DAUGHTERS' COPARCENARY RIGHTS IN INDIA AND COMPARATIVE INHERITANCE LAW: A STUDY OF GENDER EQUALITY, PROPERTY OWNERSHIP, AND LEGAL ENFORCEMENT

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ABSTRACT

The Hindu Succession (Amendment) Act, 2005 marked a significant development in Hindu succession law by recognising daughters as coparceners by birth in the same manner as sons under Section 6 of the Hindu Succession Act, 1956. This reform aimed to promote gender equality in the inheritance of Mitakshara coparcenary property. However, the legal recognition of a right does not automatically ensure its effective enjoyment. Daughters may face practical challenges arising from limited legal awareness, family pressure, disputes concerning partition, relinquishment of shares, and difficulties relating to property documentation and revenue records.

This article examines the development of daughters' coparcenary rights, the judicial interpretation of amended Section 6, and the relevance of Articles 14, 15, 21 and 38 of the Constitution of India. It adopts a doctrinal method of legal research based on statutory provisions and judicial decisions, including *Prakash v. Phulavati, Danamma @ Suman Surpur v. Amar, Ganduri Koteshwaramma v. Chakiri Yanadi, and Vineeta Sharma v. Rakesh Sharma*. The article analyses the gap between legal entitlement and the effective exercise of property rights,8 particularly in relation to awareness, partition, documentation and access to legal remedies. It argues that meaningful implementation requires not only statutory recognition but also effective legal awareness, accurate property records and accessible enforcement mechanisms. The article concludes that strengthening these measures is essential to advancing substantive gender equality in property ownership.

Keywords: Coparcenary Rights, Hindu Succession Act, Gender Equality, Property Ownership, Doctrinal Research.

1. INTRODUCTION

Property rights are closely connected with economic independence, dignity and equality. Ownership of property can provide financial security and strengthen an individual's ability to participate in family and social decisions. For this reason, equal inheritance rights are an important part of gender justice.

Under the traditional Mitakshara system of Hindu law, coparcenary rights were historically associated primarily with male members. Daughters did not enjoy the same coparcenary status as sons. This unequal position affected their ability to claim an interest in joint family property and contributed to their economic dependence.

The Hindu Succession Act, 1956 was enacted to codify and amend the law relating to intestate succession among Hindus.[1] However, its original Section 6 did not place daughters on an equal footing with sons in Mitakshara coparcenary property. Several States introduced reforms before Parliament enacted the Hindu Succession (Amendment) Act, 2005.

The 2005 Amendment transformed the legal position by recognising a daughter as a coparcener by birth in the same manner as a son. It provided equal rights and liabilities in coparcenary property. The reform represented a significant step towards equality within the Hindu joint family.

Nevertheless, legal recognition is only the first stage of empowerment. A daughter may possess a legal entitlement but still experience difficulty in asserting it, obtaining partition, securing possession or ensuring that property records reflect her share. Therefore, the central issue is not merely whether the law recognises daughters' rights, but whether those rights can be effectively exercised in practice.

This article examines the gap between statutory entitlement and actual ownership, with particular attention to legislation, judicial interpretation, constitutional values and practical implementation.

[1] *Hindu Succession Act, 1956 Act* No. 30 of 1956, as amended by the *Hindu Succession (Amendment) Act ,2005, Act* No. 39 of 2005.

2. OBJECTIVES AND RESEARCH METHODOLOGY

The principal objectives of this article are:

- To examine the development of daughters' coparcenary rights under the Hindu Succession Act, 1956.
- To analyse Section 6 after the 2005 Amendment and its interpretation by the Supreme Court.
- To consider the relevance of Articles 14, 15, 21 and 38 of the Constitution of India.
- To identify practical barriers affecting the enjoyment of daughters' property rights.
- To suggest measures for improving awareness, documentation and enforcement.

This article follows a doctrinal method of legal research. It relies on statutory provisions, judicial decisions and secondary legal material. The analysis is qualitative and focuses on the difference between the legal recognition of a right and its practical exercise. It does not claim to establish nationwide implementation rates through empirical field research.

