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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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**CASE COMMENT: ARUNACHALA GOUNDER (DEAD)**  
**BY LRS VS PONNUSAMY (2022) 11 SCC 520**

AUTHORED BY - SHAILJA SINGH<sup>1</sup>

**DATE OF JUDGEMENT:** 20 January, 2022

**COURT:** Supreme Court of India

**CASE TYPE:** Civil Appeal No. 6659 of 2011

**APPELLANT:** Arunachala Gounder (Dead) by Legal Representatives

**RESPONDENT:** Ponnusamy and Others.

**BENCH/ JUDGES:** Justice S. Abdul Nazeer and Justice Krishna Murari

**LEGAL PROVISIONS:** Section 14<sup>2</sup> and Section 15<sup>3</sup> of the Hindu Succession Act, 1956.

**ABSTRACT:**

Hindu classical laws limited the estate of women; they were not absolute owners of property. The property used to devolve among male descendants of the husband, only after the commencement of Hindu Succession Act<sup>4</sup> in 1956 did this position change. Subsequently, through amendments and various judicial pronouncements, both legislature and courts have been attempting to eliminate discriminatory elements and practices prevalent in inheritance laws. The court, consequently, adopted a progressive stance towards Hindu customary laws. It maintained that even prior to the codification of Hindu personal laws and enactment of the Hindu Succession Act, daughters possess equal rights over their father's property. This judgment crystallised and legitimised not merely through many texts; commentaries on law also supported this perspective with robust judicial precedents thereby setting an objective precedent for gender equality.

**KEY WORDS:** Discrimination, Hindu Succession Act, Inheritance laws, Daughter's Equal Rights.

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<sup>1</sup> 3<sup>rd</sup> Year of 5 Year LL.B. Student, Faculty of Law, University of Lucknow, Lucknow.

<sup>2</sup> Hindu Succession Act, 1956, s. 14.

<sup>3</sup> Hindu Succession Act, 1956, s. 15.

<sup>4</sup> The Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

## I. INTRODUCTION:

Under the Hindu succession law, a woman's inheritance right used to be limited to her marriage. Inequalities also existed between the rights of sons and daughters. However, thanks to an amendment in 2005 in The Hindu Succession Act<sup>5</sup>; this gender bias has been removed now bestowing upon daughters' identical terms: responsibilities, obligations and privileges that were previously exclusive only for sons. In 2005, authorities amended the Hindu Succession Act of 1956. This revision eliminated gender discrimination within traditional personal law, effectively broadening a daughter's entitlements previously confined solely post-marriage. She now shares equal inheritable rights with her brother which is an unprecedented milestone towards legal equity indeed. The 2005 amendment stipulates upon her birth, just as a son does in strict adherence to coparcenary laws; indeed, the daughter of a coparcener automatically becomes one herself.<sup>6</sup>

The case of *Vineeta Sharma v. Rakesh Sharma* clarified that, even before the 2005 amendment, daughters held equal inheritance rights to ancestral property as sons did.<sup>7</sup> However, confusion still persisted about a daughter's entitlement over her father's self-acquired or separate property and its succession order. In 2022, a **divisional bench** composed of **Justice S. Abdul Nazeer and Justice Krishna Murari** addressed these issues in the landmark case *Arunachala Gounder v. Ponnusamy*<sup>8</sup>. They subsequently established an influential legal precedent. In this case, *the Supreme Court observed how a daughter's position stands regarding inheriting the separate property of an intestate Hindu male under both Hindu personal and customary laws.*

## II. BACKGROUND AND FACTS OF THE CASE<sup>9</sup>:

Two sons belonged to Gurunatha Gounder: Marappa Gounder and Ramasamy Gounder. Independently, in 1938 via a court auction, he acquired a property. The single daughter of Marappa Gounder bore the name Kuppayee Ammal. Marappa Gounder passed away in 1949, and Kuppayee Ammal inherited the property. Regrettably, without bearing any children, Kuppayee Ammal also departed from this world in 1967.

Thangammal, the daughter of Ramasamy Gounder, initiated a partition suit. Upon Kuppayee's

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<sup>5</sup> The Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

<sup>6</sup> The Hindu Succession (Act no. 39 of 2005) s. 6.

<sup>7</sup> *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1.

<sup>8</sup> *Arunachala Gounder v. Ponnusamy*, (2022) 11 SCC 520.

<sup>9</sup> *Arunachala Gounder (dead) By Lrs v. Ponnusamy*, 2022 SCC Online SC 72.

demise, all five children of the late Ramasamy Gounder (namely Gurunatha Gounder; Thangammal, now represented by her legal heir; and Ramayeeammal) along with Elayammal and Nallammal ascended to their positions as heirs. They stood entitled each to an equal 1/5th share.

