
FROM LIMITED ESTATE TO ABSOLUTE UNCERTAINTY: THE CONTRADICTIONS OF SECTION 14 AND WOMEN'S PROPERTY RIGHTS

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ABSTRACT

The Hindu Succession Act, 1956 was enacted with the transformative ambition of erasing the long-standing gender inequity embedded in Hindu personal law. Section 14¹ of the Act, in particular, was revolutionary in its intent: to convert the “limited estate” of Hindu women into absolute ownership and to ensure that they could hold property with the same autonomy as men. Yet, the provision’s internal structure split between the expansive mandate of Section 14(1) and the restrictive caveat of Section 14(2), has generated decades of judicial contradiction. The research problem at the core of this study is the persistent inconsistency in judicial interpretation, which has weakened the statute’s emancipatory promise and left women’s property rights precarious. As Justice P.N. Bhagwati once observed in *Tulasamma v. Sesha Reddy* (1977), Section 14 is “a classic instance of inapt draftsman ship that has created endless confusion for litigants and proved a paradise for lawyers.”²

The objectives of this paper are threefold: first, to trace the evolution of judicial interpretation of Section 14 through landmark decisions; second, to analyse how doctrinal conflict between liberal and restrictive approaches has impacted Hindu women’s ownership in practice; and third, to assess how the recent referral of the issue to a larger bench of the Supreme Court reopens the question of doctrinal clarity and offers a rare opportunity for reform. Methodologically, the paper employs doctrinal legal analysis, situating key Supreme Court cases within their legislative background and constitutional framework, while reviewing secondary literature that critiques the uncertainties left unresolved by precedent.

The tentative conclusion reached is that the oscillation between purposive and formalist approaches has left Section 14 fragmented, with the exception in subsection (2) often swallowing the rule in subsection (1). The current judicial referral, however, signals recognition that this conflict can no longer be sustained. A principled framework, whether judicially articulated by a

¹ Hindu Succession Act, § 14.

² *Tulasamma (V.) v. Sesha Reddy (V.)*, (1977) 3 S.C.C. 99 (India).

larger bench or clarified through legislative amendment is urgently needed to restore Section 14's original purpose and to align it with the constitutional values of equality, dignity, and substantive justice

Keywords: Hindu Succession Act, Section 14, women's inheritance rights, judicial interpretation, constitutional equality

I. INTRODUCTION

The question of a Hindu woman's right to property has long been one of the most complex and contested issues in Indian personal law. Rooted in centuries of patriarchal norms, the legal position of women with respect to ownership and inheritance was historically defined by subordination, temporary enjoyment, and dependency. The enactment of the Hindu Succession Act, 1956 (HSA) was celebrated as a milestone in undoing this inequity. Section 14 of the Act, in particular, was revolutionary in intent. It sought to abolish the notion of the "limited estate" and replace it with full, absolute ownership for Hindu women. Yet, almost seven decades later, the law remains caught in interpretive turbulence. Far from being settled, Section 14 has become a site of contradiction, with courts repeatedly struggling to reconcile its empowering mandate under sub-section (1) with the limiting caveat preserved under sub-section (2).

The Supreme Court's recent decision in *Tej Bhan v. Ram Kishan* (2024)³ epitomises this ongoing struggle. The case involved a settlement deed conferring property on a Hindu woman but containing explicit restrictions on her right to alienate it. The question before the Court was whether such property would fall under Section 14(1), which grants absolute ownership when property is acquired in recognition of a pre-existing right, or under Section 14(2), which preserves the effect of restrictions when property is granted for the first time under an instrument. Both sides relied on a long and divided line of precedents: the petitioner invoked cases such as *V. Tulasamma v. Sessa Reddy* (1977)⁴ and *Jaswant Kaur v. Major Harpal Singh* (1989)⁵, where the Court expanded women's ownership despite restrictive instruments, while the respondent leaned on decisions like *Mst. Karmi v. Amru* (1971)⁶ and *Sadhu Singh v. Gurdwara Sahib Narike* (2006)⁷, where restrictions were upheld. Rather than resolving the

³ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

⁴ *V. Tulasamma v. V. Sessa Reddy*, (1977) 3 S.C.C. 99 (India).

⁵ *Jaswant Kaur v. Major Harpal Singh*, A.I.R. 1989 S.C. 517 (India).

⁶ *Mst. Karmi v. Amru*, A.I.R. 1971 S.C. 745 (India)

⁷ *Sadhu Singh v. Gurdwara Sahib Narike*, (2006) 8 S.C.C. 75 (India).

doctrinal conflict, the Supreme Court in *Tej Bhan* referred the matter to a larger bench, explicitly acknowledging the inconsistency in its own jurisprudence.

