

Laws of succession

The 2005 Amendment has ensured that women are also given property inheritance rights

Sunil Tyagi
htestates@hindustantimes.com

htestates LEGAL REMEDIES

The rules governing intestate succession of coparcenary property amongst Hindus are codified in the Hindu Succession Act, 1956 (HSA). A person is said to die intestate when he does not leave behind a will. The term coparcenary property is to be understood in the context of ancestral property that is inherited from one's predecessors as per the rules of Hindu Mitakshara law. Section 6 of HSA that dealt with the devolution/succession of interest/share of a male Hindu in coparcenary property was substituted by a new provision in 2005 vide the Hindu Succession (Amendment) Act, 2005 (2005 Amendment).

Prior to the 2005 Amendment, only male members of a Hindu family were recognised as coparceners under Section 6 of HSA. Due to non-recognition of daughters as coparceners, they were excluded from coparcenary property and did not inherit ancestral/Hindu joint family property unlike male members of the same family.

However, the 2005 Amendment has brought about significant changes in inheritance laws vis-à-vis Hindu Mitakshara coparcenary property. The intention of the legislature was to give equal inheritance rights to sons and daughters in Hindu Mitakshara coparcenary property.

With effect from September 9, 2005, a daughter of a coparcener in a joint Hindu family governed by Mitakshara law, is treated as a coparcener in her own right upon her birth, in the same manner as a son. In essence, the 2005 Amendment has brought the inheritance rights of daughters and sons in Mitakshara coparcenary property at par. Further, the 2005 Amendment does not discriminate between inheritance rights of married and unmarried daughters – both shall be recognised as coparceners in the eyes of law.

An interesting aspect of the interpretation of amended Section 6 of HSA arose in the case of Pravat Chandra Patnaik Others v Sarat Chandra Patnaik and Another (2008). Here, it was contended that inheritance rights under amended Section 6 of HSA would only be conferred on daughters born after 2005 and not otherwise. The Orissa High Court stated that this was not the intention of the legislature. Rather, the amended Section 6 recognises a daughter as a coparcener from the year 2005, whenever she may have been born. Delhi High Court has subsequently reaffirmed this.

The declaration in Section 6 that the daughter of a coparcener shall have the same rights and liabilities in the coparcenary property as a son is clear. This right accorded to daughters is absolute, except under two circumstances that are clearly specified in Section 6 of HSA, namely: (i) where the disposition or alienation of the property, including any partition, has taken place before December 20, 2004, or (ii) where testamentary dis-



position of property has been made before December 20, 2004. If the daughter is wrongfully denied inheritance rights in her father's coparcenary property, she may indeed challenge the same in the courts of law.

The 2005 Amendment is a beneficial legislation directed towards eliminating the

discrimination contained in earlier provisions of HSA, by ensuring that daughters and sons have equal inheritance rights in Hindu Mitakshara coparcenary by birth. By doing so, the legislature has done away with the underlying gender discrimination in classical Hindu succession law as it stood

prior to the 2005 Amendment.

The author is senior partner at Zeus Law, a corporate commercial law firm. One of its areas of specialisations is real estate transactional and litigation work. If you have any queries, email us at htestates@hindustantimes.com or ht@zeus.firm.in

Feedback@Facebook

www.facebook.com/HTEstates



(L to R) Rahul Gaur, CMD, Brys Group and Navneet Gaur, director, Brys Group, addressing the media

Brys Group has unveiled its new residential project, Brys Buzz, in Noida. Located in Sector 150, the project is touted to be the tallest residential tower in North India, as per the company's claims. This 81-story tower (292 metres in height) will be designed by Tonino Lamborghini CASA of Italy. It will include home automation system and impeccable craftsmanship while conforming to stringent international green building norms. Spread over an area of 7.5 acres, the tower will comprise 2 BHK-plus study, 3BHK (gold), 3BHK (platinum), 3BHK vilas, 3BHK duplex (platinum), 4BHK, 4BHK duplex, 5BHK duplex, 6BHK and 6BHK duplex units. The size of the apartments range from 3,000 sq ft to 8,250 sq ft, and the price of apartments starts from ₹12,500 per sq ft. The prominent features of the building are six levels at the top for social activity: sun decks, terraces and balconies, private plunge pools and terrace gardens. The five-star luxury services would be managed by the hospitality division of Brys Group. Other features of the tower include one of the highest observatory decks in north India, plush lounge and jogging track with a viewing gallery. All areas of the project are elderly and differently-abled friendly.