3. DEVELOPMENT OF DAUGHTERS' COPARCENARY RIGHTS

3.1 The position before the 2005 Amendment

Before the nationwide amendment, daughters generally did not enjoy the same coparcenary status as sons under the Mitakshara system. Although the Hindu Succession Act, 1956 introduced important reforms in succession law, the original Section 6 preserved a distinction concerning the devolution of a coparcener's interest in joint family property.[2]

This distinction reflected a broader historical inequality in family property relations. A daughter's position could be affected by the rules governing coparcenary, family practices and the manner in which property was divided or transferred.

Several States subsequently enacted reforms to provide daughters with coparcenary rights.

[2] *Hindu Succession Act 1956,* No. 30 of 1956 (India). The

These reforms demonstrated increasing recognition that gender should not determine a person's entitlement to family property.

3.2 The Hindu Succession (Amendment) Act, 2005

The Hindu Succession (Amendment) Act, 2005 substituted Section 6 and introduced a major change in the law governing Mitakshara coparcenary property.[3]

Under Section 6(1), a daughter of a coparcener becomes a coparcener by birth in the same manner as a son. She has the same rights in the coparcenary property and is subject to the same liabilities in respect of it.

The provision is significant for three reasons. First, the right is based on birth rather than marriage or dependence on a male relative. Second, the daughter is entitled to claim the same legal status as a son within the coparcenary. Third, the law recognises that equal property rights are not merely a matter of family generosity but a matter of legal entitlement.

However, Section 6 must be applied according to its statutory scope. It concerns a Mitakshara joint Hindu family and coparcenary property; it does not mean that every property owned by a parent automatically becomes coparcenary property. Self-acquired property, valid testamentary dispositions and other relevant legal circumstances must be examined separately.

4. JUDICIAL INTERPRETATION OF SECTION 6

Judicial interpretation has played a major role in clarifying the extent of daughters' coparcenary rights.

4.1 *Prakash v. Phulavati*

In*Prakash v. Phulavati*, the Supreme Court considered the application of the 2005 Amendment to daughters and the relevant temporal requirements. [4] decision formed an important part of the judicial debate concerning whether the father had to be alive when the amendment came into force.

[3] *Hindu Succession (Amendment) Act, 2005,* No. 39 of 2005 (India).
[4] *Prakash v. Phulavati,*(2016) 2 SCC 36 .

The legal position was subsequently clarified by a larger Bench in *Vineeta Sharma v. Rakesh Sharma*. Therefore, Prakash should be discussed in light of the later authoritative interpretation rather than treated as the final statement of the law.

4.2 *Danamma @ Suman Surpur v. Amar*

In**Danamma @ Suman Surpur v. Amar**, the Supreme Court considered daughters' entitlement to shares in coparcenary property in the context of the 2005 Amendment.[5] The judgment contributed to the developing judicial discussion on the operation of amended Section 6.

Differences in the reasoning and application of the earlier decisions created uncertainty. The need for a clear and consistent interpretation made the later decision in *Vineeta Sharma* particularly important.

4.3 *Ganduri Koteshwaramma v. Chakiri Yanadi*

In **Ganduri Koteshwaramma v. Chakiri Yanadi**, the Supreme Court considered the effect of the 2005 Amendment in the context of partition proceedings.[6] The decision illustrates the importance of examining whether a partition has legally attained finality and whether the amended law applies to the circumstances of a particular case.

It also demonstrates that procedural history can affect the practical assertion of property rights. A claim cannot be assessed solely by referring to the general principle of equality; the relevant statutory requirements and facts must also be considered.

4.4 *Vineeta Sharma v. Rakesh Sharma*

The Supreme Court's decision in**Vineeta Sharma v. Rakesh Sharma** is central to understanding amended Section 6.[7] The Court clarified that a daughter becomes a coparcener by birth and that the father need not have been alive on 9 September 2005 for the daughter to claim the benefit of the amended provision.

The judgment strengthened the principle that daughters and sons must be treated equally under

[5] *Danamma @ Suman Surpur v. Amar,* (2018) 3 SCC 343.
[6] *Ganduri* Koteshwaramma *v. Chakiri Yanadi,* (2011) 9 SCC 788.
[7] *Vineeta Sharma v. Rakesh Sharma,* (2020) 9 SCC 1.