This referral is more than a procedural move; it is a moment of reflection for the judiciary itself. By recognising that its precedents pull in divergent directions, the Court has reopened the question of how Section 14 should be understood, whether its spirit lies in furthering the emancipatory purpose of the HSA or in respecting the autonomy of testators and donors who may wish to impose conditions. For scholars and practitioners, *Tej Bhan* offers both a reminder and an opportunity: the reminder that Hindu women's property rights remain vulnerable to interpretive uncertainty, and the opportunity to reconsider the balance between legislative intent and judicial interpretation.

The present research situates itself within this debate. It argues that the inconsistent application of Section 14 has diluted the transformative purpose of the Hindu Succession Act, and that the *Tej Bhan* case represents a critical juncture where the judiciary must choose between perpetuating contradiction and establishing clarity. By tracing the doctrinal evolution from early restrictive decisions like case law of *Karmi v Amru*⁸ to purposive rulings like *Tulasamma v seshareddy*,⁹ and finally to the uncertainty reaffirmed in *Tej Bhan*, the paper seeks to highlight how judicial inconsistency has shaped the lived realities of Hindu women.

The research objectives are threefold. First, to map the jurisprudential journey of Section 14 through landmark cases, identifying the fault lines in interpretation. Second, to assess how these contradictory interpretations have impacted the ability of Hindu women to enjoy property rights meaningfully. Third, to evaluate how the referral in *Tej Bhan* underscores the urgent need for a uniform interpretive framework, and to suggest possible directions for judicial and legislative clarification.

At its core, this study contends that Section 14 should be read not merely as a statutory provision but as a constitutional promise, one rooted in Articles 14¹⁰ and 15¹¹, which prohibit discrimination, and in Article 21¹², which guarantees dignity and autonomy. The continued oscillation between liberal and restrictive readings not only undermines legislative intent but also erodes this constitutional promise. By foregrounding *Tej Bhan* against the backdrop of

⁸ Mst. Karmi v. Amru, A.I.R. 1971 S.C. 745 (India).

⁹ V. Tulasamma v. V. Seshareddy, (1977) 3 S.C.C. 99 (India).

¹⁰ India Const. art. 14.

¹¹ India Const. art. 15.

¹² India Const. art. 21.

earlier case law, this paper aims to show how the judiciary's ambivalence has real consequences: it determines whether Hindu women stand as full proprietors of their property, or remain tethered to conditional and precarious estates.

II. LEGISLATIVE FRAMEWORK AND PURPOSE

The Hindu Succession Act, 1956 (HSA) was conceived as part of the post-independence social reform movement to dismantle deeply entrenched gender inequalities in Hindu personal law. The Act formed one of the pillars of the broader Hindu Code Bill, which sought to rationalise, unify, and modernise diverse customary practices. Among its many provisions, Section 14¹³ stood out as a transformative provision, aiming to eradicate the archaic notion of the "limited estate" held by Hindu women and to ensure that property vested in them would henceforth be absolute.

Historically, under the Mitakshara and Dayabhaga schools of Hindu law, women's proprietary rights were meagre. While women could hold *stridhan* (property gifted at marriage or through familial ties), their rights in joint family property or inheritance were limited and precarious. The widow's estate, which typified this restricted position, allowed a Hindu widow to enjoy possession and usufruct of property during her lifetime but prohibited her from alienating it. Male collaterals retained a vested interest in the property, which would revert to them upon the widow's death. This arrangement preserved male dominance in property structures while leaving women with little security or autonomy.

Section 14 of the HSA directly attacked this structure. Sub-section (1) declared that any property possessed by a female Hindu, whether acquired before or after the Act, would be held by her as full owner and not as a limited owner. The sweeping language was designed to extinguish the concept of the Hindu woman's estate. Sub-section (2), however, carved out an exception: property acquired by a Hindu woman under a gift, will, or other instrument prescribing restricted ownership would not become absolute but would remain bound by those conditions.

The legislative debates make clear the intent behind this bifurcation. The Statement of Objects and Reasons of the HSA emphasised two goals: first, to ensure that women were placed on an equal footing with men in matters of property, and second, to respect freedom of disposition in cases where property was granted through a fresh instrument with express limitations. The

¹³ Hindu Succession Act, § 14.

framers attempted to balance gender justice with testamentary autonomy, but the ambiguous drafting of Section 14, especially the relationship between sub-sections (1) and (2) set the stage for decades of interpretive conflict.

