

WOMEN'S PROPERTY RIGHTS UNDER THE HINDU SUCCESSION ACT

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Abstract:

The legal framework governing Hindu women's property rights in India constitutes one of the most significant and contested domains of gender justice in the post-colonial era. This article critically examines the evolution of these rights from the Hindu Succession Act of 1956 through the transformative Amendment of 2005 and subsequent judicial interpretations. The central argument advanced is that while legislative enactments have progressively dismantled formal barriers to women's property ownership, the translation of these rights into substantive equality remains incomplete due to persistent discriminatory provisions, implementation gaps, and deeply entrenched patriarchal resistance. Through analysis of the Hindu Succession (Amendment) Act, 2005, this article demonstrates how the amendment fundamentally restructured the Mitakshara coparcenary by conferring upon daughter's coparcenary status by birth, thereby placing them on equal footing with sons. The article further examines the judiciary's crucial role in expanding these rights through landmark pronouncements, particularly the Supreme Court's judgment in *Vineeta Sharma v. Rakesh Sharma* (2020), which affirmed the retrospective operation of the amended provisions. However, this research also illuminates continuing challenges, including the constitutionally suspect provisions of Section 15 governing succession to married women's self-acquired property, currently pending constitutional scrutiny before the Supreme Court. Additionally, it evaluates government policies designed to translate legal rights into tangible outcomes for women.

Keywords: Hindu Succession Act, women's property rights, coparcenary, gender equality, Section 6 amendment, Vineeta Sharma case, Section 15 discrimination, government policies

1.1. Introduction

The relationship between women and property in Indian society has historically been characterized by systematic exclusion, legal subordination, and economic dependency. Property ownership constitutes not merely an economic asset but represents the foundational basis for autonomy, dignity, and meaningful participation in social and political life. For women, access to property determines bargaining power within households, provides exit options from abusive relationships, and fundamentally shapes intergenerational wealth distribution. The Hindu Succession Act, therefore, occupies a critical position at the intersection of gender justice, constitutional rights, and social transformation.

Prior to colonial intervention, Hindu succession was governed by a complex web of customary practices. The Mitakshara school, prevailing throughout most of India, restricted inheritance by birth to male descendants across three generations, creating an exclusive male lineage from which daughters were permanently barred. This exclusion ensured that family wealth remained concentrated in male hands while women received only maintenance rights or limited shares upon partition. The Dayabhaga school, followed in Bengal and Assam, presented a somewhat different framework but similarly failed to grant women equal inheritance rights.

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The codification of Hindu personal law in the 1950s represented a watershed moment. The Hindu Succession Act of 1956 emerged from prolonged parliamentary debates and represented a delicate compromise between reformist impulses seeking gender equality and conservative resistance determined to preserve traditional patriarchal structures. While the Act made significant progressive strides, particularly through Section 14 which transformed women's limited estate into absolute ownership, it simultaneously preserved the most glaring gender discrimination by leaving the Mitakshara coparcenary intact.

This article traces the journey from this compromised equality to the revolutionary amendment of 2005 and beyond, while critically examining the unfinished agenda that remains. It scrutinizes the legislative enactments, judicial oversight, persistent challenges, and government policies designed to translate legal rights into tangible outcomes for women across India.

1.2. Legal Dimensions: The Framework of Hindu Succession

1.2.1. The Hindu Succession Act, 1956: Foundations and Limitations

The Hindu Succession Act of 1956 represented the first comprehensive codification of Hindu inheritance law, applicable to all Hindus regardless of sectarian affiliation. Section 14 of the Act stands as its most unequivocally progressive provision, declaring that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner thereof and not as a limited owner. This provision abolished the distinction between *stridhana* (woman's property) and the limited *woman's estate*, granting women absolute ownership rights over property they possessed. However, the progressive momentum of Section 14 was significantly undercut by the Act's treatment of coparcenary property. Section 6, dealing with devolution of interest in Mitakshara coparcenary property, employed a legal fiction that preserved male privilege while appearing to grant women something. Under the original provision, when a male Hindu died having an interest in coparcenary property, his interest would devolve by succession rather than survivorship only if he left behind female heirs specified in Class I of the Schedule. Even then, the daughter received only a share in her father's notional share, not coparcenary status itself, while her brothers continued as coparceners unaffected.

