
DISPARITY IN THE RIGHTS OF WIDOWS

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ABSTRACT

The Hindu Succession (Amendment) Act, 2005 was a landmark legislation aimed at reforming inheritance laws in India by granting daughters equal rights in ancestral property but widows remain inadequately protected in certain areas. This article analyses the facts and the ruling of the recent Delhi High Court case of *Rekha Oberoi v. Amit Oberoi*, and examines certain specific sections of the act. It speculates upon the intent behind the disparities in inheritance rights of daughters-in-law depending upon the timing of the husband's death, and calls for urgent legislative action to fill the stubborn gaps in the legislation.

Introduction

The 2005 Amendment to the Hindu Succession Act¹ might have brought some respite to the long-fought battle of gender equality in family and inheritance matters by recognizing daughters as equal coparceners by birth, and by retroactively applying the amendment. However, some remnants of this nasty patriarchal outlook are often over-looked and peep through their hiding place. The recent 2024 Delhi High Court case of *Rekha Oberoi v. Amit Oberoi*² is a lucky dispute that subtly brings forth the persisting and latent gender inequality within the framework of the Hindu Succession Act, 1956³ that governs intestate succession among Hindus who follow the Mitakshara law.

Facts of the case

Simply put, in the pedigree of the Oberoi family, the plaintiff, Rekha Oberoi is the widow of late Parveen Oberoi, who predeceased his mother, Savitri Devi. The deceased had entered into a Memorandum of Family Settlement whereby her children mutually agreed upon the division of the property. Following Praveen's death, Rekha has alleged that she faced harassment and mistreatment from her son, Amit Oberoi, the defendant in the present case, and his wife. The daughter of the deceased relinquished her share in the property by a deed in favour of the plaintiff and defendant. The plaintiff filed for a decree of partition based on her status as a widow and sought to claim a 50% share in the property inherited from her mother-in-law, the deceased, who was the sole and absolute owner of the suit property.

Ruling:

Having heard the submissions from both parties, Justice Neena Krishna held that by the 'tone and tenor' of the Family settlement, it can be construed as a Will, as it is an expression of intention of the deceased to bequeath her property in the stated manner. Since Praveen Oberoi predeceased his mother, and the Family Settlement did not stipulate the transfer of property in case of demise of beneficiary, *Section 105 of the Indian Succession Act, 1925*⁴ prescribes that

¹ Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

² *Rekha Oberoi v. Amit Oberoi*, (2024) SCC Online Del 4137.

³ Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

⁴ Indian Succession Act, 1925, § 105, No. 39, Acts of Parliament, 1925 (India).

If a legatee under a Will predeceases the Testator, then the legacy which would have passed to him/her, would lapse and fall into the remainder or residue of the Testator's property, implying that the deceased died intestate in respect of the aforescribed property. Thereafter, the suit property would devolve, according to *Sections 15 and 16 of the Hindu Succession Act, 1956*⁵ which lays down *General rules of succession in case of female Hindus*, first, upon the sons of daughters (including children of predeceased children). The Delhi High Court *vis-à-vis* the rights of a widow of a predeceased son in the estate of a mother-in-law dying intestate, relied on the Apex Court judgement of *Sachidhanandam vs E. Vanaja (2023)*⁶, which pronounced that from an integrated interpretation of the two sections, it is manifest that the widow of a predeceased son does not have any right to receive a share in the property of her mother-in-law.

Favourably, the plight of the plaintiff was ameliorated by the construal of the relinquishment deed as a Gift Deed naming the plaintiff as a co-beneficiary, and a preliminary decree of Partition was passed. In the *Parting Note* of the judgement, Justice Krishna describes the trajectory of women's property rights in India and while acknowledging the *Bona fide* intention of the legislature, laments that this case is indicative of how the present section militates against the woman herself. It recognizes that this is not an isolated or peculiar incident; and that the legislative anomaly in how a provision of law enacted to benefit one woman disadvantages the other, needs rectification. The learned judge has aptly articulated that,

*“the consequence is that a widowed daughter-in-law who might have served and cared for her mother-in-law during her lifetime suffers a rude shock to realize despite being a member of her matrimonial family, she gets no protection and is vulnerable to being shown the door by her own children at an age when she actually needs the security of the property.”*⁷

Critique and Need for Reform:

This innocent originalist ruling highlights the bizarre struggles faced by women in the murky waters of familial property rights of gender inequity in inheritance laws. The judgment is not

⁵ Hindu Succession Act, 1956, § 15, No. 30, Acts of Parliament, 1956 (India).

Hindu Succession Act, 1956, § 16, No. 30, Acts of Parliament, 1956 (India).

⁶ Sachidhanandam v. E. Vanaja and Ors, (2023) 14 SCR 240.

⁷ Rekha Oberoi v. Amit Oberoi, (2024) SCC Online Del 4137.

subject to scrutiny in that, it only followed its direct precedent, and adopted a literalist reading of the legislation, reflecting a strict adherence to the statute. Regardless, judicial activism would not have been uncommon, the Apex Court could have read down the section, or judicially amended it to include the widow of a pre-deceased son. At the eleventh hour, constitutional morality must take precedence over public morality in according widows, nay women, equal rights in inheritance.

Sections 15 and 16 of the Hindu Succession Act, 1956⁸ establish a hierarchy for inheritance of a Hindu woman's property. Interestingly, Section 8, which contains General Rules for Succession in case a Hindu male dies intestate, does not embody similar discrimination. In other words, when a father-in-law dies intestate, the widow of his predeceased son (daughter-in-law) is defined as a Class-I legal heir in the Schedule of the Act, and has a valid claim to property. Conversely, if a mother-in-law dies intestate, the widow of her predeceased is unfairly excluded.

Speculating upon the intent of the legislature in wording Section 15, the rationale behind this scheme may be traced back traditional patriarchal views on family and property where male heirs are seen as the primary custodians of wealth. But it is baffling why the law has created such disparity in treatment of spouses of surviving, and predeceased children – both of whom are daughters-in-law, only in case of a mother-in-law passing intestate. This structure does not recognize the socio-economic dependency that widowed-daughters-in-law may have on such property. The exclusion of widows from inheritance rights perpetuate the same societal norms that prioritize male heirs and diminish women's contribution within her matrimonial family.

Despite progressive reforms like the Hindu Succession (Amendment) Act, 2005⁹, systemic gaps remain in recognizing the rights of widows. Perhaps this should serve as a strong appeal to the legislature to pass amendments that thoroughly address this unequal pedestal. As such, amendments should be considered which grant widows of predeceased sons equal inheritance rights when their mother-in-law dies intestate, by recognizing them as Class-I heirs. Changes in inheritance law contributes to the economic independence of women, and has broader societal implications that influence the changing perceptions of women's roles. In the ongoing

⁸ n3

⁹ n2

case of *Kamal Anant Khopkar v. Union of India* (2024)¹⁰, the Supreme Court is yet to adjudicate on whether Section 15 of the Hindu Succession Act discriminates against women. Unfortunately, this present high court judgement and the *Sachidhanandam*¹¹ case both serve as persuasive and binding precedents respectively, in this area of inheritance law.

¹⁰ BarandBench, <https://www.barandbench.com/news/supreme-court-luxury-litigation-section-15-hindu-succession-act> (last visited Dec. 27, 2024).

¹¹ *Sachidhanandam v. E. Vanaja and Ors*, (2023) 14 SCR 240.