On a purposive reading, Section 14(1) reflects the legislature's emancipatory vision. It was intended to sweep away centuries of patriarchal constraints by recognising that women's possession of property, even if earlier held as a limited estate, must now be transformed into absolute ownership. The retrospective element—covering property acquired even before 1956—underscored this resolve. In contrast, Section 14(2) appears narrower: it sought to respect donor or testator intent where a new grant was created for the first time, independent of any antecedent rights. Yet, the provision's lack of clarity about how to distinguish between recognition of a pre-existing right and creation of a new grant has given rise to the contradictions that dominate case law.

Judicial decisions from the 1960s onwards reveal how this tension has unfolded. In cases such as *Mst. Karmi v. Amru* (1971)¹⁴, the Court adopted a strict textual approach, holding that when property was conferred under a will containing restrictions, Section 14(2) applied, and the woman's estate remained limited. Conversely, in *V. Tulasamma v. Sessa Reddy* (1977)¹⁵, a three-judge bench took a purposive approach, holding that when property was granted in satisfaction of a woman's pre-existing right to maintenance, it fell under Section 14(1), and restrictions could not survive. Later rulings oscillated between these positions, with some benches emphasising the statute's emancipatory purpose and others deferring to the literal terms of instruments.

The contradiction stems from an unresolved doctrinal question: should the focus be on the *source of the right* (whether the woman already had a claim to the property) or on the *form of the instrument* (whether the deed or will contains restrictions)?

A purposive approach favours the former, aligning with the Act's object of gender equality, while a formalistic approach favours the latter, preserving donor/testator intent. The legislature itself offered little clarity, leaving courts to navigate the tension between these two competing values. The recent referral in *Tej Bhan v. Ram Kishan* (2024)¹⁶ illustrates how this legislative ambiguity continues to haunt judicial reasoning. The bench acknowledged that prior decisions

¹⁴*Mst. Karmi v. Amru*, A.I.R. 1971 S.C. 745 (India).

¹⁵ *V. Tulasamma v. V. Sessa Reddy*, (1977) 3 S.C.C. 99 (India).

¹⁶ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

have moved in opposite directions, sometimes enlarging women's rights by invoking Section 14(1), and sometimes constraining them by invoking Section 14(2). Rather than attempting to harmonise these conflicting lines of authority, the Court chose to defer to a larger bench, implicitly recognising that the contradiction cannot be resolved without a principled framework that reconciles legislative purpose with individual autonomy.

Understanding this background is essential to situating the current research. The legislative history and statutory text show that Section 14 was meant to be transformative, yet its internal ambiguity has produced judicial inconsistency. The provision that was designed to empower women has, paradoxically, become the very site of their disempowerment in certain contexts. The central research problem, therefore, is not merely interpretive but structural: how can courts faithfully apply Section 14 in a manner that honours its emancipatory intent while respecting legitimate donor/testator autonomy?

By situating *Tej Bhan*¹⁷ within this framework, this paper emphasises that the legislative purpose of Section 14 cannot be achieved unless the judiciary develops a consistent interpretive method. The debates from 1956 reveal a clear parliamentary intention to eradicate limited estates, yet inconsistent case law has left women's ownership rights vulnerable. The tension between sub-sections (1) and (2) thus remains the unresolved heart of the statute, and *Tej Bhan v. Ram Kishan* (2024) represents a pivotal opportunity for the judiciary to finally resolve it.

III. JUDICIAL DEVELOPMENT OF SECTION 14

The potential of Section 14 of the Hindu Succession Act has always rested upon the readings preferred by courts. In theory, the provision was straightforward: sub-section (1) removed the Hindu woman's limited estate and stated that any property she held would be held absolutely; sub-section (2) made an exception in the situation where property was being acquired for the first time by way of a will, gift, or instrument creating restrictions. In reality, however, this seemingly neat division has never been convenient to work with. Over the past half-century, the courts have fought to establish the line between affirming a woman's pre-existing rights and creating a new grant. It has led to a succession of contradictory rulings that reveal two visions of the law: one broad and liberatory, the other conservative and literalist.

One of the first signs of the restrictive approach was in **Mst. Karmi v. Amru (1971)**¹⁸. In such an event, a Hindu widow, Nihali, received property under her late husband's will subject to the

¹⁷ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

¹⁸ *Mst. Karmi v. Amru*, A.I.R. 1971 S.C. 745 (India).

explicit condition that she should enjoy it for her lifetime only. When she afterwards tried to alienate the property, the Court held her rights limited to the life estate granted by the will. Section 14(2) came into play, and the estate could not be extended to absolute ownership. The ruling indicated that the Court was prepared to allow testamentary language dominate, even if that meant allowing the very restrictions that Section 14 was designed to remove. It also indicated a residual judicial reluctance to interfere with male authority in governing family property through settlements and wills.