Find us on www.twitter.com/htestates1

@EY_India
Basic success factor for #smartcities is integration of public services and amenities Retweeted by HTEstates

@cushwakeAsia
C&W feels housing change the future of India's economic growth. http://bit.ly/HI03Bc7 Retweeted by HTEstates

HT ESTATES QUIZ OF THE WEEK

Answer the following questions and win a prize. The answers can be found in this edition

Q1 What is HSA?
Q2 Where is RG Residency located?
Q3 Who is Monika Khanna Wadhwa?

Win a voucher worth ₹1000 by Home Town by posting your answers on www.facebook.com/HTEstates

HomeTown
The Art Of Better Living

To enter the contest, readers are required to like the HTEstates Facebook page and send their email ID, contact details including mobile and landline numbers and complete postal address

Last week's winner is: **ABHISHEK ANAND**

Continued from page 01

Trumpeting India's new prime minister



with Dubai-based Damac properties to construct The Trump International Golf Course and 104 exclusive Trump Estates villas and mansions.

Akoya Park is spread over 400,000 square metres and it offers a variety of ultra-luxury residential options with facilities such as an 18-hole championship golf course, training academy with hi-tech equipment, Trump branded and managed clubhouse, four international standard tennis courts among various other things.

As far as Trump's India story is concerned, till now he has only licensed his brand for a hefty fee to two Indian real estate developers – the Lodha Group and Panchshil Realty which are constructing Trump Towers in Mumbai and Pune, respectively. His earlier attempt to sell his brand to Indian developers failed due to regulatory hurdles.

Asked if he wants to make an actual investment in India, Trump says, "It's very hard to buy land in India. There are things that make India very difficult as a place to invest and do things."

However, he says that he is looking for something in particular in India that he doesn't want to disclose just yet,

"India is one place that's very high on my list," says Trump

"because whenever I reveal details of any deal, everybody goes there and then it becomes a crowded market and then it takes the deal away from me. So I like to talk about the work that is done. But yes, we have some serious things in mind."

So is there any real estate company he wants to tie up with in India? He answers, "I won't mention their names right now but we have some great friends in India who we want to do business with."

Asked if the brand name

Trump is the biggest pull for Indian investors in Dubai and anywhere else, he answers in the affirmative, saying, "I have a great relationship with people from India. I have many people living in Trump Towers and Trump International Hotels. They know that with brand comes best location, best job and best quality. I won't put my brand if I don't get the best location. We are very careful about what we do because you can destroy a brand very quickly if you don't do the right thing."

Continued from page 01

LIFE BEGINS @ 60

"The ideal scheme for senior citizens would be one in which they are taxed only for the differential amount and not as per the indexation, as is the current practice. Moreover, differential revenue from such proceeds should ideally be extended to investments in high return tax-free bonds, which could prove to be a big relief for the aged, offering a good yield for the money gained," says Anshuman Magazine, chairman & MD, CBRE South Asia Pvt Ltd.

"The government should necessarily provide more benefits and regulation relaxations for senior citizens, while disposing of their house properties. One

way forward could be to completely remove the long-term capital gain tax, in case they were to re-invest in bonds within a stipulated period, which might fetch good yields. An increase in income tax exemption limits could also be another actionable policy to help senior citizens," he adds.

According to Monika Khanna Wadhwa, senior manager, transaction tax, Ernst & Young, most of the senior living products are on a 60-year lease and do not offer purchasing ownership right and therefore do not qualify for exemption under section 54. The challenge here is that people are not buying into

a home but paying a long-term lease rental upfront for at least 60 years.