1.3. The Concept of Coparcenary and Its Patriarchal Origins

The Mitakshara coparcenary was inherently patriarchal, traditionally excluding women from ownership and management of joint family property. A coparcenary consisted of the paternal ancestor and his male descendants down to three generations—son, grandson, and great-grandson. These male members acquired an interest in coparcenary property by birth, not by succession, meaning their rights vested automatically upon birth rather than awaiting the death of the previous owner.

A daughter, though a member of the family and entitled to maintenance and marriage expenses, possessed no coparcenary rights. She could not demand partition, could not become Karta (manager) of the Hindu Undivided Family, and had no inherent right to ancestral property. Her relationship to family wealth was contingent and derivative, depending entirely on the death of her father or a partition between male coparceners.

1.4. Stridhan: Woman's Absolute Property

The concept of Stridhan has ancient roots in Hindu law, encompassing gifts received by a woman before marriage, at the time of marriage, after marriage, during childbirth, or during widowhood. Prior to the Hindu Succession Act, despite formal recognition of Stridhan, women were still required to seek their husband's consent before disposing of such property.

The Hindu Succession Act, 1956 fundamentally altered this position by granting women absolute rights over Stridhan. Section 14 now ensures that any property acquired by a woman from various sources—including gifts received at different life stages, property received as a share during partition, property received as maintenance, inherited property, and self-acquired property—shall be considered the woman's absolute property unless otherwise stipulated. Various laws now protect a woman's right to Stridhan, including the Protection of Women from Domestic Violence Act, 2005, and Section 27 of the Hindu Marriage Act, 1955.

1.5. Legislative Enactments: The Transformative Amendment of 2005

1.5.1. The Hindu Succession (Amendment) Act, 2005

The movement toward comprehensive reform gained momentum in the 1990s, culminating in the Hindu Succession (Amendment) Act, 2005, which came into force on September 9, 2005. The Law Commission of India played a pivotal role through its 174th Report in 2000, which argued persuasively that the distinction between sons' birth right and daughters' inheritance rights violated fundamental constitutional guarantees of equality and non-discrimination.

The amended Section 6 fundamentally restructured Hindu inheritance law. Sub-section (1)(a) establishes the core right: "On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall, by birth become a coparcener in her own right in the same manner as the son".

This language is unequivocal and transformative. The daughter's right arises by birth, not by succession, and is therefore automatic and independent of any subsequent events. Sub-section (1)(b) ensures complete parity: the daughter shall "have the same rights in the coparcenary property as she would have had if she had been a son." Sub-section (1)(c) imposes corresponding liabilities, ensuring that the daughter shall be "subject to the same liabilities in respect of the said coparcenary property as that of a son".

Key Provisions of the Amended Section 6

The amended Section 6 contains several crucial provisions:

Sub-section (2) provides that any property to which a female Hindu becomes entitled by virtue of sub-section (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded as property capable of being disposed of by her by testamentary disposition.

Sub-section (3) establishes that where a Hindu die after the commencement of the 2005 Amendment, his interest in coparcenary property shall devolve by testamentary or intestate succession and not by survivorship. The daughter is allotted the same share as is allotted to a son, and the coparcenary property shall be deemed to have been divided as if a partition had taken place.

Sub-section (4) abolishes the doctrine of pious obligation, providing that no court shall recognize any right to proceed against a son, grandson, or great-grandson for recovery of any debt due from his father, grandfather, or great-grandfather solely on the ground of pious obligation.

Sub-section (5) provides a savings clause, stating that nothing contained in this section shall apply to a partition which has been effected before December 20, 2004. The explanation clarifies that "partition" means any partition made by execution of a deed of partition duly registered under the Registration Act, 1908, or partition effected by a decree of a court.

Removal of Ancillary Disabilities

The 2005 Amendment also deleted Sections 23 and 24, removing provisions that had long symbolized legislative discrimination. Section 23 had barred female heirs from seeking partition of the dwelling house until male heirs chose to divide their shares, effectively giving male relatives veto power over women's access to family homes. Section 24 had disentitled a widow from inheriting if she remarried, a provision applying only to female heirs.

