



Supreme Court Judgment on Inheritance

For Prelims: [Supreme Court](#) Judgment on Inheritance, Mitakshara Law, Voidable Marriage, Void Marriage, [Hindu Marriage Act, 1955](#), [Hindu Undivided Family \(HUF\)](#), Dayabhaga School.

For Mains: Supreme Court Judgment on Inheritance.

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Why in News?

Recently, the [Supreme Court \(SC\)](#) has ruled that children born of void or voidable marriages can inherit their parent's share in a **joint Hindu family** property under the **Mitakshara Law**.

- However, it emphasized that these children would not be entitled to rights in or to the property of any other person in the family.

Note:

- **Voidable Marriage:** A voidable marriage is a marriage that is initially valid but has certain defects or conditions that can lead to its annulment if one of the parties chooses to do so.
- **Void Marriage:** A void marriage is one that is considered invalid from the very beginning as **if it never existed in the eyes of the law**.

What is the Background?

- The verdict was given in reference to a two-judge bench judgment in **Revanasiddappa vs. Mallikarjun, 2011**, which had held that children born out of void/voidable marriages are entitled to inherit their parents' property, whether self-acquired or ancestral.
 - The case was related to an amended provision in the [Hindu Marriage Act, 1955 Section 16\(3\)](#).
- This judgment laid the foundation for **recognizing the inheritance rights of such children**.

What are the SC's Ruling?

- **Determining Inheritance Share:**
 - The first step in inheritance for a child from a void or voidable marriage is to ascertain the **exact share of their parent in the ancestral property**.
 - This determination involves conducting a "**notional partition**" of the **ancestral property to calculate the portion** that the parent would have received immediately before their death.
- **Legal Basis for Inheritance:**

- **Section 16 of the Hindu Marriage Act, 1955** plays a crucial role in conferring legitimacy to children born out of void or voidable marriages, stipulating that such children have **a right to their parents' property.**
- **Equal Inheritance Rights:**
 - Children from void or voidable marriages are **considered "legitimate kin"** under the **Hindu Succession Act, 1956** which governs inheritance.
 - They cannot be deemed illegitimate when it **comes to inheriting family property.**
- **Impact of the Hindu Succession (Amendment) Act, 2005:**
 - The court noted that after the enactment of the Hindu Succession (Amendment) Act in 2005, a deceased person's share in a joint Hindu family governed by **Mitakshara law** can be inherited by testamentary or intestate succession.
 - This amendment expanded the scope of inheritance beyond survivorship and granted equal succession rights to women and men.

Note: In June 2022, the SC in **Kattukandi Edathil Krishnan & Another Vs Kattukandi Edathil Valsan & Others** ruled that **children born to partners in live-in relationships can be considered legitimate.** This is conditional in a way that the relationship needs to be long-term and **not of 'walk in, walk out' nature.**

What are the Supreme Court Rulings Regarding Daughter's Inheritance?

- **Arunachala Gounder v. Ponnusamy, 2022:**
 - The SC held that the self-acquired property of a **Hindu male dying intestate** i.e., without writing a will, would **devolve by inheritance and not by succession.**
 - Further, the Court said that such property shall be **inherited by the daughter,** in addition to the property of the coparcenary which was obtained through partition.
- **Vineeta Sharma v. Rakesh Sharma, 2020**
 - The SC held that a **woman/daughter shall also be considered as a joint legal heir** as a son and can inherit ancestral property equally as a male heir, irrespective that the father was not alive before the **Hindu Succession (Amendment) Act, 2005, came into effect.**

What is Mitakshara Law?

- **About:**
 - The Mitakshara Law is a **legal and traditional Hindu law system** that primarily governs the rules of inheritance and property rights among members of a **Hindu Undivided Family (HUF).**
 - It is one of the two major schools of Hindu law, the other being the **Dayabhaga school.**
 - The Mitakshara law of succession applies to the entire country **except West Bengal and Assam.**

Schools of Hindu Laws

Mitakshara Law School	Dayabhaga Law School
The term Mitakshara is derived from the name of a commentary written by Vijnaneswara, on the Yajnavalkya Smriti.	The term Dayabhaga is derived from a similarly named text written by Jimutavahana.
It is observed in all parts of India and subdivided into the Benares, the Mithila, the Maharashtra, and the Dravida schools.	It is observed in Bengal and Assam.

A son, by birth, acquires an interest in the ancestral property of the joint family.	A son has no automatic ownership right by birth but acquires it on the death of his father.
All the members enjoy coparcenary rights during the father's lifetime.	Sons do not enjoy coparcenary rights when the father is alive.
A coparcener's share is not defined and cannot be disposed of.	The share of each coparcener is defined and can be disposed of.
A wife cannot demand partition but has the right to a share in any partition between her husband and her sons.	Here, the same right does not exist for the women because the sons cannot demand partition as the father is the absolute owner.

Legal Insight: [Inheritance Rights of Children from Void or Voidable Marriages](#)

(<https://drishtijudiciary.com/>)

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. With reference to the history of ancient India, which of the following statements is/are correct?

1. Mitakshara was the civil law for upper castes and Dayabhaga was the civil law for lower castes.
2. In the Mitakshara system, the sons can claim right to the property during the lifetime of the father, whereas in the Dayabhaga system, it is only after the death of the father that the sons can claim right to the property.
3. The Mitakshara system deals with the matters related to the property held by male members only of a family, whereas the Dayabhaga system deals with the matters related to the property held by both male and female members of a family.

Select the correct answer using the code given below:

(a) 1 and 2 only

(b) 2 only

(c) 1 and 3 only

(d) 3 only

Ans: (b)

- Mitakshara and Dayabhaga terms were used to denote regions. It is not related to the caste system. The Mitakshara Law applies to the whole of India except Bengal and Assam. The Dayabhaga Law applies to the communities living in the states of Bengal and Assam and other parts of the world. **Hence, statement 1 is not correct.**
- The difference between Dayabhaga and Mitakshara is in the basic idea of them. Dayabhaga does not give anyone the right to property before the death of their forefathers whereas Mitakshara gives anyone the right to property just after their birth. **Hence, statement 2 is correct.**

- Dayabhaga system prevails in West Bengal and allows both the male and female members of the family to be coparceners. Mitakshara system, on the other hand, prevails all over India except West Bengal and allows only the male members to be coparceners. **Hence, statement 3 is not correct.**
- **Therefore, option (b) is the correct answer.**

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