Just a few years subsequent, though, the Court changed direction in the most dramatic way. The case of **V. Tulasamma v. V. Sesha Reddy (1977)**¹⁹ envisioned the meaning of Section 14. A widow had been granted property in consideration for her maintenance claim, but the instrument limited her right to alienate the same. A three-judge bench presided by Justice P.N. Bhagwati decided that the grant was not a new disposition but an acknowledgment of her antecedent right to maintenance. Because she already had a moral and legal right, Section 14(1) was attracted, and the restrictions were void. This case formed the bedrock of the liberal, purposive approach, which did not look at the language of documents but at the reality of women's rights.

The purposive strand was consolidated in **Jaswant Kaur v. Major Harpal Singh (1989)**.²⁰ Again, a widow had been given property under a will that had restrictions. The Court ruled that because her possession is traceable to a previous right, her ownership could not be cut off by the will. It was not the form of the instrument that was technical but that she claimed on the basis of an antecedent right. By emphasizing substance over form, the Court upheld the emancipatory intent of Section 14. Through their combined efforts, Tulasamma and Jaswant Kaur presented a vision for the law that indeed served the legislative intent of the Act.

However, the battle did not cease there. In **Sadhu Singh v. Gurdwara Sahib Narike (2006)**,²¹ the Supreme Court dropped back into the restrictive mode. A widow had been left property under a will that expressly stated she was not permitted to alienate it. When she subsequently disposed of the property, the Court found that she was not entitled to do so. As her interest arose solely under the testamentary disposition, Section 14(2) was applicable, and the restrictions were binding. This ruling constituted a revival of formalism: where there was no precedent right, the language of the document held. The case underscored how easily courts

¹⁹ Tulasamma (V.) v. Sesha Reddy (V.), (1977) 3 S.C.C. 99 (India).

²⁰ Jaswant Kaur v. Major Harpal Singh, A.I.R. 1989 S.C. 517 (India).

²¹ Sadhu Singh v. Gurdwara Sahib Narike, (2006) 8 S.C.C. 75 (India).

could move away from liberal promise of Tulasamma, depending on how they defined the source of a woman's rights.

What the decisions reveal is not a coherent doctrine but a fractured legacy. On the one hand, Karmi and Sadhu Singh uphold the rule that Section 14(2) upholds donor and testator freedom of choice so that restrictions can survive. On the other, Tulasamma and Jaswant Kaur maintain that wherever a woman's right is based on an antecedent right, Section 14(1) must have its way, and restrictions have to give way. The issue is that in actual cases the distinction between a "pre-existing right" and a "new grant" is often blurred. A maintenance order, a settlement, or even a will can be described either way, depending on philosophy of the judiciary. This indeterminacy of doctrine has left the law into chronic uncertainty.

The latest case is *Tej Bhan v. Ram Kishan* (2024). The case once more was that of a woman who had inherited property under a settlement deed with restrictions. Both parties depended upon the conflicting precedents. Confronted with this dichotomy, the Supreme Court choose not to determine the merits. Rather, it acknowledged that its own jurisprudence was inconsistent and referred the case to a larger bench for authoritative resolution.

By invoking a larger bench, the Court acknowledged that this is not merely one woman's rights in one property, but rather the meaning of Section 14 and constitutional guarantee itself. As Justice Bhagwati cautioned ages ago, Section 14 is a perfect illustration of how inapt draftsmanship can lead to endless confusion. The reality that the Court in *Tej Bhan* has now had to invoke a larger bench is a stark reminder that the provision has remained, in his terms, a "paradise for lawyers."

In the context of the current research, this judicial development demonstrates both the potential and the dangers of interpretive discretion. The expansive approach empowers women because it works in harmony with the egalitarian intention of the Act, whereas the restrictive approach maintains patriarchal dominance by a formalistic adherence to paper. The tension between these approaches has not been resolved and leaves Hindu women's property rights open to doubt, with outcomes often depending less on the facts of their case and more on which judicial philosophy happens to prevail.

The referral in *Tej Bhan* is therefore a constitutional moment. It is not a technical move but an acknowledgment that the law, in its current interpretation, is not serving as promised. The expanded bench will have to bring clarity, and the direction they take will decide whether Section 14 will finally realize its liberatory potential or remain bogged down in contradiction.

For the present, the narrative of Section 14 is incomplete, hanging between the promise of equality and the recurrence of limitation.

III. TEJ BHAN V. RAM KISHAN (2024)

The case of *Tej Bhan v. Ram Kishan* (2024)²² marks a turning point in the interpretation of Section 14 of the Hindu Succession Act. Unlike earlier judgments that leaned either towards liberal or restrictive readings, the Supreme Court in this instance declined to settle the issue and instead referred it to a larger bench. This was not merely a procedural step but a rare acknowledgment that decades of precedent had left the law uncertain, making doctrinal clarity urgently necessary.