Defendant-respondents presented an argument: Marappa Gounder died in 1949 - a period prior to the passage of Hindu Succession Act, 1956. Under prevailing Hindu law before this date, Gurunatha Gounder emerged as the unique heir of all property belonging to his father, thus inheriting those properties and maintaining possession until he passed away. Gurunatha Gounder's death conferred the lawful ownership of the properties onto his heirs, who are now the respondents.

The Trial Court determined that the deceased brother of Marappa Gounder, Ramasamy Gounder's only son, would inherit the disputed property through survivorship. Simultaneously, *The High Court of Judicature at Madras* also affirmed this decision regarding survivorship and dismissed any legal right for division by the plaintiff-appellant over said assets, thus concluding their respective positions.

As aggrieved by the decision, the appellant approached the Apex Court in this matter.

### **III. CONTENTIONS:**

#### **A. ARGUMENTS FROM THE APPELLANT'S SIDE:**

The appellant's learned counsel argues: Marappa Gounder purchased the property at a court auction in 1938, thus it is his private ownership and never constituted joint family property. Consequently, upon Marappa Gounder's demise, the law would transfer this estate to his daughter Kupayee Ammal through succession.

It was argued that the daughter maintains a closer bond with her father than her father's brother's son and daughter do. So, she should be entitled for inheritance from him, his property specifically in this instance.

According to Hindu law, a daughter indeed does not face any prohibition in inheriting her father's separate property. If an unmarried Hindu man dies without leaving behind a son, but only has one daughter as his survivor; she shall inherit his individual possessions through succession, thus

ensuring that they remain within the family lineage rather than transferring over to the male sibling's offspring via survivorship rights. The dismissal of this lawsuit resulted from erroneous application by lower courts of principles within Hindu legal doctrine.

#### **B. ARGUMENTS FROM THE RESPONDENT'S SIDE:**

The respondents' learned counsel contended: the property under dispute is joint family property. However, no evidence has been presented by the plaintiff-appellant to substantiate that it constitutes Marappa Gounder's self-acquired possession. As such, they assert that being a coparcener upon Marappa Gounder's demise, this piece of estate should transfer over to him as defendant.

Further, his argument stood that *the Trial Court* indeed determined Marappa Gounder, the paternal uncle of the plaintiff, had deceased prior to the implementation of The Hindu Succession Act in 1956. Thus and rightly so, the court dismissed her claim for a one-fifth share in their property.

Marappa Gounder, the plaintiff's uncle, passed away in 1949. The Hindu law then dictated that his daughter Kupayee Ammal did not hold entitlement to inherit her father's property. At that time, Guranatha Gounder, son of Ramasamy Gounder, stood as the sole available heir. After the Hindu Succession Act of 1956 came into effect, Marappa Gounder's properties passed to Guranatha Gounder, they then became his personal property which was unavailable for partition.

#### **IV. OBSERVATIONS OF THE SUPREME COURT:**

The Mitakshara School, a profoundly influential law institution, boasts an extensive practice scope. Its applicability spans across the majority of India with only slight deviations; however, the fundamental principles persist uniformly. Mitakshara jurisprudence acknowledges succession through heritage - albeit exclusively for individually owned properties regardless of gender-identity. The Mitakshara School integrates women as potential heirs to the self-acquired property. "*The digest of Yajnavalkya states that anything anyone acquires for themselves, without decreasing the paternal estate - be it an increment or a gift from friend or marriage - does not become co-heirs' possessions,*" Hon'ble Court notes.<sup>10</sup> It also acknowledges Manu's perspective

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<sup>10</sup> Edward Roer (tr), Hindu Law and Judicature from the Dharma-Sāstra of Yājñavalkya (Kessinger Publishing 2010).

in Vyavastha Chandrika: “A man's daughter is equal to his son; indeed, a man treats them both as extensions of himself.” How then can anyone else inherit his property, even if she essentially an extension of himself continues to live?<sup>11</sup> The Bengal, Benares and Mithila sub schools of Mitakshara only acknowledged five female relatives as eligible for inheritance: the widow, daughter, mother, paternal grandmother, and great-grandmother on the father's side.

Bands in Bombay and Madras encompassed the daughter of the son, as well as, the daughter of a father's sister or half-sister. The term 'bands' also included women married into these families, stepmothers but also widows like those left by either a son or brother. Moreover, numerous more women were classified under this broad definition at that time; however, it is worth noting that Bombay school displayed greater tolerance towards female heirs acknowledging their rightful claims with respect to inheritance laws prevalent then. The foregoing considerations abundantly establish: a daughter could have legitimately inherited her father's separate inheritance.