There should be some tax incentives given to both the buyer and the developers building senior living projects. The overall financial structure needs to be improved. Banks should come up with innovative schemes for financing these projects.

Kenneth Sannoo, director, community development, Antara senior living that has a ₹520 crore project coming up in Dehradun, says, "A seniors body should be set up to look into such issues. Right now the mortality rate is close to 85 years and assuming that it will remain so for the next few years, the need of the hour is a fairly holistic product under this asset class linked to medical insurance schemes."

htestates
CHEQUE BOOK
Harsh Roongta

I am 38 years old and my monthly salary is ₹16,000. I wish to buy land and construct a house on it. How much loan can I get and which bank is a good option?

—Suresh Gupta

You can take a composite loan for self-construction of a house. The loan is given for the purpose of financing cost

of land as well as cost of construction on such a plot. The lender normally requires documents for proof of income, identity, residence for the home loans. The lender will also insist on documents relating to title of the plot being purchased. You will also have to submit an estimate of the total cost of construction, duly certified

by an architect/civil engineer. While granting the loan, the lender will consider the cost of the plot to you or the current market value, whichever is lower. You will have to commence the construction within a reasonable time after purchase of the plot. The lender will determine eligibility for home loan based on the total

cost comprising construction cost and cost of the plot. The loan will be released in parts, based on the progress of the construction. However, you will have to bring in your contribution in full before the lender disburses the loan.

Harsh Roongta is CEO, Apna Paisa. He can be reached at ceo@apnapaisa.com

TO-LET

SOUTH DELHI

ANAND Niketan E-30, G.R. Fir, 3 Bedrooms, drawing/dining, pvt. facing avail for immediate rent. Siddiqui Estates Consultant (M) 9810265671.

1500 sq ft 2 bhk of independent semi flr flat at freedom fighter enclv ignou rd nr saknet metro, suits office/resi. park owner 9810473193

COMM/OFFICE space available in okhla Ph-1, Extn loc 5 fr 1100sqft with Glass Elevation & Schindler Lift Rent individual floors/building # 9910888217.

GK-1 FF, SF, 3rd Flr, Modern, fully furnished. Lift & still parking @ Nehru Place 452 sqft furnished & 380 sqft unfurnished. Owner: 9810178140.

DEFENCE colony C-5, 3rd floor, exclusive terrace, 3BHK, Serv. van room, parking, lift, store, semi furnished. Cont: Bakshi 9956215000, 41552872.

HAUZ Khas Enclave: 3-4 Bedr, 2BR, Drawing/Dining, modern fitting, parking, park facing, Air Conditioners, Nice Location, Dheera Nathani 9654329909.

JANGPURA Extn., 1st floor, 2BR, Drawing/Dining, Corner, fully furnd, Modern, Suits Foreigner Lady Extn. 80,000 p.m. Contact : 9858479005

OFFICE Jasola Bani Fern Corp-1, 2245 Sft, East fac, Fully Furn. Centrally AC, Natural Lighted, 6 Lifts in Building, 24 Hrs Security. Owner 9810040681

SDA C-3/10 1st floor 3 BHK, D/D, Family lounge, Mod. kitchen, large balcony, private terrace, marble floors, servant's room, Cont Ph 24632796- Khanna.

CONTACT Kajal/ Anil Makhijani for flats/houses/bunglows/farm houses. # 29835250/29843023 Visit www.makrealtors.com Email: mrp@makrealtors.com

CWG Akshardham 34/5 B/R, DD, SO @ 40K-50K, SDA 5 SR DD/SO Duplex Kothi for Rent @ 2Lac & also many more options # 7838871113

DRAWING Two Beds kitchen one bath AC in all rooms PNG inventor car parking 2nd floor at Y-83 Hauz Khas Phone : 9810288985

INDEPENDENT 5BHK Villa E-94 GK-1 New Construction. Designer garden, Modular kitchen, A/C's & home appliances including 22.25 lac (Negotiable). 9868707674.