The case arose from a settlement deed executed in favour of a Hindu woman, conferring upon her certain immovable property. The deed, however, imposed express limitations on her power of enjoyment. While she was permitted to use the property during her lifetime, she was barred from alienating or otherwise disposing of it. This raised the central legal question of whether such a grant should be treated as conferring absolute ownership under Section 14(1), on the ground that it arose in recognition of her antecedent right to maintenance, or whether it was only a restricted estate under Section 14(2), because the limitations written into the deed had to be respected as the donor's intent.

The parties advanced arguments that drew upon the conflicting lines of precedent. The petitioner, representing the woman's estate, argued that the settlement was not a gratuitous conferment but recognition of her pre-existing legal and moral right to maintenance. In such cases, the petitioner contended, Section 14(1) must apply, rendering any restrictive language void. Reliance was placed on *V. Tulasamma v. V. Sessa Reddy* (1977), where the Court held that property given in satisfaction of maintenance rights is not a new grant but an acknowledgment of an existing entitlement, and therefore confers absolute ownership. The petitioner also invoked *Jaswant Kaur v. Major Harpal Singh* (1989), where the Court refused to let testamentary restrictions curtail ownership when the woman's possession was traceable to antecedent rights. These precedents, it was urged, demonstrated a purposive interpretation that prioritised the emancipatory aim of the Hindu Succession Act.

The respondent, by contrast, argued that the settlement deed constituted a fresh grant, independent of any antecedent claim. The restrictions imposed in the document were therefore

²² *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

binding, and Section 14(2) directly applied. In support, the respondent cited cases such as *Mst. Karmi v. Amru* (1971), where the Court upheld a widow's life estate created under her husband's will, and *Sadhu Singh v. Gurdwara Sahib Narike* (2006), where restrictive clauses in a will were strictly enforced. These cases, the respondent argued, affirmed that donor autonomy must be respected and that the courts could not rewrite private instruments under the guise of gender justice. To ignore explicit conditions would be to nullify Section 14(2), which Parliament had deliberately retained as a counterweight to the sweeping effect of Section 14(1).

Faced with these opposing arguments, the Supreme Court observed that the jurisprudence on Section 14 had indeed moved in divergent directions. On one side stood the liberal approach that subordinated private restrictions to the broader statutory purpose of eradicating women's limited estates; on the other stood the restrictive approach that preserved donor intent even at the cost of perpetuating limitations on women's rights. The Court noted that both lines of cases had been followed over the years and that there was no consistent principle guiding their application. This created uncertainty for litigants, encouraged forum shopping, and undermined the uniformity of the law.

Crucially, the Court chose not to pronounce upon the merits of the dispute before it. Instead, it referred the matter to a larger bench, thereby acknowledging that only an authoritative pronouncement could reconcile the conflicting interpretations and restore coherence to the law. Rather than perpetuating the oscillation by aligning itself with one set of precedents, the Court recognised that the contradictions had reached a point where piecemeal adjudication was no longer viable. The referral signals that the issue is not an isolated dispute but a structural problem that has persisted for decades.

The importance of *Tej Bhan* lies not in what it decides but in what it admits. For the first time in recent memory, the Supreme Court has explicitly acknowledged that its own rulings on Section 14 are inconsistent. This admission turns the case into both a confession and an opportunity: a confession that decades of oscillating precedents have left the law incoherent, and an opportunity for a larger bench to finally articulate a principled framework that reconciles donor autonomy with the egalitarian purpose of the Hindu Succession Act.

IV. DOCTRINAL CONFLICT AND SOCIO-LEGAL IMPACT

The story of Section 14 of the Hindu Succession Act is not only one of doctrinal complexity but also of profound social consequence. At its core lies a conflict between two competing visions of the law: one that reads the statute as an emancipatory measure meant to erase

centuries of patriarchal limitation, and another that insists on preserving donor or testator autonomy, even when it results in continuing restrictions on women's property rights. This unresolved tension has ensured that the very provision designed to secure equality has often operated as a source of uncertainty and litigation. The referral in *Tej Bhan v. Ram Kishan*²³ underlines how deeply entrenched this conflict has become and why its resolution is not merely a technical matter of interpretation but a question that touches the constitutional promise of equality and dignity for Hindu women.

