Act 1956:

- The Hindu Succession Act, 1956 is **enacted to amend and codify the law relating to intestate or unwilled succession** among Hindus, Buddhists, Jains and Sikhs.
- The Hindu woman's limited estate is abolished by the Act.
- Any **property possessed by a Hindu female is to be held by her absolute property and she is given full power to deal with it** and dispose of it as she likes.
- It abolished the female's "limited owner" status.

This Act is **applicable to the following:**

- any person who is a Hindu by religion in any of its forms or developments including a Virashaiva, a Lingayat or follower of the Brahmo, Prarthana or Arya Samaj;
- any person who is Buddhist, Sikh by religion;
- to any other person who is not a Muslim, Christian,

Parsi or Jew by religion unless it is proved that the concerned person would not have been governed by the Hindu Law

Exceptions:

- Any person who commits murder is disqualified from receiving any form of inheritance from the victim.
- If a relative converts from Hinduism, he or she is still eligible for inheritance.
- However, the descendants of that converted relative are disqualified from receiving inheritance from their Hindu relatives, unless they have converted to Hinduism before the death of the relative.

Changes made through Amendment of 2005:

- The Hindu Succession (Amendment) Act, 2005, **amended Section 4, Section 6, Section 23, Section 24 and Section 30** of the Hindu Succession Act, 1956.
- It revised rules on coparcenary property, giving daughters of the deceased equal rights with sons, and subjecting them to the same liabilities and disabilities.

Mould your thought:

1. What are the provisions of Hindu Succession Act, 1956? What is the importance of the latest SC verdict on the 2005 Amendment of the Act?***Approach to the answer:***

- Write down the previous act provisions
- Jot down the changes
- Mention the importance and conclude