AVAIL. 3 Indep. Floors, Each flr with 3 BR, att. bath, DD & Kitchen. Suits Professionals, Doctors, CA, Engr. Consultant Firm in Kalkaji (Mix Land Rd.) Owner: Khanna 9810155510

EAST of Kailash for Rent FF, SF, FF in new bldg. 400 yds P-block corner plot, large 4BHK, premium fittings, Italian Marble, Luxury Modular kitchen, home appliances, AC, lift, Still Car Park, SO, Rent 1.75 lac /Flr., Ideal for experts/ MNC/embassy # 965092779

VASANT VIHAR
3 B/R'S
With Swimming Pool

Second floor apartment with independent entrance, huge living/dining and modern kitchen. All Italian marble and teak. 100% Generator back-up and fully air conditioned. Exclusive terrace with Swimming Pool, water softening plant, Stabilized supply.

Contact: Mr. SUNIL
9350350794

S-240, GK-1, GF, 204 Yds. 3 Bed D/D, 3 bath, SO, also GK-2, GF, SF 3 Beds D/D, 3 Bath, Each fl. & K-2143, C.R.Park, G. 3 Bed, 2 Bath, D/D. # 9910179904

SOUTH Extension Park-1, First Floor 200sq. Yds. 3Bedrooms, D/D, Modular Kitchen & Bathrooms, Co. lease preferred, Contact: 24618980, 41036270.

PANCHSHEEL Enclave 4 beds, best construction, newly built. GF @ 125 & F.F @ 110 G.K. 4Beds F.F, furnished rent @ 125 # 9810060323

EAST Of Kailash F Block Main Rd Brand New SF 3 Beds Att. Baths D/D, With AC, S.O.A. Pkg, vastu perf., suited for MNC/ Foreigner, Cont: 9810218827

SAFADARJUNG Encl., B 431, top flr, with terr, 4BHK, DD, 5 toilet, Mod. Kitchen, P/Back up, car, S.O. # 9810619397, 9828229232

VASANT Kunj 3bed, 3bath+ study, flring, sun fac. Ample pkg. complete, renovated ready to move P/co lease other 2/3 beds optn also avail. # 9811213804

VASANT vihar. a fully furnished room on GF & an annex on SF. Both attached with a bathroom & a kitchen. separate entrance Ph no. 9800778441/011-26142972

SAKET, UGF, 3 side open, East Face, 4 BHK, Furnished, Modular Kitchen, Reserved Parking, SO, Nr Metro Station, Pref. Corporate / foreigner. 9873334477

FOR Rent Farm palatial 9000 ft super A construction, all AC. Genset backup, ideal location, occupied ambassador embassy Corp. MNC Cont: 9818553380

GK Encl-2 Semi furnished TF 3BR DD Lobby attach bath Split AC power Fung Lift SO CTV power backup Pring Foreigner, MNC lease pref. # 9868110892

AVAILABLE for Rent 5 Bed Room Apartment with attached Bath Room 1 Car Park, Recently Painted, Excellent Location, Contact : 0129-4175963

SDA, Market commercial 2nd Floor rented property 1400 sq. ft. for sale optn. IIT main Gate facing main Road, 40 ft front prime location. 9810038578

G.K.-1, E-345, New con., 3rd flr, 3BR D/D, kit, lobby, lift, AC, ser. Ctr., parking, Corner House near park, MNC/ Ltd. Co. lease. Cont. 011-29243752, 9958761966

29 Rajdoot Marg, Chanakyaपुरी fully renovated, GF comprising 2 Bed D/D equipped with AC's, lawn, Suits Expat / Diplomat. Cont D. Salwan: 9810034566

JANGPURA Extn. N-16B Corner indep. house 2 BR (with AC) DD terrace S.O. 2 car parking, Foreigner/ Bank/ MNC/ Ltd. Co. lease. Owner 97999970544

SDA, Hauz Khas Village, Exclusi-vely renovated. Metro 2 mins., Pring, 3 side Parks, 3500sq.ft. UG. flr. NGO/art gallery/fashion designer pref. 9871540056