The conflict can be described as one between rule and exception. Section 14(1) lays down the broad rule that all property possessed by a female Hindu, however acquired, shall be held by her as full owner and not as a limited owner. Section 14(2) was intended to be a narrow exception, dealing with fresh grants made for the first time under an instrument that deliberately imposed restrictions. Yet in practice, courts have often expanded the exception to the point where it swallows the rule. By giving primacy to the language of wills, deeds, and settlements, judges have sometimes treated property traceable to women's antecedent rights as if it were nothing more than a fresh grant. This has produced contradictory rulings where similarly situated women have been granted absolute ownership in one case and a restricted estate in another, depending on which interpretive philosophy the bench happened to prefer.

The socio-legal impact of this inconsistency has been far-reaching. For many women, the possibility of absolute ownership is crucial to securing autonomy within the family and financial independence outside it. Yet the uncertainty of outcomes in litigation often deters women from asserting claims. Even when women succeed, the prolonged litigation involved in proving that their right was "pre-existing" drains resources and leaves them dependent on judicial discretion. The cost of doctrinal ambiguity is therefore borne most heavily by those whom the law was intended to protect. In effect, Section 14 has become a double-edged sword: celebrated as a symbol of reform in legislative history but vulnerable to patriarchal retrenchment in its judicial application.

This tension reflects a deeper jurisprudential divide between substance and form. The liberal line of cases has emphasised substance, recognising that rights such as maintenance or residence are deeply embedded in Hindu law and social custom. Where property is given in satisfaction of such claims, these judgments have insisted that restrictions must fall away because the woman's entitlement pre-existed the instrument. By contrast, the restrictive line

²³ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

has adhered to form, focusing narrowly on the deed or will as the source of rights. In doing so, it has allowed private intention to trump statutory purpose, effectively reinstating the very limitations that the legislature sought to abolish. The divergence reveals how formalism can serve as a vehicle for reinforcing patriarchal structures, while purposivism can be a tool for dismantling them.

scholars have long pointed out that this judicial ambivalence has weakened the transformative potential of the Hindu Succession Act. By treating women's claims as contingent on the benevolence of a donor or the language of a document, courts have often failed to appreciate that the Act was designed to equalise structural imbalances, not to preserve private authority. The very act of insisting on donor intent reflects a patriarchal bias, as it privileges the testator's control over the woman's autonomy. Seen through this lens, Section 14(2) has become a loophole that enables patriarchal structures to survive within a statute otherwise committed to reform. The phrase "exception swallowing the rule" is particularly apt here, for what was meant to be a narrow carve-out has in practice undermined the central thrust of the provision.

The consequences extend beyond individual disputes to the broader social fabric. Property ownership is a critical factor in determining women's bargaining power within families, their ability to resist economic exploitation, and their access to credit and livelihood. Uncertainty in the law not only discourages women from pursuing claims but also reinforces social attitudes that treat women's ownership as inherently precarious. Families exploit the ambiguity by drafting wills and deeds with restrictive clauses, confident that courts may uphold them. In this way, doctrinal conflict reproduces patriarchal control under the veneer of legality.

V. LITERATURE REVIEW

The debates surrounding Section 14 of the Hindu Succession Act (HSA) have drawn attention from scholars since the law's inception. Much of this literature demonstrates that the emancipatory vision of the provision has been steadily eroded by doctrinal ambiguity, patriarchal interpretation, and socio-cultural barriers. At the same time, it leaves important gaps that the referral in *Tej Bhan v. Ram Kishan (2024)*²⁴ now brings into sharper focus.

An early attempt to grapple with the problem can be found in B. Sivaramayya's article, *Hindu Succession Act, 1956, Section 14—Restricted Estates in Wills—Sakunthala Devi v. Beni*

²⁴ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India).

*Madhav*²⁵, published in 1964 in the *Journal of the Indian Law Institute*. Sivaramayya observed that the drafting of Section 14 created fertile ground for judicial conflict, especially between the expansive language of sub-section (1) and the narrowing clause of sub-section (2). He warned that excessive judicial reliance on the restrictive wording of wills and deeds could undermine the legislature's intention to abolish the "limited estate" system. In retrospect, his concern about the "exception swallowing the rule" was prescient, anticipating the very split that later judgments entrenched.

Four decades later, Tulsi Patel's piece, *Hindu Women's Property Rights in India: A Critical Appraisal*, published in *Third World Quarterly* (2006),²⁶ shifted the focus from text to context. Patel examined how Hindu women's statutory rights were mediated by kinship pressures, family expectations, and community norms. Even where courts had recognised absolute ownership under Section 14(1), women often found themselves constrained by stigma and social disapproval if they attempted to alienate property. Patel's analysis underscores that judicial interpretation alone cannot secure substantive equality; legal rights remain fragile unless matched with supportive institutional and cultural environments.