Section 6. It also addressed the legal uncertainty created by earlier decisions.

The significance of *Vineeta Sharma* extends beyond statutory interpretation. It confirms that a daughter's coparcenary right is not simply a benefit granted at the discretion of male family members. It is a right recognised by law. Nevertheless, the judgment cannot by itself remove every practical obstacle that may arise when a daughter attempts to establish, document or enforce her share.

5. CONSTITUTIONAL FRAMEWORK

The constitutional framework provides important support for examining gender equality in property relations. The Constitution does not replace the requirements of Section 6, but its equality and social-justice principles help explain the wider significance of equal inheritance rights.

5.1 Article 14: Equality before the law

Article 14 guarantees equality before the law and equal protection of the laws[8]. Its relevance lies in the principle that legal rights should not be denied merely because a person is a woman.

The 2005 Amendment advances this principle by placing daughters on an equal footing with sons within the statutory framework of Mitakshara coparcenary. The practical challenge is to ensure that the legal entitlement is recognised when property is divided, records are updated and disputes are resolved.

5.2 Article 15: Prohibition of discrimination

Article 15 prohibits discrimination on specified grounds, including sex.[9] Article 15(3) also permits the State to make special provisions for women and children.

These provisions form part of the constitutional context for legislative measures intended to address historical disadvantages. Equal coparcenary rights promote a legal framework in which daughters are not excluded simply because of their gender.

However, constitutional principles should not be treated as a substitute for identifying the

[8] The Constitution of India, art.14.
[9] The Constitution of India, art.15.

applicable statutory provision, the nature of the property and the facts of an individual dispute.

5.3 Article 21: Life and personal liberty

Article 21 protects life and personal liberty.[10] Its interpretation has developed beyond mere physical existence to encompass dignity and other essential dimensions of human life.

Property ownership can contribute to financial security, personal autonomy and dignity. From this perspective, the effective enjoyment of lawful inheritance rights may support the broader values associated with Article 21.

This is an interpretive connection, not a claim that Article 21 independently grants every daughter a share in every family property. The specific entitlement to coparcenary property must be established under the applicable law, particularly Section 6.

5.4 Article 38: Social justice

Article 38 directs the State to promote the welfare of the people by securing a social order informed by justice. [11] Article 38(2) directs the State to minimise inequalities in income, status, facilities and opportunities.

Equal inheritance rights are relevant to these constitutional objectives because property can affect economic security and social position. If daughters are unable to enjoy rights recognised by law, the gap between formal equality and actual equality remains.

Articles 14, 15, 21 and 38 therefore provide a useful constitutional framework for understanding why the implementation of daughters' property rights matters. Their role must, however, be distinguished from the direct statutory operation of Section 6.

6. LEGAL ENTITLEMENT VERSUS ACTUAL OWNERSHIP

The central problem examined in this article is the difference between possessing a legal right and effectively enjoying it. A statutory entitlement does not automatically ensure that a person can use, possess or exercise control over the relevant property.

[10] The Constitution of India, art. 21.
[11] The Constitution of India, art. 38.

6.1 Lack of legal awareness

- Some daughters may not know the scope of amended Section 6, the nature of coparcenary property or the remedies available when their rights are disputed. Lack of awareness can delay a claim or make it difficult to identify the correct legal procedure.

Accessible legal information and guidance can help individuals understand their rights before a dispute becomes more complicated.

6.2 Family and social pressure

- Family relationships can influence whether a daughter asserts a property claim. She may face pressure to avoid litigation or to accept a family arrangement that does not reflect her legal entitlement.

A decision to relinquish or transfer a share should not automatically be assumed to be unlawful. Its legal effect depends on the relevant facts and applicable formal requirements. The concern arises when a decision is made without informed understanding or genuine freedom.

6.3 Partition and possession

- Even when a daughter has a recognised interest, disagreements about partition may prevent her from obtaining a defined share or effective possession. Disputes may involve the nature of the property, the interests of other family members, prior transactions or the legal status of an earlier partition.

In such circumstances, the statutory right may need to be enforced through appropriate legal proceedings. Delays and procedural complexity can make enforcement burdensome.

