

# Muslim Personal Law (Shariat) Application Act, 1937

March 9, 2023

**In news**– Nearly three decades after they were first married according to religious laws, a Muslim couple in Kerala's Kasaragod registered their marriage under the secular Special Marriage Act.

## **Why is the couple registering their marriage again?**

The couple says this is to avoid their inheritance being split under the Shariat legal code, and to ensure only their three daughters can be their legal heirs as per civil law.

## **Muslim Personal Law (Shariat) Application Act, 1937-**

- **Inheritance for Muslims in India is governed by this Act.** It is a short statute with five provisions only.
- **This law deals with marriage, succession, inheritance and charities among Muslims.**
- Previously, this Act was not applicable in the North-West Frontier Province as they had their own legislation with divergent traits by the name of NWFP Muslim Personal Law (Shariat) Application Act, 1935.
- But as of now, the Act of 1937 extends to the whole of India as has been provided under Section 1(2) of the Act.
- This legislation that **codifies Shariat recognises two kinds of legal heirs- sharers and residuaries.**
- **A legal heir who gets a share in the inheritance are twelve categories-** (1) Husband, (2) Wife, (3) Daughter, (4) Daughter of a son (or son's son or son's son and so on), (5) Father, (6) Paternal Grandfather, (7) Mother, (8) Grandmother on the male line, (9) Full sister (10) Consanguine sister (11) Uterine sister, and (12) Uterine brother.

- **Residuary heirs can be aunts, uncles, nieces**, nephews and other distant relatives. The value of their share depends on several scenarios.
- For example, a wife takes 1/8 share of her husband's property upon his death if they have lineal descendants. If not, she takes 1/4th share.
- **Daughters cannot inherit more than half of what the sons inherit.**
- **The estate of a Muslim can only pass to a Muslim**, which prejudices the wife or children following another religion.

Under Shariat law, **only 1/3 of the estate can be willed in favour of anyone.** The remaining will still have to be divided as per the complex religious law. Therefore, a Muslim couple has no way under the religious law to make someone their sole heirs.