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HINDU SUCCESSION ACT, 1956

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THE HINDU SUCCESSION ACT, 1956

ACT NO. 30 OF 1956[1]

[17*th June*, 1956.]

An Act to amend and codify the law relating to intestate succession among Hindus.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and extent.—(*1*) This Act may be called the Hindu Succession Act, 1956.

(*2*) It extends to the whole of India [2]***.

2. Application of Act.—(*1*)This Act applies—

(*a*) to any person, who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj,

(*b*) to any person who is a Buddhist, Jaina or Sikh by religion, and

(*c*) to any other person who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

Explanation.—The following persons are Hindus, Buddhists, Jainas or Sikhs by religion, as the case may be:—

(*a*) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;

(*b*) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jaina or Sikh by religion and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged;

(*c*) any person who is a convert or reconvert to the Hindu, Buddhist, Jaina or Sikh religion.

(*2*) Notwithstanding anything contained in sub-section (*1*), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (*25*) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.

(*3*) The expression "Hindu" in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in this section.

3. Definitions and interpretation.—(*1*)In this Act, unless the context otherwise requires,—

(*a*) "agnate"—one person is said to be an "agnate" of another if the two are related by blood or adoption wholly through males;

(*b*) "aliyasantana law" means the system of law applicable to persons who, if this Act had not been passed, would have been governed by the Madras Aliyasantana Act, 1949, (Madras Act 9 of 1949) or by the customary aliyasantana law with respect to the matters for which provision is made in this Act;

1. The Act hasbeen extended to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and First Schedule and to Pondicherry by Reg. 7 of 1963, s. 3 and First Schedule.
2. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10- 2019).

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(*c*) "cognate"—one person is said to be a "cognate" of another if the two are related by blood or adoption but not wholly through males;

(*d*) the expressions "custom" and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:

Provided that the rule is certain and not unreasonable or opposed to public policy: and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;

(*e*) full blood "half blood" and "uterine blood"—

(*i*) two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife, and by half blood when they are descended from a common ancestor but by different wives;

(*ii*)two persons are said to be related to each other by uterine blood when they are descended from a common ancestress but by different husbands;

Explanation.—In this clause "ancestor" includes the father and "ancestress" the mother;

(*f*) "heir" means any person, male or female, who is entitled to succeed to the property of an intestate under this Act;

(*g*) "intestate"—a person is deemed to die intestate in respect of property of which he or she has not made a testamentary disposition capable of taking effect;

(*h*) "marumakkattayam law" means the system of law applicable to persons—

(*a*)who, if this Act had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act 22 of 1933); the Travancore Nayar Act (2 of 1100K); the Travancore Ezhava Act (3 of 1100K); the Travancore Nanjinad Vellala Act (6 of 1101K); the Travancore Kshatriya Act (7 of 1108K); the Travancore Krishnanvaka Marumak kathayee (Act 7 of 1115K); the Cochin Marumak kathayam Act (33 of 1113K); or the Cochin Nayar Act (29 of 1113K); with respect to the matters for which provision is made in this Act; or

(*b*) who belong to any community, the members of which are largely domiciled in the State of Travancore Cochin or Madras [1][as it existed immediately before the 1st November, 1956], and who, if this Act had not been passed, would have been governed with respect to the matters for which provision is made in this Act by any system of inheritance in which descent is traced through the female line;

but does not include the *aliyasantana* law;

(*i*) "nambudri law" means the system of law applicable to persons who, if this Act had not been passed, would have been governed by the Madras Nambudri Act, 1932 Madras Act (21 of 1933); the Cochin Nambudri Act (17 of 111K); or the Travancore Malayala Brahmin Act (3 of 1106K); with respect to the matters for which provision is made in this Act;

(*j*) "related" means related by legitimate kinship:

Provided that illegitimate children shall be deemed to be related to their mother and to one another, and their legitimate descendants shall be deemed to be related to them and to one another; and any word expressing relationship or denoting a relative shall be construed accordingly.

(*2*) In this Act, unless the context otherwise requires, words importing the masculine gender shall not be taken to include females.

1. Ins. by the Adaptation of Laws (No. 3) Order, 1956.

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4. Overriding effect of Act.—(*1*) Save as otherwise expressly provided in this Act,—

(*a*) any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;

(*b*) any other law in force immediately before the commencement of this Act shall cease to apply to Hindus in so far as it is inconsistent with any of the provisions contained in this Act.