6.4 Mutation and revenue records

- Mutation entries and revenue records can play an important practical role in documenting property interests and facilitating dealings with land. A daughter may encounter difficulties if relevant records do not reflect a legally established interest.

However, mutation is generally a fiscal or revenue-record process and does not, by itself, conclusively create or extinguish title. The underlying ownership must be determined

according to the applicable law and evidence.

Accurate records can nevertheless reduce uncertainty and make it easier to identify and protect property interests.

6.5 Relinquishment deeds and documentation

- A relinquishment deed, family settlement or other document may affect property rights, depending on its legal character, execution and the applicable law. Such documents should therefore be examined carefully rather than assumed to be automatically valid or invalid.

Proper documentation, access to legal advice and clear explanations of the consequences of signing property-related documents can help protect informed decision-making.

7. CRITICAL ANALYSIS

The 2005 Amendment is a significant legislative step towards equality, but the effectiveness of a legal reform cannot be assessed only by reading its wording. The practical question is whether daughters can identify their entitlement and obtain the benefits that the law recognises.

The process may be understood in stages: legal recognition, awareness of the right, ability to establish the relevant property interest, access to remedies and effective enjoyment of ownership. A difficulty at any stage can weaken the practical value of the right.

For example, a daughter may understand that she has a coparcenary interest but still face disagreement about the classification of the property. Another daughter may have a legally valid claim but lack access to the documents needed to pursue it. In both situations, the statutory principle remains important, yet its practical application requires evidence, appropriate procedure and effective legal remedies.

It is also necessary to distinguish between coparcenary property and self-acquired property. Section 6 should not be interpreted as giving daughters an automatic share in all property owned by their parents. The nature of the property and the relevant rules of succession must be examined in each case.

The constitutional principles of equality, dignity and social justice strengthen the case for

effective implementation. Nevertheless, claims about the extent of non-implementation across India should be supported by empirical research if they are presented as measured national findings. Without such data, the barriers discussed here should be understood as legal and practical issues that may arise, not as proof that every daughter experiences the same difficulties.

8. SUGGESTIONS AND RECOMMENDATIONS

- Improving Legal Literacy:- Legal awareness programmes should explain amended Section 6 in accessible language. Universities, legal services authorities and community organisations can help people understand the difference between coparcenary property, self -acquired property and other forms of inheritance.

- Addressing Documentation Gaps:- Property documentation should be handled carefully. Families and relevant authorities should ensure that legally established interests are accurately reflected in the appropriate records, subject to the applicable procedures.

- Guidance Before Relinquishment:- Daughters should have access to clear legal guidance before signing relinquishment deeds, settlements or other documents affecting their interests. Informed decision-making is particularly important where family pressure may influence the process.

- Accessible Legal Aid and Procedures:- Partition and property disputes should be handled through fair and accessible procedures. Reducing avoidable procedural difficulties can help people enforce rights without unnecessary delay.

- Further Research - Further empirical research could examine how daughters in different regions understand and exercise their coparcenary rights. Interviews, case studies and analysis of property disputes would help assess the gap between statutory recognition and practical ownership more accurately.

9. CONCLUSION

The Hindu Succession (Amendment) Act, 2005 changed the legal position of daughters by recognising them as coparceners by birth in the same manner as sons. The Supreme Court's

decision in *Vineeta Sharma v. Rakesh Sharma* clarified the scope of amended Section 6 and reinforced the principle of equal coparcenary rights.

The constitutional values reflected in Articles 14, 15, 21 and 38 provide a wider framework for understanding the importance of gender equality, dignity and social justice. These provisions support the objectives of equality but do not remove the need to establish the applicable statutory entitlement in each case.

The distinction between legal entitlement and actual ownership remains important. Awareness, property documentation, partition procedures and access to legal remedies can influence whether a daughter is able to enjoy her lawful share. Effective implementation therefore requires more than legislative recognition: it requires that rights be understood, properly documented and enforceable.

Ultimately, the purpose of equal coparcenary rights is not simply to declare daughters legally equal to sons. It is to ensure that the equality recognised by law can be meaningfully exercised in practice.

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