300 Sqyd. 3BHK, servant & store room, FF, 3car parking, 24x7 security, huge prk fcng, close to metro/PO (P-Bk, Malviya Ngr) Owner 99999970544

G.K-1, S-27, Service apartment 1st floor 2BHK @ (80K) & 3BHK + Pooja Room. (Rent @ 70K) with Lift. Fully Furnished Contact Owner: 98110-15720

FOR rent bungalow 4BR, D/D, ba-sement, terrace Grdn Shivajik, Flat 1st floor, 3BR Park, behind Panchsheel Park both like new. M-9891156655, 9711994317

GK-1, lnd floor 4 bedroom with attached bath, D/D, S.O, w/o lift, wide road. Prime location. Co. lease, Owner Ashok #9817833000

ANAND Niketan E-86 3rd floor, 2 Bedroom, DD, AC, lobby furn-45000/- 2nd floor, 3bedroom-90,000/- crr fac park. Owner 9266924598, 9811024598

AVAIL. corner park facing 390 sq yds, GK-2, 4 Bed Room, DD, lnd Floor Designer interiors, prefer short lease. Contact Owner-9811043497

GK-1, 3 Sides open corner with 2 Bed D/D equipped with AC's, lawn, Suits Expat / Diplomat. 2 serv Ctr, MNC/Embassy avl. for Rent # 09815172811

SOUTH Extn-1, First Floor, 3 B/R, D/D, Attached Bathrooms, Modular Kitchen, East Facing, Co. Lease Pref. Contact: 011-41646551, 9313781236

FRIENDS Colony East, 5BR, independant fully furnished, 3 bedrooms Drawing Dining & show room at Five Star Hotel. Call: 9818202583

WESTEND 600 yds, for rent Bmnt + GF, Duplex 5 BRs fitted with 12 AC's, modular Kitchen, 5-6 Car Park & 100% power backup, 9871786758

154 Sukhdev Vihar, Luxurious Second & Third floor consisting of 3 bedrooms Drawing Dining with car pkg & lift, Brokers welcome. # Owner 9810808162

COMMERCIAL 1568 sqft, first floor No. 1 Bassant Lok, Vasant Vihar, opp PVR Priya, corner, overlooking park Contact 98972201953, 09872201989

ELEGANT 1st Floor, Fully Furnished & AC, 3 Bed, D/D, attached Bath, French Garden in C.R. Park (South Delhi), Cont. Owner: Khanna 9810156510

GREEN Park Extn. 3rd floor, 2 Room Set with front Terrace Contact- Abhay Jain- 9811029321

SOM Vihar Apts opp DPS RK Puram, 3BR, 3 baths unit; 2BR+study fully furnished. Also sale optns. Maj Chaman 981111-9975 E:chamanco@gmail.com

GK-3, E-126, 1st flr, 3BR, 2 toilet, S.D./Kitchen, store, blnd, servant's room with toilet, 2car prking, North facing, addr room with toilet optn. # 29217887/41637342.

SAFADARJUNG Enclave 3B/4, 2nd floor fully furnished 3BR, DD, Attached Bath, park facing, Prkg Suite for MNC Contact: 981073611, 9582139770

FARM house for rent DLF farms Chattarpur - 2 Acres, Excellent Loc. fully frnsd. Modern Constr- 8B/R (8000\$ Ft), Pool, Tennis Court, SQ. # 9810097764

DEFENCE Colony, 3 BHK, Park Facing 1st Floor With Terrace of 2 Storey House, 3 Bedrooms, attached bath, D/D with AC, SQ, Generator. # 9810432297

DEFENCE Colony A-259B 1st & lnd floor office halls size 1000 sqft each, party, toilet, car pkg min. Rent 1.50k each flr. Mohan Vasudeva Brokers 9873256123

GK-1, N Mkt 3000 SF Suits Restau-rant Shopping 500 sq ft & 250 sq ft in prime loc. Suits Jeweler, Boutiques, Fast Food, etc. G S Shukla 09811100620

COMM. Space IGNU RD Neb Sarai. 3000 to 11k sft. BGF: Suits Bank, Off., Godown, Institute, ample prking in front. V reasonable rent. Ownr Raj 9811010285

