

Explained | Hindu daughters can inherit father's property even if he doesn't leave behind a will

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The Supreme Court on January 21 made it clear that Hindu daughters would be entitled to inherit the property of their father in the absence of any other legal heir; they would receive preference over other members of the family in inheriting the property even if the father does not leave behind a will.

A bench of the top court also said if a Hindu woman dies intestate without leaving any issue, the property inherited by her from her father or mother would go to the heirs of her father; the property inherited from her husband or father-in-law would go to the heirs of the husband, it said.

While the judgment set out to clear misconceptions about succession rights of Hindu daughters to their fathers' self-acquired property, it may open up the gates to litigation flowing from cases where daughters were not given their due share, legal experts told Moneycontrol.

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Matters relating to succession rights to a Hindu father's property are governed by the Hindu Succession Act, 1956.

What does the judgment mean?

The court has held that the self-acquired property of a Hindu man shall not devolve by survivorship but by succession and female heirs—wife and daughter—shall be entitled to inheritance/succession even before 1956, when the Hindu Succession Act was enacted.

What this means is that “wherever the female heirs are being denied succession for the period prior to year 1956 on the ground of succession by survivorship, shall become entitled to succession and will bring much desired relief to female legal heirs,” explained Sunil Tyagi, senior partner at Zeus Law, a commercial law firm.

The court, among other things, has analysed the right of a sole daughter to inherit the property of a father who died intestate prior to the enactment of the Hindu Succession Act.

The court went into the sources of Hindu laws and several judicial pronouncements and upheld the right of a daughter to her father's property. This is in line with a string of judgments which have reiterated the right of a female Hindu to inherit property, said Avikshit Moral, partner at IndusLaw.

What did the court order say?

If the property of a male Hindu dying intestate (without a will) is self-acquired property or obtained in the partition of a coparcenary or a family property, it would devolve by inheritance and not by survivorship, and the daughter of such a male Hindu would be entitled to inherit it in preference to others (such as sons/daughters of brothers of the deceased father), a bench of justices S Abdul Nazeer and Krishna Murari said in a 51-page order.

The bench also said that if a female Hindu dies intestate without leaving any issue then the property inherited by her from her father or mother would go to the heirs of her father, whereas the property inherited from her husband or father-in-law would go to the heirs of the husband.

The basic aim of the legislature in enacting Section 15(2) (of the Hindu Succession Act) is to ensure that inherited property of a female Hindu dying issueless and intestate goes back to the source, the judgment said.

The judgment came on an appeal filed by the legal heirs of Arunachala Gounder; it set aside verdicts passed on the case by the Madras High Court and a trial court.

What will be the impact of the verdict?

The decision will be lauded in times to come for treating daughters and sons equally in matters of inheritance and for putting an end to this longstanding question, said Sunil Jain, partner at AnantLaw

“On the one hand, the decision will act as a guiding rule for all lower courts to rule fairly on matter pertaining to property rights of daughters and on the other, it will open up a Pandora's box for litigations flowing up from cases where daughters were not given a share in their father's self-acquired property, since the decision does not deal with prospective or retrospective application of the law laid down,” he added.

Suraj Malik, partner at Burgeon-Legacy Growth Partners, a boutique firm focused on legacy and succession planning, said the Supreme Court had reaffirmed the position that property of a female Hindu dying intestate (i.e without a will) shall first devolve on her own direct heirs.

The only exception is where such a woman does not have direct heirs, the property inherited from her parents shall first devolve on heirs of her father and property inherited from her husband or in-laws shall devolve on the heirs of her husband.

Simply put, the inherited property of a female Hindu dying issueless and intestate goes back to the source and other assets and property go to her direct heirs, said Malik.

The primary issue being dealt with by the Supreme Court was the inheritance of the self-acquired property of a deceased Hindu male who died prior to the legislation of the Hindu Succession Act, 1956, explained Shabnam Shaikh, partner at Khaitan & Co.

The court considered the Hindu customary law and rulings pertaining to succession of the property prior to 1956 and held that the law of succession under the Hindu law follows the nature of property and of the interest in it.

Of late, the Supreme Court has dealt with cases relating to the rights of Hindu women in matters of inheritance. This is one more matter that required clarity. Hopefully, matters pending at different levels with similar issues could be put to rest with the ruling, said Shaikh.