[1]* * * * *

CHAPTER II

INTESTATE SUCCESSION

General

5. Act not to apply to certain properties.—This Act shall not apply to—

(*i*) any property succession to which is regulated by the Indian Succession Act, 1925 (39 of 1925), by reason of the provisions contained in section 21 of the Special Marriage Act, 1954 (43 of 1954);

(*ii*) any estate which descends to a single heir by the terms of any covenant or agreement entered into by the Ruler of any Indian State with the Government of India or by the terms of any enactment passed before the commencement of this Act;

(*iii*) the Valiamma Thampuran Kovilagam Estate and the Palace Fund administered by the Palace Administration Board by reason of the powers conferred by Proclamation (IX of 1124) dated 29th June, 1949, promulgated by the Maharaja of Cochin.

[2]**[6. Devolution of interest in coparcenary property.—**(*1*) On and from the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,—

(*a*) by birth become a coparcener in her own right the same manner as the son;

(*b*) have the same rights in the coparcenery property as she would have had if she had been a son;

(*c*) be subject to the same liabilities in respect of the said coparcenery property as that of a son,

and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:

Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

(*2*) Any property to which a female Hindu becomes entitled by virtue of sub-section (*1*) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by testamentary disposition.

(*3*) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenery property shall be deemed to have been divided as if a partition had taken place and,—

(*a*) the daughter is allotted the same share as is allotted to a son;

1. Omitted by Act 39 of 2005, s. 2 (w.e.f. 9-9-2005).
2. Subs. by s. 3, *ibid*., for section 6 (w.e.f. 9-9-2005).

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(*b*) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and

(*c*) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Explanation.—For the purposes of this sub-section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

(*4*) After the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), no court shall recognise any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), nothing contained in this sub-section shall affect—

(*a*) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or

(*b*) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 (39 of 2005)had not been enacted.

Explanation.—For the purposes of clause (*a*), the expression "son", "grandson" or "great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005).

(*5*) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004

Explanation.—For the purposes of this section "partition" means any partition made by execution of a deed of partition duly registered under the Registration Act, 1908 (16 of 1908) or partition effected by a decree of a court.]

STATE AMENDMENTS

Karnataka.—

Insertion of new sections in Central Act 30 of 1956.—In the Hindu Succession Act, 1956 (Central Act 30 of 1956) after section 6, the following sections shall be inserted, namely:—

"6A. Equal rights to daughter in co-parcenary property.—Notwithstanding anything contained in section 6 of this Act,—

(a) in a joint Hindu family governed by Mitakshara law, the daughter of a co-parcener shall by birth become a co-parcener in her own right in the same manner as the son and have the same rights in the co-parcenary property as she would have had if she had been a son inclusive of the right to claim by survivorship and shall be subject to the same liabilities and disabilities in respect thereto as the son;

(b) at a partition in such Joint Hindu Family the co-parcenary property shall be so divided as to allot to a daughter the same share as is allotable to a son:

Provided that the share which a predeceased son or a predeceased daughter would have got at the partition if he or she had been alive at the time of the partition, shall be allotted to the surviving child of such predeceased son or of such predeceased daughter:

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Provided further that the share allotable to the predeceased child of the predeceased son or of a predeceased daughter, if such child had been alive at the time of the partition, shall be allotted to the child of such predeceased child of the predeceased son or of such predeceased daughter, as the case may be;

(c) any property to which a female Hindu becomes entitled by virtue of the provisions of clause (a) shall be held by her with the incidents of co-parcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by will or other testamentary disposition;

(d) nothing in clause (b) shall apply to a daughter married prior to or to a partition which had been effected before the commencement of Hindu Succession (Karnataka Amendment) Act, 1990.

6B. Interest to devolve by survivorship on death.—When a female Hindu dies after the commencement of the Hindu Succession (Karnataka Amendment) Act, 1990, having at the time of her death an interest in a Mitakshara co-parcenary property, her interest in the property shall devolve by survivorship upon the surviving members of the co-parcenary and not in accordance with this Act:

Provided that if the deceased had left any child or child of a pre-deceased child, the interest of the deceased in the Mitakshara co-parcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

Explanation.—(1) For the purposes of this section the interest of female Hindu Mitakshara co-parcener shall be deemed to be the share in the property that would have been allotted to her if a partition of the property had taken place immediately before her death, irrespective of whether she was entitled to claim partition or not.

(2) Nothing contained in the proviso to this section shall be construed as enabling a person who, before the death of the deceased had separated himself or herself from the co-parcenary, or any of his or her heirs to claim on intestacy a share in the interest referred to therein.

