

# Daughter's Right to Inherit Joint Hindu Family Property

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The Supreme Court expanded on a Hindu woman's right to be a joint legal heir and inherit ancestral property on terms equal to male heirs. SC held that daughters, like sons, have an equal birthright to inherit joint Hindu family property. The court decided that the **amended Hindu Succession Act, which gives daughters equal rights to ancestral property, will have a retrospective effect.**

## Supreme Court Ruling

A three-judge Bench headed by Justice Arun Mishra ruled that a Hindu woman's right to be a joint heir to the ancestral property is by birth and **does not depend on whether her father was alive or not when the law was enacted in 2005. The Hindu Succession (Amendment) Act, 2005 gave Hindu women the right to be coparceners or joint legal heirs in the same way a male heir does.** "Since the coparcenary is by birth, it is not necessary that the father coparcener should be living as on 9.9.2005," the ruling said.

**The Mitakshara school of Hindu law codified as the Hindu Succession Act, 1956 governed succession and inheritance of property but only recognised males as legal heirs.** The law applied to everyone who is not a Muslim, Christian, Parsi or Jew by religion. Buddhists, Sikhs, Jains and followers of Arya Samaj, Brahma Samaj are also considered Hindus for the purposes of this law. **In a Hindu Undivided Family, several legal heirs through generations can exist jointly. Traditionally, only male descendants of a common ancestor along with their mothers, wives and unmarried daughters are considered a joint Hindu family. The legal heirs hold the family property jointly.**

Women were recognised as coparceners or joint legal heirs for partition arising from 2005. **Section 6 of the Act was amended that year to make a daughter of a coparcener also a coparcener by birth in her own right in the same manner as the son. The law also gave the daughter the same rights and liabilities** in the coparcenary property as she would have had if she had been a son. The law applies to ancestral property and to intestate succession in personal property – where succession happens as per law and not through a will.

The 174th Law Commission Report had also recommended this reform in Hindu succession law. Even before the 2005 amendment, Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu had made this change in the law, and Kerala had abolished the Hindu Joint Family System in 1975.

**While the 2005 law granted equal rights to women, questions were raised in multiple cases on whether the law applied retrospectively, and if the rights of women depended on the living status of the father through whom they would inherit.** Different benches of the Supreme Court had taken conflicting views on the issue. Different High Courts had also followed different views of the top court as binding precedents.

These conflicting views by Benches of equal strength led to a reference to a three-judge Bench in the current case. The ruling now overrules the verdicts from 2015 and April 2018. It settles the law and expands on the intention of the 2005 legislation “to remove the discrimination as contained in section 6 of the Hindu Succession Act, 1956 by giving equal rights to daughters in the Hindu Mitakshara coparcenary property as the sons have”. The court looked into the rights under the Mitakshara coparcenary. **Since Section 6 creates an “unobstructed heritage” or a right created by birth for the daughter of the coparcener, the right cannot be limited by whether the coparcener is alive or dead when the right is operationalised.**