State-Level Variations: The Kerala Exception

The law of succession falls under the Concurrent List, enabling both Centre and States to legislate on it. Kerala enacted the Kerala Joint Hindu Family System (Abolition) Act, 1975, which abolished the concept of the joint Hindu family and the coparcenary system entirely. As a result, in Kerala, all property devolves through succession rather than survivorship, and daughters were already treated as equal heirs by virtue of the abolition. This created a distinct legal landscape where Section 6 of the 2005 Amendment operates differently, as there is no coparcenary property to which it could apply.

1.6. Judicial Oversight: Expanding the Horizon of Equality

1.6.1. Early Interpretations and the Retrospectivity Conundrum

The 2005 Amendment, despite its clear language, immediately generated litigation regarding its retrospective application. The central questions were whether daughters born before 2005 acquired coparcenary rights, and whether the father-coparcener needed to be alive on September 9, 2005.

In *Prakash v. Phulavati* (2016), the Supreme Court held that the rights conferred by the 2005 Amendment were prospective and applicable only to "living daughters of living coparceners" as on September 9, 2005. This meant that if a daughter's father had died before the amendment came into force, she could not claim coparcenary rights even if the property remained undivided and in the hands of male coparceners who were alive on the amendment date.

However, in *Danamma @ Suman Surpur v. Amar* (2018), the Court granted rights in coparcenary to a daughter whose father had died much before September 9, 2005, creating a divergence of legal opinion that required resolution by a larger bench.

1.6.2. The Landmark *Vineeta Sharma v. Rakesh Sharma* (2020)

On August 11, 2020, a three-judge bench of the Supreme Court delivered the definitive judgment in *Vineeta Sharma v. Rakesh Sharma*, fundamentally reshaping the legal landscape. The Court overruled *Phulavati* and held that a Hindu daughter's right to be a coparcener is by birth and does not depend upon her father being alive as of September 9, 2005.

The Court clarified the distinction between retroactive and retrospective operation. The amendment was not creating a new right but recognizing and giving statutory force to a right that existed by birth. Since the right itself arises from birth, any daughter born to a coparcener, regardless of when she was born, possesses that right in principle. The amendment merely removed the legal disability that prevented its enforcement.

The Court further held that the provisions of the substituted Section 6 confer the status of coparcener on a daughter born before or after the amendment with the same rights and liabilities as a son. The only limitation is that the amendment does not reopen final and concluded partitions that were effected through registered partition deeds or decrees of court before December 20, 2004.

1.7. Implications of the *Vineeta Sharma* Judgment

The *Vineeta Sharma* judgment had several far-reaching implications:

- **Retroactive Application:** Daughters can claim coparcenary rights irrespective of when they were born, although rights are effective from September 9, 2005.
- **Right to Become Karta:** Daughters can now become Karta or Manager of the Hindu Undivided Family if they are the senior-most coparcener, a position previously limited to male members.
- **Right to Demand Partition:** Daughters can demand partition and alienate their share, with claims tested like other partition claims.
- **Recognition of Only Formal Partitions:** Only partitions made by execution of a registered deed or by court decree are recognized as concluded partitions protected from reopening.

1.8. Judicial Clarifications on Related Issues

In *Ganduri Koteswaramma v. Chakiri Yanadi* (2011), the Supreme Court held that a preliminary decree does not reflect a final partition. If supervening circumstances occur necessitating change in shares before the final decree is passed, there is no impediment for the court to amend the preliminary decree or pass another preliminary decree to grant daughters their rightful share.

However, the interpretation of Section 6(4) regarding the doctrine of pious obligation has raised concerns. The Supreme Court in *Vineeta Sharma* ruled that under the proviso to Section 6(4), daughters are liable in the same manner as sons to pay debts of their father contracted before the commencement of the Act. Critics argue that this interpretation may defeat the purpose of the amendment, which was intended as right-enabling legislation focusing on providing equal rights rather than imposing equal liabilities.

1.9. Challenges: The Unfinished Agenda

The Section 15 Conundrum

While Section 6 now provides equality in coparcenary property, Section 15 governing succession to Hindu women's separate property continues to embody discriminatory assumptions. Section 15(1) states that if a married woman dies intestate, her property first devolves to her children and her husband; in their absence, it devolves to the heirs of the husband; and only in their absence does it pass to the deceased woman's own parents.

