


Landmark Judgement



ARUNACHALA GOUNDER (DEAD) BY LRS VS PONNUSAMY AND ORS

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**Ponnusamy and Ors. v. Arunachala Gounder (Dead) By
Lrs. (2022)**

The historic ruling in "**Arunachala Gounder (Dead) By Lrs v. Ponnusamy and Ors. (2011)**" upholds the legislative intent of Section 14 of the Hindu Succession Act 1956, which aims to equalize the inheritance rights of male and female Hindus by designating female Hindus as absolute owners of the property they inherit.

According to Mitakshara law, the principle of propinquity—that is, the proximity of the relationship—gives the daughter the right to inherit the father's property. In the past, a Hindu woman could only claim a limited interest in the assets she inherited, but now that she is an absolute owner, her father's heirs will get them if she passes away.

Reference: [Civil Appeal No. 6659 of 2011]

Facts

According to the appellant's (**Thangammal, Ramasamy Gounder's daughter**) case, Kupayee Ammal inherited Marappa Gounder's self-acquired property upon his death. Each of Ramasamy's five children will receive one-fifth of the estate upon her death in 1967. She filed a partition lawsuit, claiming a fifth of the suit property and asserting that all five were Ramasamy Gounder's children.

According to the respondent (Heirs of Gurunatha Gounder), Gurunatha was the only heir at the time of Marappa Gounder's death in 1949, and according to Hindu law prior to 1956, she inherited the entire property and was able to enjoy it.

The trial court determined that:

"The plaintiff-appellant had no right to file the suit for partition and, therefore, dismissed the suit because Marappa Gounder died on April 15, 1949, and the suit property would devolve upon the sole son of deceased Ramasamy Gounder, the deceased brother of Marappa Gounder by survivorship."

The Trial Court's ruling was upheld by the Honorable High Court. As a result, the appellant submitted the current petition to the Supreme Court.

Issues

Is it possible for a single daughter who passed away intestate before the Hindu Succession Act of 1956 to inherit her father's self-acquired property?

Arguments made by the appellants:

The property in question belonged to Marappa Gounder and would pass to his daughter Kupayee Ammal, who passed away in 1967.

According to Mitakshara Law, a daughter's right to inherit is determined by the rule of proximity of relation, or propinquity. As a result, she would receive the property and it would

not pass to the son of her father's sibling upon survivorship.

Arguments made by the Respondents

When Marappa Gounder passed away in 1949, his daughter Kupayee Ammal was not entitled to receive her father's belongings. Gurantha Gounder, Ramaswamy's son, was the sole successor available at the time. Judgment Analysis

Strong Hindu religion holds that the Vedas, Shrutis, and Smritis contain their rules. Forensic law, or the Dharma Shashtra, which is thought to be contained in the words of Lord Brahma, is embraced by Smritis. On the basis on which commentaries, digests, and annotations have been created, these works are regarded as authentic. These legal sources have developed throughout time and are regarded as definitive authorities.

The foundational ideas of justice, equity, morality, and court rulings have all contributed to the evolution of Hindu law.

Several schools of Hindu law, such as Daya Bhaga in Bengal, Mayukha in Bombay, Konkan, and Gujarat, and Marumakkattayam/Nambudri in Kerala, have emerged as a result of these commentaries.

In other regions of India, mitakshara is applicable to much of the country.

Law School of Mitakshara

is mostly drawn from "Yajnavalkya's" commentary on Smritis; other sources include "Vyavastha Chandrika" and "Smriti Chandrika."

"What has been self-acquired by anyone, as an increment, without diminishing the paternal estate, likewise a gift from a friend or a marriage gift does not belong to the co-heirs," according to "Yajnavalkya," which is regarded as the primary authority for all schools in Bengal with the exception of Daya Bhaga School.

Regarding the Daughter's Right of Succession, "In default of the widow, the daughters inherit the estate of the man who died separated (from his coparceners) and not re-united (with them)," according to "Vyavastha Chandrika."

According to Manu, who is cited in "Vyavastha Chandrika," "the daughter is equal to the son, and the son is even as himself." Therefore, even if she survives and she is, in a sense, himself, how can anybody else receive his property?

The Hindu Law of Inheritance (Amendment) Act, 1929, introduced the concept of female inheritance. It established a number of female statutory successors, including the son's daughter, daughter's daughter, sister, and sister's son.

