CASE LAW UPDATES

Hindu Succession Act, 1956: Grandson Cannot Claim Birthright in Property Inherited by Father Under Section 8 - Supreme Court Clarifies the Distinction Between Ancestral and Individual Property

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The Supreme Court has reiterated an important distinction under **Hindu succession law: property inherited by a son from his father under Section 8 of the Hindu Succession Act, 1956 does not automatically become ancestral or coparcenary property in the hands of the son vis-à-vis his own children** that is grandsons, cannot claim birthright in property inherited by father.

In ***J. Rajesh (Minor) v. M. Kumaran (Dead) through Legal Representatives & Ors***, the Supreme Court examined whether a grandson could seek partition of land received by his father in a partition of his grandfather's estate. **The Court held that once succession opened under Section 8 and the property was distributed among the Class I heirs, the share received by the father became his exclusive property in his individual capacity.**

The judgment is significant because it reinforces the statutory scheme of succession under the 1956 Act and clarifies the limits of the traditional Hindu law principle of a son's birthright in ancestral property.

Facts of the Case

The dispute arose from a claim for partition of a piece of land measuring approximately 1,811 square feet, originally belonging to the appellant's grandfather, N. Ramakrishnan.

The relevant sequence of events was as follows:

1. Partition proceedings initiated by the grandfather's daughter: In 1993, the appellant's aunt instituted a partition suit concerning the properties of N. Ramakrishnan. The proceedings

were subsequently resolved through a compromise dated 3 February 1994.

2. Allotment of property to the father: Under the compromise decree, the appellant's father received the disputed land as his separate share in the partition. The property was thus allotted to him following the division of the grandfather's estate among the legal heirs.

3. Birth of the appellant: The appellant was born on 6 January 1994, shortly before the compromise decree was passed. He claimed that he had acquired a coparcenary interest in the property by birth and that the partition could not extinguish his rights.

4. Subsequent sale of the property: The appellant's father executed two sale deeds dated 3 April 1997 and 17 April 1997, transferring the land to two purchasers.

5. Institution of the partition suit: In 1997, the minor appellant, represented by his mother as natural guardian, instituted a suit seeking partition and possession of half of the disputed property. His principal contention was that the property retained its ancestral character and that he had acquired an independent right in it as a coparcener.

The trial court granted a preliminary decree for partition. However, the purchasers challenged this decision before the appellate court, which reversed the decree. The Madras High Court subsequently upheld the position that the appellant had not acquired a right by birth in the property allotted to his father.

Aggrieved by the High Court's decision, the appellant approached the Supreme Court.

Legal Issues Before the Supreme Court

The principal question before the Court was:

Whether a grandson acquires a right by birth in property inherited by his father under Section 8 of the Hindu Succession Act, 1956, and subsequently allotted to him through partition among the grandfather's legal heirs?

The dispute also required the Court to examine:

- Whether the **property retained its character as coparcenary property after succession opened under Section 8 and the estate was partitioned among the Class I heirs.**

- Whether the **appellant could invoke Section 6 of the Hindu Succession Act, 1956, and Section 29-A of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, to establish a coparcenary interest.**
- Whether the father could validly transfer the property to third-party purchasers without obtaining the appellant's consent or establishing legal necessity.

Arguments Advanced by the Parties

Arguments on behalf of the Appellant

The appellant argued that the property was originally ancestral property belonging to his grandfather and that its character as coparcenary property continued even after it was allotted to his father under the compromise decree.

Reliance was placed on Section 29-A of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, *which recognised the right of daughters in a Mitakshara coparcenary in the same manner as sons.* It was contended that the provision preserved the coparcenary character of the property and that the appellant, having been born before the compromise decree was passed, had acquired an interest in it by birth.

The appellant further relied upon ***Rohit Chauhan v. Surinder Singh***, and ***Arshnoor Singh v. Harpal Kaur***, to argue that property allotted to a coparcener upon partition can retain its coparcenary character vis-à-vis his descendants.

It was also contended that the purchasers could not acquire a better title than the father possessed. Since the father had transferred the property without establishing legal necessity, the sale deeds could not defeat the appellant's alleged coparcenary share.

Arguments on behalf of the Respondents

The respondents argued that the dispute was governed by Section 8 of the Hindu Succession Act, 1956, since the grandfather's property had devolved upon his legal heirs through intestate succession.

They submitted that the grandfather's grandson, whose father was alive, was not independently included in Class I of the Schedule as an heir entitled to succeed to the grandfather's estate.

Reliance was placed on:

- ***CWT v. Chander Sen, (1986) 3 SCC 567;***
- ***Vimalben Ajitbhai Patel v. Vatslabeen Ashokbhai Patel, (2008) 3 SCC 87; and***
- ***Radha Bai v. Ram Narayan, (2020) 19 SCC 513.***

The respondents maintained that once the property devolved upon the grandfather's Class I heirs and was subsequently partitioned, **each heir became the exclusive owner of the property allotted to them. Consequently, the appellant could not claim a birthright in his father's individual property.**

They also pointed out that the appellant had not challenged either the compromise decree dated 3 February 1994 or the subsequent sale deeds.