Further, the Court deliberated upon significant judgments relevant to its current adjudication. It referenced an 1863 ruling from the Privy Council in *Katama Natchiar v. Srimut Rajah Mootoo Vijaya Raganadha Bodha Gooroo Swamy Periya Odaya Tavern*<sup>12</sup>. This judgment observed that if a Hindu male dies intestate, inheritance and not survivorship decides succession and should an immediate male family member be absent, ownership of his property transfers first to his widow and subsequently onto his daughter.<sup>13</sup>

Some analysts indeed erred: they drew adverse inferences from the earlier Smritis' vague references to women's succession is a misinterpretation, overall. The Mitakshara clearly expresses an opinion; it holds that within a family unit, women possess substantial rights of maintenance. Therefore, with respect to this present issue, it leaves no room for ambiguity or debate.

## V. JUDGEMENT:

Asserting the suit property as Marappa Gounder's separate asset, the Supreme Court presented a robust argument. Additionally, never did the defendants lay claim to an acquisition of this

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<sup>11</sup> Jīmūtavāhana, Two Treatises on the Hindu Law of Inheritance (Hindoostanee Press 1810) 180.

<sup>12</sup> *Katama Natchiar v. Srimut Rajah Mootoo Vijaya Raganadha Bodha Gooroo Sawmy Periya Odaya Tavern*, (1863) 9 MIA 539.

<sup>13</sup> *Sivagnana Tevar v. Periasami*, ILR (1878) 1 Mad 312.

property using joint family funds.

Under customary Hindu Law and judicial rulings, we widely recognize that widows and daughters have the entitlement to inherit self-acquired property or shares received during a division of joint family property from a deceased Hindu male who did not leave behind his will. The court articulates this as follows: "If an intestate male's estate includes self-acquired or co-partnered assets, it passes through inheritance rather than survivorship; furthermore, among other collaterals, such man's daughter holds priority in inheriting said properties."

This case establishes: Marappa Gounder personally acquired the property in question. However, despite his family living as a joint unit at the time of his death, without a will, it remains non-transferrable through survivorship. Consequently, only one survivor exists, Kupayee Ammal, who will inherit this estate via normal inheritance protocols.

The old customary Hindu Law comprises two divergent schools of thought regarding the property inheritance order for a daughter from her father: The Dayabhaga school, asserting that like a widow, she holds limited estate interest and will pass on the assets to deceased male's heirs after death. Conversely, the Mitakshara school opposes this perspective.

Is the relevance of whether Marappa Gounder's daughter was born before or after the enforcement of the Hindu Succession Act, 1956 in this case; indeed, it becomes inconsequential as she passed away subsequent to its implementation. The aforementioned legislation amends and systematizes laws concerning property distribution upon an intestate Hindu person's death: Section 14<sup>14</sup> explicitly affirms that any property belonging to a Hindu woman constitutes her absolute possession which is a key provision within this act.

Section 14(1) of the Hindu Succession Act, 1956<sup>15</sup> embodies legislative intent to rectify limitations faced by Hindu women. It enables them to claim absolute ownership rather than limited interests over inherited properties. This provision converts all previously held 'limited estates' into 'absolute estates'. Their succession follows Section 15<sup>16</sup> in cases where a valid will is absent. In instances where an intestate Hindu woman has no children at the time of her death and she leaves behind both paternal and marital property, it stipulates that which she inherited

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<sup>14</sup> Hindu Succession Act, 1956, s. 14.

<sup>15</sup> Hindu Succession Act, 1956, s. 14, cl. 1.

<sup>16</sup> Hindu Succession Act, 1956, s. 15.

from her father or mother transfers back to their heirs. Similarly with respect to what was received from either husband or father-in-law, this would pass onto respective 'male familial lineages. Section 15(1)(a)<sup>17</sup> applies when a woman, who inherits properties from her parents, dies without leaving behind any descendants or a will. In this case her husband and children share the inherited property. Section 15(2)<sup>18</sup> ensures that if a female Hindu dies unmarried and childless with no valid testamentary dispositions, the source of her ancestral estate will reacquire it.

The established legal principle and specific case details confirm the applicability of the 1956 Act<sup>19</sup>, as Ramasamy Gounder's daughters inherited these properties following Kupayee Ammal's passing in 1967. Thus, being Class-I heirs to their father's estate places them in eligibility for a one-fifth (1/5th) share of each suit property.

## VI. ANALYSIS:

The Supreme Court, in its ruling, actively supports Section 14<sup>20</sup> of the Act's fundamental goals and purposes: specifically achieving gender equality concerning property rights and inheritance. This decision underscores not merely her life interest but explicitly labels a Hindu woman's property as her absolute possession, an assertion that elevates this section to a paramount importance within the act's provisions and indeed it articulates one of many crucial statements therein.