Section 15(2) establishes a "source rule" providing that property inherited by a woman from her husband will pass down to her husband's heirs, and property inherited from her father will revert to her father's heirs. Notably, even property she inherits from her mother reverts to her father's heirs.

The discrimination becomes starkly apparent when juxtaposing Section 15 with Section 8, which governs intestate succession of a Hindu male's property. While a Hindu male's mother and father are among the first few heirs, a Hindu woman's parents only acquire the same right after the right of her husband's heirs is extinguished. Critically, there is no reciprocal provision in Section 8 for the wife's heirs inheriting the husband's property whatsoever.

1.10. Constitutional Challenge to Section 15

The constitutional challenge to Section 15 is currently pending before the Supreme Court in *Kamal Anant Khopkar v. Union of India* (2018). Senior Advocate Meenakshi Arora, appearing for the petitioners, has argued that the Hindu Succession Act creates two different regimes for succession for Hindu men and women, and that Section 15 discriminates against the parents of the deceased woman.

The case of *Omprakash v. Radhacharan* (2009) powerfully demonstrates Section 15's injustice. A woman who had been thrown out of her matrimonial home after becoming a widow just three months into marriage was educated and supported entirely by her parents throughout her life. Upon her death intestate, applying Section 15, the Supreme Court held that the property would go to her husband's nephew as heir of the husband, leaving her own mother, who had cared for her through illness and supported her financially, with nothing.

1.11. Constitutional Vulnerability of Section 15

Article 14 of the Indian Constitution guarantees equality before the law and equal protection of laws. When a law differentiates between classes of people, it must pass the "reasonable classification" test, requiring that such differentiation be (1) based on intelligible differentia, (2) have a rational nexus with the objective of the Act, and (3) not be arbitrary, serving substantive equality.

Section 15's primary basis of distinction is sex—it applies differently to women combined with their marital status. This is not a neutral kinship-based category but an explicitly gendered classification resting on outdated notions of marital relations. Under the standard laid down in *Anuj Garg v. Hotel Association of India* (2007), gender-based differentiation triggers strict scrutiny and must be justified with a tightly tailored objective; tradition and social norms simply do not suffice.

1.12. Implementation Barriers

Beyond legislative challenges, significant implementation barriers persist. Many women, particularly in rural areas, face immense pressure to relinquish their claims in favour of brothers. Revenue officials responsible for maintaining land records often lack awareness of the amended law or are influenced by patriarchal biases. The cost and complexity of litigation place justice beyond reach for most women.

1.13. Government Policies: Bridging the Gap Between Law and Reality

1.13.1. Pradhan Mantri Awaas Yojana-Gramin (PMAY-G)

One of the most significant policy interventions to enhance women's property rights has been through the rural housing scheme, Pradhan Mantri Awaas Yojana-Gramin (PMAY-G). The scheme guidelines provide for sanctioning of houses in the names of women, or jointly with their husbands, except for cases involving widows, separated, unmarried, or transgender individuals.

An advisory has been issued stating that all houses under PMAY-G should include names of women members of the household in sanction details/ownership details (either solely or in joint ownership). Female members may be added as secondary owners in sanction letters where initial sanction has already been given in the name of male members.

As of December 13, 2024, out of 2.68 crore completed houses under PMAY-G, 72.66 lakh houses are registered solely in the name of women, and 1.22 crore houses are jointly owned by both husband and wife. This means 1.95 crore houses, or an impressive **73%** of all completed homes under the scheme, are owned by women.

1.13.2. Deendayal Antyodaya Yojana-National Rural Livelihoods Mission (DAY-NRLM)

The DAY-NRLM assists Self-Help Groups (SHGs) in obtaining loans from banks, which members utilize for various purposes including promoting their businesses. Since the inception of this Mission, a total of **₹9.74 lakh crore** in bank loans has been disbursed to women-led SHGs. The Mission has mobilized 10.05 crore rural households into 90.87 lakh SHGs across the country.

PMAY-G beneficiaries, particularly women, are linked with livelihood initiatives through SHGs under DAY-NRLM, fostering financial inclusion and creating employment and entrepreneurial opportunities for women.