Relevant Statutory Provisions

The Supreme Court's decision primarily revolves around the interpretation of Sections 6, 8 and 19 of the Hindu Succession Act, 1956, read with Section 29-A of the Tamil Nadu Amendment.

1. Section 8 - General Rules of Succession in the Case of Males

Section 8 provides the order of succession when a Hindu male dies intestate (without leaving a will). His property devolves in the following order:

- **Firstly, upon the Class I heirs specified in the Schedule.**
- **Secondly, upon Class II heirs, if there is no Class I heir.**
- **Thirdly, upon agnates, if there are no heirs in the first two categories.**
- **Lastly, upon cognates, if there are no agnates.**

The important aspect of Section 8 is that the property devolves upon the statutory heirs in their individual capacities.

Under the Schedule, a son is a Class I heir. However, a grandson whose father is alive is not independently included as an heir to his grandfather's estate merely by virtue of being his grandson.

The Schedule does recognise the son of a predeceased son as a Class I heir. This distinction is crucial because the legislation specifically recognises representation through a predeceased son but does not independently recognise the son of a living son as an heir to the

grandfather's estate.

The appellant's father inherited the grandfather's property as a Class I heir. The grandson could not bypass the statutory scheme of succession and claim a direct interest in the grandfather's estate.

2. Section 6 - Devolution of Interest in Coparcenary Property

Section 6 was substantially amended by the Hindu Succession (Amendment) Act, 2005.

Under the amended provision, a daughter of a Mitakshara coparcener becomes a coparcener by birth in her own right, in the same manner as a son. She enjoys equal rights and liabilities in coparcenary property.

The provision also deals with the devolution of a deceased coparcener's interest through testamentary or intestate succession rather than survivorship.

However, Section 6 operates in the context of an existing Mitakshara coparcenary. **It does not automatically convert every property inherited by a Hindu under Section 8 into coparcenary property.**

The Supreme Court held that Section 6 could not assist the appellant because the grandfather's property had devolved upon his Class I heirs under Section 8. The appellant was not a surviving coparcener entitled to claim an interest in the property when succession opened.

3. Section 19 - Mode of Succession of Two or More Heirs

Where two or more heirs succeed together to the property of an intestate, they take the property:

- Per capita and not per stirpes; and
- As tenants-in-common and not as joint tenants.

The distinction between tenants-in-common and joint tenants is important in understanding the nature of ownership following succession.

Under Section 19, each heir receives an identifiable share in the property. The heirs do not automatically continue as a single coparcenary merely because they inherited property from the same deceased person.

The grandfather's heirs succeeded to his estate as tenants-in-common. Following the compromise decree and division of the estate, each heir became the exclusive owner of the property allotted to their respective share.

4. Section 29-A - Hindu Succession (Tamil Nadu Amendment) Act, 1989

The provision was introduced to confer equal coparcenary rights upon daughters in Mitakshara joint Hindu families **governed by the Tamil Nadu amendment.**

It recognised a daughter's right by birth in coparcenary property in the same manner as a son, subject to the statutory conditions and exceptions.

The appellant relied upon this provision to contend that the property retained its coparcenary character despite the partition proceedings.

However, the Supreme Court found that Section 29-A had no application to the facts because the property had devolved under Section 8 and the appellant could not establish that he was a surviving coparcener when succession opened.

Supreme Court's Analysis and Reasoning

1. Section 8 operates as a self-contained scheme of succession

The Supreme Court placed considerable reliance on ***CWT v. Chander Sen, (1986) 3 SCC 567.***

In this decision, the Supreme Court considered whether property inherited by a son from his father under **Section 8 of the Hindu Succession Act would constitute the son's individual property or the property of his Hindu Undivided Family (HUF).**

The Court held that where a son inherits property under Section 8, he takes it in his individual capacity and not as the Karta of his own HUF.

The reasoning was based on the legislative scheme of the Hindu Succession Act, 1956. The Act codified and modified the law relating to intestate succession among Hindus. Therefore, the statutory provisions could not be displaced by relying upon the earlier principles of Mitakshara Hindu law.

The Supreme Court reiterated this principle in the present case and observed that Section 8 must be treated as a self-contained provision governing the devolution of property belonging to a Hindu male dying intestate.

The Court particularly emphasised the distinction between a son and the son of a living son under the Class I Schedule.

A grandson cannot claim an independent share in the grandfather's property merely because traditional Hindu law recognised certain birth-based interests in ancestral property.

2. Distinction between succession under Section 8 and coparcenary rights by birth

One of the most important aspects of this judgment is the distinction between two different modes through which property rights may arise under Hindu law:

A. Rights arising through intestate succession

Where property devolves under Section 8, the statutory heirs inherit it in their individual capacities. **The son does not automatically become the Karta of an HUF** consisting of himself and his descendants in respect of that inherited property.