The feminist critique of judicial interpretation is most sharply advanced in Debarati Halder and K. Jaishankar's article, *Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India*, published in the *Journal of Law & Religion* in 2008²⁷. They argue that by deferring to donor or testator intent under Section 14(2), courts effectively reinforced patriarchal authority, reducing women's property ownership to a conditional privilege rather than an absolute right. For Halder and Jaishankar, judicial reliance on restrictive clauses in wills and settlements perpetuates male control over property, even when the statutory scheme was designed to dismantle it. Their intervention highlights how doctrinal ambiguity can become a tool of gendered domination.

More recently, Yash Vala in *Women's Equality under Hindu Succession Law Still under Construction in India* (2021) has described the interpretive trajectory of Section 14 as one of "doctrinal drift."²⁸ His analysis shows how the Supreme Court has oscillated between purposive and formalist readings without arriving at a binding principle, leaving litigants uncertain about

²⁵ B. Sivaramayya, Hindu Succession Act, 1956, Section 14—Restricted Estates in Wills—Sakunthala Devi v. Beni Madhav, 6 J. Indian L. Inst. 338 (1964).

²⁶ Patel, Tulsi, Hindu Women's Property Rights in India: A Critical Appraisal, 27 Third World Q. 1255 (2006).

²⁷ Halder, Debarati & Jaishankar, K., Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India, 24 J.L. & Religion 663 (2008).

²⁸ Vala, Yash, Women's Equality under Hindu Succession Law Still under Construction in India, 2 Jus Corpus L.J. 518 (2021).

the outcome of similar fact patterns. Vala's critique is significant because it highlights not only inconsistency but also the institutional reluctance to harmonise conflicting precedents, a hesitation that ultimately prompted the referral in *Tej Bhan*.

Adding a practical dimension, Anuj Goyal in his article *Women Rights in Hindu Succession Act, 1956* (2023) turns attention to the lived effects of this ambiguity²⁹. He demonstrates how women bear the brunt of prolonged litigation, evidentiary challenges, and legal costs that often outweigh the value of the disputed property itself. For Goyal, doctrinal uncertainty is not a theoretical issue but a structural barrier that discourages women from asserting rights, thereby entrenching inequality in practice.

Read together, these contributions illustrate both the richness and the limits of existing scholarship. They succeed in identifying the doctrinal inconsistencies, exposing the patriarchal biases of judicial interpretation, and situating women's property rights in their wider social context. Yet they also leave two critical gaps. First, there is no systematic mapping of how specific factual scenarios such as maintenance settlements versus testamentary bequests have pushed courts toward either Section 14(1) or Section 14(2). Second, while several authors stress the existence of socio-cultural barriers, there has been limited empirical analysis of how doctrinal uncertainty directly shapes women's decisions to litigate, compromise, or relinquish claims.

These gaps sharpen the importance of *Tej Bhan v. Ram Kishan*.³⁰ By openly admitting the inconsistency of its own jurisprudence and referring the matter to a larger bench, the Supreme Court has effectively validated the concerns scholars have raised for decades. Sivaramayya's early doctrinal warning, Patel's socio-cultural analysis, Halder's feminist critique, and the contemporary observations of Vala and Goyal converge on a single point: Section 14 has been weakened by judicial inconsistency and requires principled resolution. The literature thus sets the stage for the present study, which aims to combine doctrinal mapping with normative critique in order to propose a coherent interpretive framework aligned with constitutional values of equality and dignity.

VI. CONCLUSION AND RECOMMENDATIONS

The promise of Section 14 of the Hindu Succession Act, 1956 was clear: to abolish the archaic Hindu woman's limited estate and confer on her the dignity of absolute ownership. In

²⁹ Goyal, Anuj, *Women Rights in Hindu Succession Act, 1956*, 6 Int'l J. L. Mgmt. & Human. 336 (2023).

³⁰ *Tej Bhan (D) Through Lrs. v. Ram Kishan (D) Through Lrs.*, 2024 SCC OnLine SC 3661 (India)

legislative debates, it was hailed as a landmark provision meant to end centuries of patriarchal exclusion. Yet the provision was drafted with two parts, and the uneasy coexistence of Section 14(1) and Section 14(2) has become the source of more confusion than clarity. Section 14(1) proclaims that all property possessed by a female Hindu, however acquired, must be held by her absolutely, while Section 14(2) appears to preserve donor or testator restrictions in cases of fresh grants. The tension between these two clauses has created an interpretive fault line that has endured for nearly seven decades.