PALM Springs 5 BHK and World Spa 4 BHK, Unfurnished apartment for Rent, Keys in hand please Call 9711200647

FOR Lease Commercial Floor, DLF Icon @ 65K, La Laguna @ 55K Central Park 2 @ 37K, The Palms @ 45K (Huda metro) Rajeha Atlantis @ 50K # 9999062732

1132 SQ. FT. Office space for Lease at ground floor Vatika First India Place MG Road Gurgaon. Contact: 9810168240.

OFFICE space for rent 5000 sqft each Floor, newly const., excellent location, near Bata Chowk M.G.Road Gurgaon. Contact: 9990829888

FOR lease I/D Trade Center 1177 Vipul Trade Center GF 8500, First India Place 5200, Nirvana Court 750, Unitech Business Park 6400K. 958017734, 9910997008

FOR rent Area 21000 sqft. Sec-4, IMT Manesar N/E facing on 30 mtr road 200 kw load. Contact: 9810463486, 9811159983

FULLY frnshd office, DND Rd. 500-8000 sqft., 10-130, V.Stations, AC, P.Backup, Cabins, ample prking, suits IT, BPO Corporates. Owner 9811039665

ORCHID Petals 3 BR Area 1805 sq ft, 100% Power Backup Securities, Sector-49, Beverly Park Penthouse on rent. 1 car 10446102, 9899727915

ON Rent Floor & Apartments 2,3,4, BHK Furnish/ Unfurnsh with AC, Conference hall, Cabins, Excellent for Physio, Dialysis other offices. 9810210844

TO-LET

GURGAON

FOR LEASE OFFICE SPACE
"The Palm Spring Plaza"
Area 3600 Sqr. Ft.

on Golf Course Road, Prime & Brand New Building Available furnished or Unfurnished
Contact: Anil: 8527899556
anil.gumber@qucs-mail.com

AVAIL. very well furnished 4 BHK +SQ for Senior Executives & foreigner Trinity Gurgaon Swimming Pool facing, Good location 09350286200, 011-26011922

FLATS for rent at Tata Raisina, DLF Icon @ 65K, La Laguna @ 55K Central Park 2 @ 37K, The Palms @ 45K (Huda metro) Rajeha Atlantis @ 50K # 9999062732

1132 SQ. FT. Office space for Lease at ground floor Vatika First India Place MG Road Gurgaon. Contact: 9810168240.

OFFICE space for rent 5000 sqft each Floor, newly const., excellent location, near Bata Chowk M.G.Road Gurgaon. Contact: 9990829888

FOR lease I/D Trade Center 1177 Vipul Trade Center GF 8500, First India Place 5200, Nirvana Court 750, Unitech Business Park 6400K. 958017734, 9910997008

FOR rent Area 21000 sqft. Sec-4, IMT Manesar N/E facing on 30 mtr road 200 kw load. Contact: 9810463486, 9811159983

FULLY frnshd office, DND Rd. 500-8000 sqft., 10-130, V.Stations, AC, P.Backup, Cabins, ample prking, suits IT, BPO Corporates. Owner 9811039665

ORCHID Petals 3 BR Area 1805 sq ft, 100% Power Backup Securities, Sector-49, Beverly Park Penthouse on rent. 1 car 10446102, 9899727915

ON Rent Floor & Apartments 2,3,4, BHK Furnish/ Unfurnsh with AC, Conference hall, Cabins, Excellent for Physio, Dialysis other offices. 9810210844

HAUZ Khas furncd 2 Bedrooms 1 D/D, Store, Kitch, 2 Toilet O. Painted, Exclnt Locatn, Contact: 9873334477

PULPHLADPUR, ND-44, Basement 850sqft, Fully furnished with AC, Conference hall, Cabins, Excellent for Physio, Dialysis other offices. 9810210844

HAUZ Khas furncd 2 Bedrooms 1 D/D, Store, Kitch, 2 Toilet O. Painted, Exclnt Locatn, Contact: 9873334477