Mulla's Hindu Law, a comprehensive analysis of the pre-Act legal system, posits that the Mitakshara law acknowledges dual methods for transferring property ownership: survivorship and succession. The first covers joint family-owned properties; conversely referring to individual ownership transfers and it is applicable when an owner disposes his/her last owned piece of property. Mitakshara law includes women and girls as heirs in the transfer of property by succession and their right to inherit arises from propinquity which means the closeness of kinship. Consequently, long prior to passing the Act, Hindu customary law acknowledged a daughter's entitlement over her father's self-acquired property.<sup>21</sup>

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<sup>17</sup> Hindu Succession Act, 1956, s. 15. cl.1, sub, cl. a.

<sup>18</sup> Hindu Succession Act, 1956, s. 15, cl.2.

<sup>19</sup> The Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

<sup>20</sup> Hindu Succession Act, 1956, s. 14.

<sup>21</sup> Hindu Law by Mulla (22nd Edition).

Conversations and arguments about gender discrimination are not new in India's patriarchal culture; indeed, they have long been a focal point. The enactment of the Hindu Succession (Amendment) Act in 2005 has granted Hindu women coparcenary rights which is an essential progression towards gender equality for our nation and a significant stride forward.

The *Vineeta Sharma v. Rakesh Sharma case*<sup>22</sup>, a landmark decision by the Supreme Court, it established the retroactive effect of coparcenary rights for Hindu girls. It was an action widely praised and furthermore, this ruling definitively dispelled any lingering ambiguity surrounding these specific privileges. Despite numerous legislative and judicial attempts to enact gender-neutral property laws, there remained no jurisprudential clarity on self-acquired properties' rights for women. The *Arunachala Gounder case*<sup>23</sup> marked a turning point where Judiciary stepped in providing all answers about property distribution among Hindu females regarding their father's distinct assets at his intestate death.

In this decision, the Supreme Court meticulously scrutinized both the history of the Hindu Succession Act of 1956 and Hindu customary laws' generally progressive stance (laws that recognize women as legitimate heirs in diverse capacities). The court's commendable verdict underscores how numerous authoritative texts, commentaries, and judicial precedents have solidified and sanctioned a lone surviving daughter's claim to her father's separate properties. This was even prior to passing off the 1956 Act<sup>24</sup>. Furthermore, it clarifies that application of proximity rule aligns with succession rules.

This eagerly anticipated ruling by the nation's Apex Court will conclusively resolve any lingering questions about Hindu women and daughters' self-acquired property rights. It is poised to significantly enhance their socioeconomic standing.

The Supreme Court, last but not least, scrutinized the distribution of a Hindu woman's wealth after her death without leaving any will or direct heirs such as her son, daughter, or the offspring of an already deceased child. This examination extended to how assets she had acquired from her parents would be allocated under Hindu customary law which holds divergent perspectives on

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<sup>22</sup> Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1.

<sup>23</sup> Arunachala Gounder v. Ponnusamy, (2022) 11 SCC 520.

<sup>24</sup> The Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

inherited property division. Section 15(2) of the Act<sup>25</sup> steps in here: it codifies and dictates that in this scenario her father's descendants are entitled to claim those passed-down by birthright acquisitions and conversely so for those received through spousal lineage (either husbandly or paternal).

Kupayyee Ammal indeed held a complete interest in her father's self-acquired property, as the Supreme Court determined. Upon her passing, an event that transpired after Section 15(2) of the Act<sup>26</sup> had been enacted, this is what would have happened-

*The law stipulates that such properties return to their original owners and in this case, it refers to all five children being equal heirs and thus becoming rightful recipients again<sup>27</sup>.*

## VII. CONCLUSION:

The significance of this decision lies in its affirmation that a daughter can indeed inherit her father's independently acquired fortune, irrespective of whether such transmission occurred pre-Act passage.

Furthermore, it elucidates the legislative intent underpinning Section 15(2)<sup>28</sup> - to secure returnable rights for an issueless and intestate Hindu woman's inherited property back into the hands of its original owner. This clarification carries critical importance: without it, not even close relatives, but rather unrelated individuals altogether would gain entitlement over said inheritance and a violation against fundamental principles governing proximity relationships.

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<sup>25</sup> Hindu Succession Act, 1956, s. 15, cl. 2.

<sup>26</sup> Hindu Succession Act, 1956, s. 15, cl. 2.

<sup>27</sup> Arunachala Gounder (dead) By Lrs v. Ponnusamy, 2022 SCC Online SC 72.

<sup>28</sup> Hindu Succession Act, 1956, s. 15, cl. 2.