1.14. Linkages Between Housing and Livelihood

Women beneficiaries of PMAY-G are associated with Self Help Groups for livelihood and employment opportunities, creating synergies between housing security and economic empowerment. This integrated approach addresses both the immediate need for shelter and the longer-term goal of financial independence.

1.14.1. Policy Impact Assessment

The PMAY-G initiative exemplifies a balanced approach to rural development by addressing both housing needs and socio-economic empowerment, especially for women. The scheme has not only advanced rural infrastructure but also bolstered women's roles in household ownership and financial independence. As India moves towards the 2029 target of 4.95 crore houses, the synergy between PMAY-G and DAY-NRLM initiatives will continue to play a transformative role in uplifting rural communities.

1.14.2. State-Level Policy Initiatives

Several states have undertaken parallel policy initiatives to safeguard women's property interests. In Maharashtra, the state government decided to grant ownership rights of land to women along with men when regularizing slum areas, based on concerns about men selling ownership rights without informing their wives, leaving families homeless. The policy also provided that in families without a woman, children's names would be added, and in households without a man, only the woman's name would be registered.

1.15. Conclusion

The journey of women's property rights under the Hindu Succession Act embodies both the possibilities and limitations of legal reform as a tool for social transformation. The 2005 Amendment, vindicated and expanded by the *Vineeta Sharma* judgment, represents a legislative achievement of historic proportions. By recognizing daughters as coparceners by birth, it dismantled a legal structure that had excluded women from ancestral property for centuries and aligned Hindu law with constitutional guarantees of gender equality. Government policies have begun to complement these legal reforms. The Pradhan Mantri Awaas Yojana's emphasis on women's ownership, with 73% of completed houses now owned by women, represents a significant step toward translating legal rights into tangible outcomes. The integration of housing initiatives with livelihood support through DAY-NRLM creates pathways for economic empowerment beyond mere property ownership.

Yet significant challenges persist. Section 15's discriminatory framework continues to privilege in-laws over parents in intestate succession, embodying the antiquated presumption that a woman has no family of her own and "belongs" to either her father's or husband's family. The constitutional challenge in *Kamal Anant Khopkar* offers an opportunity to complete the unfinished agenda and remove this lingering discrimination.

The effective implementation of existing laws and policies requires sustained effort. Legal literacy programs, training of revenue officials, and gender-disaggregated data collection are essential complements to the substantive legal framework. The struggle for women's property rights is ultimately a struggle for recognition of women's equal personhood—their equal capacity to own, to manage, to inherit, and to bequeath. The law has created the framework, and policies have begun to build the bridge. The task now is to ensure that every woman can cross it.

1.16. References

1. Arora, K., & Bansal, D. (2024). Evolution of property rights of a Hindu female - An analysis under the Hindu Succession Act, 1956. *Panjab University Law Review*.
2. Hindu Succession Act, 1956, § 6, as amended by the Hindu Succession (Amendment) Act, 2005.
3. Supreme Court Observer. (2024, November 6). *Section 15 of the Hindu Succession Act / Day 1: Provision discriminates against Hindu women, petitioners argue*.
4. Srivastava, S. (2025, July 19). Resurrecting the repugnancy: The Kerala HC's misreading of coparcenary law. *Live Law*.
5. Ministry of Rural Development, Government of India. (2024, December 17). *Financial support for rural women*. Press Information Bureau.
6. Dharwadkar, S. (2025, August 18). The gendered legacy of inheritance: Rethinking Section 15 of the Hindu Succession Act, 1956. *Vidhi Centre for Legal Policy*.
7. Pradhan, D. (2024, October 10). The fallout of hasty deletion of pious obligation in Vineeta Sharma v Rakesh Sharma & Ors (Part 1). *The RMLNLU Law Review Blog*.
8. Elets eGov. (2024, December 18). 2.68 crore rural houses completed under PMAY-G scheme, women ownership at 73 per cent. *Elets eGov*.
9. Bhakuni, R. S., & Choubey, B. C. (2024). Rights of Hindu women in coparcenary property: Legal reforms and contemporary challenges. *Lex localis - Journal of Local Self-Government*.
10. SCC Online. (2026, February 3). Daughters' property rights under Hindu law - Before & after 2005 amendment. *SCC Online Blog*.



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