The Supreme Court's jurisprudence illustrates how this fault line has produced two competing schools. On the one hand, the liberal and purposive approach, most famously represented by *V. Tulasamma v. V. Sesha Reddy*, insists that property granted in recognition of a woman's pre-existing right such as maintenance falls within Section 14(1), rendering restrictions inoperative. This view stresses the substance of the right, not the form of the instrument, and places legislative purpose and gender equality at the forefront. On the other hand, the restrictive approach, beginning with *Mst. Karmi v. Amru* and followed in later decisions such as *Sadhu Singh v. Gurdwara Sahib Narike*, treats restrictive language in wills or deeds as binding where no antecedent right is found, thereby upholding the limited estate through Section 14(2). This view prioritises donor autonomy and literal interpretation, even at the cost of undermining the very reform the legislature sought to achieve.

The coexistence of these two strands has led to chronic doctrinal uncertainty. Courts have often decided similar fact situations in contradictory ways, with outcomes depending less on the woman's entitlement and more on the bench's interpretive philosophy. As B. Sivaramayya warned as early as 1964, Section 14's "exception" has frequently been allowed to swallow the rule, thereby frustrating the Act's emancipatory purpose³¹. Yash Vala has recently described this as a trajectory of "doctrinal drift," where the absence of a clear principle has left women's property rights hostage to unpredictability³². The result is a landscape in which the law meant to secure gender justice too often produces delay, litigation, and insecurity.

It is in this context that the referral in *Tej Bhan v. Ram Kishan* acquires its importance. For the first time in recent memory, the Supreme Court has openly acknowledged that its own precedents are inconsistent and that piecemeal adjudication cannot restore coherence. By

³¹ B. Sivaramayya, Hindu Succession Act, 1956, Section 14—Restricted Estates in Wills—Sakunthala Devi v. Beni Madhav, 6 J. Indian L. Inst. 338 (1964).

³² Yash Vala, Women's Equality under Hindu Succession Law Still under Construction in India, 2 Jus Corpus L.J. 518 (2021).

declining to decide the dispute on the basis of one or the other strand and instead referring the matter to a larger bench, the Court has admitted that doctrinal clarity is no longer optional but imperative. This admission is itself momentous: it recognises that Hindu women's property rights cannot remain dependent on shifting interpretations, and that a principled, authoritative framework must finally be established.

The path forward is clear. Section 14(1) must be reaffirmed as the general rule, and Section 14(2) must be read narrowly as a tightly confined exception. Where a woman's possession of property can be traced to an antecedent right—maintenance, residence, inheritance, partition—her ownership must be treated as absolute, regardless of restrictive language. Only in the rare case of a wholly gratuitous, fresh grant with no connection to a pre-existing entitlement should Section 14(2) apply. This test, focused on the substance of entitlement rather than the form of the instrument, would restore coherence to the law while honouring the legislative intent to abolish the limited estate.

If the judiciary hesitates to impose such clarity, Parliament may also need to act. A short legislative amendment clarifying that Section 14(2) cannot apply to property traceable to maintenance, inheritance, or partition would eliminate the ambiguity that has fuelled contradictory rulings. Debarati Halder and K. Jaishankar's feminist critique demonstrates why this is essential: courts that uphold restrictive clauses under Section 14(2) effectively allow patriarchal control to persist through legal form, reducing women's ownership to a conditional privilege.³³ A statutory clarification would therefore not only tidy up drafting but also reaffirm the constitutional commitment to equality and dignity.

Even without amendment, however, courts have the tools to resolve this impasse. Articles 14, 15, and 21 of the Constitution require that laws be interpreted to advance equality, non-discrimination, and dignity. A purposive, equality-centred reading of Section 14 would not deny donors their autonomy but would refuse to allow private intent to override statutory purpose. As Tulsi Patel has argued, legal reform cannot secure substantive justice unless courts read women's property rights in light of social realities of exclusion and dependency³⁴. By explicitly grounding their approach in constitutional values, judges can ensure that Section 14 functions as a shield of empowerment rather than a loophole for patriarchal retrenchment.

³³ Debarati Halder & K. Jaishankar, Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India, 24 *J.L. & Religion* 663 (2008).

³⁴ Tulsi Patel, Hindu Women's Property Rights in India: A Critical Appraisal, 27 *Third World Q.* 1255 (2006).

In conclusion, Section 14 remains one of the most ambitious yet unsettled provisions of post-independence reform. Its text embodies a promise of equality, but its interpretation has too often perpetuated contradiction. The *Tej Bhan* referral is a rare moment of reckoning. It is both a confession—that past precedents have left the law incoherent—and an opportunity—to finally articulate a consistent and principled framework. The larger bench now has the chance to restore clarity, align statutory language with constitutional values, and ensure that the Hindu Succession Act fulfils its emancipatory promise. Nearly seventy years after Parliament abolished the limited estate, Hindu women should not still have to litigate for absolute ownership. The time for equivocation has passed; only a purposive, constitutionally grounded framework can secure, in both form and substance, the property rights of Hindu women.

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