BLOGS

Succession of Hindu Male Dying Intestate under the Hindu Succession Act

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Edit TABLE OF CONTENTS Introduction Class I Heirs of Hindu Male Class II Heirs of Hindu Male Agnates or Class III Heirs of Hindu Male Cognates or Class IV Heirs of Hindu Male Case in absence of any of the above-mentioned Heirs The 2005 amendment to the Hindu Succession Act, 1956 Conclusion

Introduction

Succession in India can be categorized into testamentary and intestate succession. Testamentary succession denotes succession via will while intestate succession refers to succession when someone dies without a will.

The Hindu Succession Act, of 1956 governs the intestate succession to a Hindu male's property under Hindu law. A will is an instrument that denotes the wishes of the deceased with regards to the devolution of their property. When a Hindu male dies without making a will, his property is distributed among his legal heirs according to the provisions of the Act.

The Hindu Succession Act, 1956, divides the heirs into four classes. The distribution of property depends on the class of heirs and their proximity to the deceased.

Class I Heirs of Hindu Male

Class I heirs are the closest relatives of the deceased and are entitled to inherit the property in the first instance.

The Class I heirs include the following:

- Widow of the deceased
- The son(s) and daughter(s) of the deceased
- The mother of the deceased

- The heirs of the predeceased son or daughter of the deceased and,
- The widow of the predeceased son of the deceased

In the event that there is more than one Class I heir, they share the property equally.

Case I

When a Hindu male dies intestate, leaving behind a widow, children, and mother

When a Hindu male dies intestate, leaving behind a widow, children, and mother, the property is distributed equally among them. Each of them is entitled to an equal share of the property.

Case II

When a Hindu male dies intestate, leaving behind a widow, children, and no mother

When a Hindu male dies intestate, leaving behind a widow, children, and no mother, the widow and children are entitled to equal shares in the property. The widow is entitled to one share, and the remaining shares are divided equally among the children.

Class II Heirs of Hindu Male

If there are no Class I heirs, the Class II heirs take ownership of the property.

The Class II heirs include the following:

- Father of the deceased
- The son(s) and daughter(s) of the predeceased son or daughter of the deceased
- The brother(s) and sister(s) of the deceased
- The nephew(s) and niece(s) of the deceased

The property is distributed among the Class II heirs in the order mentioned above. If there is more than one heir in a class, they share the property equally.

Case III

When a Hindu male dies intestate, leaving behind no Class I heirs but a Class II heir

When a Hindu male dies intestate, leaving behind no Class I heirs but a Class II heir, the Class II heir is entitled to inherit the entire property.

Agnates or Class III Heirs of Hindu Male

If there are no Class I or Class II heirs, the property passes on to Agnates. Agnates are the relatives of the deceased through male lineage.

The order of succession among agnates is as follows:

- Son’s son’s son
- Son’s son’s daughter
- Son’s daughter’s son
- Son’s daughter’s daughter
- Brother
- Brother’s son
- Brother’s daughter
- Father’s brother
- Father’s brother’s son
- Father’s brother’s daughter
- Father’s sister
- Father’s sister’s son
- Father’s sister’s daughter

Cognates or Class IV Heirs of Hindu Males

If there are no agnates, the property passes on to cognates. Cognates are the relatives of the deceased through female lineage.

The order of succession among cognates is as follows:

1. Mother’s mother

2. Mother’s father
3. Mother’s brother
4. Mother’s sister
5. Father’s mother
6. Father’s father’s mother
7. Father’s father’s father’s mother
8. Father’s father’s sister
9. Father

Case in absence of any of the above-mentioned Heirs

It is important to note that in the absence of any of the above-mentioned heirs, the property will escheat to the government. Therefore, it is advisable to make a will, which will help in the smooth transfer of property to the desired person and avoid any conflicts that may arise between the legal heirs.

The 2005 amendment to the Hindu Succession Act, 1956

In addition, the Hindu Succession Act, 1956, was amended in 2005 to give equal rights to daughters in ancestral property. Before the amendment, daughters did not have any right to the ancestral property and could only claim a share in the self-acquired property of the father.

After the amendment, daughters are now considered coparceners and have the same rights and liabilities as the sons in the ancestral property. The amendment is applicable retrospectively from 1956, the year when the Hindu Succession Act came into force.

The amendment has given a boost to women’s rights and made them equal partners in ancestral property. It has also addressed the issue of gender discrimination and brought the Hindu Succession Act in line with the Constitution of India, which guarantees equality before the law to all citizens.

Conclusion

In conclusion, the Hindu Succession Act, 1956 governs the succession to a Hindu male’s property upon his death intestate. The Act divides the heirs into four classes, and the property is

distributed among the legal heirs based on their proximity to the deceased. It is advisable to make a will to ensure a smooth transfer of property to the desired person and to avoid any conflicts that may arise between the legal heirs.