Legal precedents

It was decided in *Katama Natchiar v. Srimut Rajah Mootoo Vijaya Raganadha Bodha Gooroo Sawmy Periya Odaya Taver* that:

When a Hindu man passes away intestate, inheritance, not survivorship, will determine succession. The property passes to the widow and then the daughter if there is no male member.

According to the 174th Law Commission report:

Inheritance by succession is also recognized under Mitakshara law, although it only applies to property that each individual, male or female, owns independently. According to Mitakshara law, women can inherit this type of property. The Bengal, Benares, and Mithila sub-schools of Mitakshara regarded just five female relatives as having the right to inherit prior to the Hindu Law of Inheritance (**Amendment**) Act 1929: widow, daughter, mother, paternal grandmother, and paternal great-grandmother.

Thus, it can be inferred that a number of female heirs, wives, and daughters have inheritance rights based on the aforementioned passages, commentaries, and court rulings.

The Honorable Supreme Court ruled in this instance that:

According to Old Customary Hindu Law and numerous court rulings, the widow and the daughter are entitled to inherit the self-acquired property or a portion of the coparcenary property of a Hindu male who passes away intestate. Additionally, the Supreme Court ruled that:

"A daughter of a male Hindu who dies intestate would be entitled to inherit such property in preference to other collateral if the property was self-acquired or obtained in the partition of a coparcenary or family property, and it would devolve by inheritance rather than survivorship." Although the family was in a state of jointness at the time of his death, Marappa Gounder's self-acquired property in this case will pass to his only surviving daughter, Kapayee Ammal, following his intestate death. Furthermore, survivorship will not cause this to change.

Divergent views exist regarding the succession plan that will be implemented following the death of a daughter who inherits the property from her father. Like a widow, the daughter's interest is limited, and it would return to the male deceased's heirs, who would be eligible to inherit by survivorship. The opposing viewpoint is held by the other school.

However, as **Kupayee Ammal** passed away after **the Hindu Succession Act, 1956**—a statute pertaining to intestate succession among Hindus—was put into effect, this conflicting viewpoint is irrelevant. In the past, women's property rights were restricted. By granting women absolute ownership rights over property, this Act seeks to equalize the property rights of men and women. Both the Daya Bhaga School and the Mitakshara School are governed by the Act.

Section 14 states that Hindu women have the right to complete ownership. In order to

acknowledge her claim of an absolute interest in the inherited estate, Section 14 eliminates the discriminatory practice of giving her a life interest in the inherited property.

In the absence of a will or testament, the female's inherited property is passed down in accordance with Section 15.

According to Section 15. General rules of succession in the case of female Hindus, (1) The property of a female Hindu who passes away intestate will be distributed in accordance with the guidelines outlined in Section 16: (a) first, to the husband and his sons and daughters (including the children of any predeceased son or daughter); (b) second, to the husband's heirs; (c) third, to the mother and father; (d) fourth, to the father's heirs; and (e) last, to the mother's heirs.

The exception to the aforementioned regulation is that, in accordance with Section 15(2)(1)(a), if a Hindu woman passes away without leaving any direct heirs, her son or daughter or the offspring of the pre-deceased son or daughter will pass on to the father's heirs. Section 15(2) was enacted by law to guarantee that, in the event that a Hindu woman passes away without a will, her property will return to its original owner. In **Bhagat Ram (dead) by LRs. v. Teja Singh (dead) by LRs.**¹⁶, a two-judge panel decided that:

"The scenario would be determined by the source from which she receives the property, which is always significant. If not, those who are not even closely connected to the original owner of the land would be entitled to inherit it. Sub-Section 2 of Section 15, which provides a unique pattern of succession, would be defeated in this way. Therefore, in accordance with Section 15(1)(d), it will pass to the father's heirs if the female has no heirs **listed under Entries (a)–(c) of Section 15(1).**

Therefore, if a Hindu woman passes away intestate without leaving any children, the property she acquired from her father or mother will go to her father's heirs, but the property she inherited from her husband or father-in-law will go to her husband's heirs. Since the succession of the suit properties began in 1967 following Kupayee Ammal's death, the 1956 Act will apply in this case. As a result, Ramasamy Gounder's daughters, who are also Class-I heirs of their father, will be heirs and entitled to a fifth stake each in the suit properties.