

DECODING SC VERDICT ON DAUGHTER'S RIGHT

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

*The Supreme Court held daughters, like sons, have an equal birthright to inherit coparcenary property and the 2005 amendment made to the Hindu Succession Act of 1956 will have a retrospective effect. **Rishabh Shroff**, partner, Cyril Amarchand Mangaldas, explains the verdict's implications:*

What was the 2005 amendment about?

The amendment was to confer equal status to sons and daughters of coparceners. Prior to this, coparcenary rights were granted only to sons of a coparcener.

Who is a coparcener?

A coparcener is one who acquires rights to their father's property upon birth and can claim a partition of the coparcenary at any time.

What are the conditions for applicability of the verdict?

This would be applicable subject to the condition the coparcenary property should not have been partitioned by the father prior to December 20, 2004. As long as the property remained coparcenary property and was not partitioned as of this date, a daughter can now claim interest in the same.

What are the different categories of persons in a Hindu Undivided Family (HUF)?

One is the coparcener, on whom alone the verdict impacts. The second category is a member (wife), who is only entitled to maintenance and would not be granted any inheritance rights or the right to seek partition in the coparcenary.

What can daughters do?

Daughters will now be treated at par with sons of coparceners, and granted equal coparcenary rights in their father's property upon birth.

Even their marital status would not affect the rights being conferred to them by way of the amendment — hence, they continue to be part of their father's HUF post marriage and can seek a share and bequeath their HUF share under their Will to any beneficiary they choose.

What about the verdict's impact on family businesses and others?

The judgement only applies to HUF property, and does not affect personal or self-acquired assets held individually.

In reality, most personal wealth, including ownership in valuable family businesses, are either held in personal names of the patriarch / promoters, or in private trusts or holding companies /limited liability partnerships (LLP).

The 'older' business families may continue to hold some ancestral wealth in HUFs, but the scale

and materiality of such holdings is usually limited.

Almost no business family is setting up new HUFs and actually, most existing HUFs are being dissolved.

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