B. Rights arising through coparcenary membership

In a Mitakshara coparcenary, a coparcener acquires an interest by birth. Such rights operate within the framework of an existing coparcenary and are governed by the applicable statutory provisions.

The Court clarified that these two legal situations cannot be treated as interchangeable.

The fact that property originally belonged to a grandfather or was historically ancestral does not, by itself, establish that a grandson acquires a birthright in it after it devolves upon his father under Section 8.

3. Effect of partition among the grandfather's legal heirs

The Court further examined the legal consequences of the compromise decree dated 3 February 1994.

The grandfather's property had devolved upon his Class I heirs following his death. Subsequently, the heirs arrived at a settlement through which specific properties were allotted to their respective shares.

The Supreme Court held that the heirs became exclusive owners of the properties allotted to them.

It observed that the property ceased to constitute joint family property following the partition among the heirs, who had succeeded as tenants-in-common rather than joint tenants.

Consequently, the joint coparcenary did not continue merely because the property had originally belonged to the grandfather.

The father's share, therefore, became his exclusive property in his individual capacity. The appellant could not claim that the property continued to form part of a coparcenary consisting of his father and himself.

4. Why Section 29-A of the Tamil Nadu Amendment was not applicable

The appellant attempted to rely on Section 29-A of the Tamil Nadu Amendment to establish that the property continued to possess the incidents of coparcenary ownership.

The Supreme Court rejected this argument.

It held that the provision could not assist the appellant because the dispute concerned property that had devolved upon the grandfather's Class I heirs under Section 8 of the central legislation.

The Court also examined the applicability of the unamended Section 6 of the Hindu Succession Act, as the relevant succession proceedings originated before the 2005 amendment.

Since the date of the grandfather's death was not disclosed and the partition proceedings among his heirs had commenced in 1993, the Court concluded that neither Section 6 nor Section 29-A could be invoked to establish the appellant's claimed coparcenary interest in the circumstances of the case.

5. Distinguishing the earlier judgments relied upon by the appellant

The Supreme Court considered the decisions in ***Rohit Chauhan v. Surinder Singh and Arshnoor Singh v. Harpal Kaur.***

These judgments recognise that property allotted to a coparcener upon partition can retain its coparcenary character vis-à-vis his descendants, depending upon the nature and source of the property and the applicable law.

However, the Supreme Court distinguished the present dispute on the basis of the mode of devolution.

In Arshnoor Singh v. Harpal Kaur, the grandfather had died in 1951, before the commencement of the Hindu Succession Act, 1956. Consequently, succession had opened under the traditional Mitakshara Hindu law, and the property inherited by the son retained its ancestral coparcenary character.

Similarly, in Rohit Chauhan v. Surinder Singh, the Court examined the character of property allotted upon partition and the subsequent birth of a son.

The present case, however, involved property that devolved under Section 8 of the Hindu Succession Act, 1956.

Therefore, the Court held that the principles governing property inherited under the pre-1956 Hindu law could not automatically be extended to property inherited under the statutory scheme of Section 8.

This distinction is particularly important for understanding the interaction between traditional Mitakshara law and the codified Hindu succession framework.

6. Reliance on Bhanwar Singh v. Puran

The Supreme Court also referred to ***Bhanwar Singh v. Puran, (2008) 3 SCC 87.***

In this case, the Court examined the effect of succession under Section 8 and partition among the legal heirs of the original owner.

It reiterated that where property devolves upon the heirs under Section 8 and is subsequently partitioned, the joint coparcenary does not necessarily continue.

The decision reinforced the proposition that heirs succeeding under the Hindu Succession Act acquire their respective shares in accordance with the statutory scheme.

The Supreme Court also referred to ***Radha Bai v. Ram Narayan, (2020) 19 SCC 513***, in which it reiterated that a grandson or granddaughter whose father or mother is alive cannot

independently claim the status of a Class I heir to the grandparent's estate merely by virtue of the relationship.

Final Judgment

The Supreme Court dismissed the appeal and upheld the Madras High Court's decision.

The Court concluded that:

1. The **grandfather's property devolved upon his Class I heirs under Section 8 of the Hindu Succession Act, 1956.**

2. The **heirs succeeded to the property as tenants-in-common, and the subsequent partition resulted in each heir becoming the exclusive owner of the property** allotted to their respective share.

3. The property received by the **appellant's father became his exclusive property** in his individual capacity and did not constitute coparcenary property vis-à-vis the appellant.

4. The **grandson could not claim an independent right by birth in property** that had devolved upon his father under Section 8.

5. Neither Section 6 of the Hindu Succession Act nor Section 29-A of the Tamil Nadu Amendment could be invoked to establish the appellant's claimed coparcenary interest in the circumstances of the case.

Accordingly, the Court found no infirmity in the High Court's judgment and dismissed the appeal without any order as to costs.