6C. Preferential right to acquire property in certain cases.—(1) Where, after the commencement of Hindu Succession (Karnataka Amendment) Act, 1990 an interest in any immovable property of an intestate or in any business carried on by him or her, whether solely or in conjunction with others devolves under sections 6A or 6B upon two or more heirs and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

(2) The consideration for which any interest in the property of the deceased may be transferred under sub-section (1) shall, in the absence of any agreement between the parties, be determined by the court, on application, being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of or incidental to the application.

(3) If there are two or more heirs proposing to acquire any interest under, this section, that heir who offers the highest consideration for the transfer shall be preferred.

Explanation.—In this section 'Court' means the court within the limits of whose jurisdiction the immoveable property is situate or the business is carried on, and includes any other court which the State Government may by notification in the official Gazette specify in this behalf.]

[*Vide* Karnataka Act 23 of 1994, sec. 2].

7. Devolution of interest in the property of a *tarwad, tavazhi, kutumba, kavaru* or *illom*.—(*1*)When a Hindu to whom the *marumakkattayam* or *nambudri* law would have applied if this Act had not been passed dies after the commencement of this Act, having at the time of his or her death an interest in the property of a *tarwad*, *tavazhi* or *illom*, as the case may be, his or her interest in the property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not according to the *marumakkattayam* or *nambudri* law.

Explanation.—For the purposes of this sub-section, the interest of a Hindu in the property of a *tarwad*, *tavazhi* or *illom* shall be deemed to be the share in the property of the *tarwad*, *tavazhi* or *illom*, as

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the case may be, that would have fallen to him or her if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *tarwad, tavazhi*or *illom*, as the case may be, then living, whether he or she was entitled to claim such partition or not under the *marumakkattayam* or *nambudri* law applicable to him or her, and such share shall be deemed to have been allotted to him or her absolutely.

(*2*) When a Hindu to whom the *aliyasantana* law would have applied if this Act had not been passed dies after the commencement of this Act, having at the time of his or her death an undivided interest in the property of a *kutumba* or *kavaru*, as the case may be, his or her interest in the property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not according to the *aliyasantana* law.

Explanation.—For the purposes of this sub-section, the interest of a Hindu in the property of a *kutumba* or *kavaru* shall be deemed to be the share in the property of the *kutumba* or *kavaru*, as the case may be, that would have fallen to him or her if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *kutumba* or *kavaru*, as the case may be, then living, whether he or she was entitled to claim such partition or not under the *aliyasantana* law, and such share shall be deemed to have been allotted to him or her absolutely.

(*3*) Notwithstanding anything contained in sub-section (*1*), when a *sthanamdar* dies after the commencement of this Act, the *sthanam* property held by him shall devolve upon the members of the family to which the *sthanamdar* belonged and the heirs of the *sthanamdar* as if the *sthanam* property had been divided per capita immediately before the death of the *sthanamdar* among himself and all the members of his family then living,, and the shares falling to the members of his family and the heirs of the *sthanamdar* shall be held by them as their separate property.

Explanation.—For the purposes of this sub-section, the family of a *sthanamdar* shall include every branch of that family, whether divided or undivided, the male members of which would have been entitled by any custom or usage to succeed to the position of *sthanamdar* if this Act had not been passed.

8. General rules of succession in the case of males.—The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter:—

(*a*) firstly, upon the heirs, being the relatives specified in class I of the Schedule;

(*b*) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;

(*c*) thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased; and

(*d*) lastly, if there is no agnate, then upon the cognates of the deceased.

9. Order of succession among heirs in the Schedule.—Among the heirs specified in the Schedule, those in class I shall take simultaneously and to the exclusion of all other heirs; those in the first entry in class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

10. Distribution of property among heirs in class I of the Schedule.—The property of an intestate shall be divided among the heirs in class I of the Schedule in accordance with the following rules:—

Rule 1.—The intestate's widow, or if there are more widows than one, all the widows together, shall take one share.

Rule 2.—The surviving sons and daughters and the mother of the intestate shall each take one share.

Rule 3.—The heirs in the branch of each pre-deceased son or each pre-deceased daughter of the intestate shall take between them one share.

Rule 4.—The distribution of the share referred to in Rule 3—

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(*i*) among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widows together) and the surviving sons and daughters get equal portions; and the branch of his pre-deceased sons gets the same portion;

(*ii*) among the heirs in the branch of the pre-deceased daughter shall be so made that the surviving sons and daughters get equal portions.

11. Distribution of property among heirs in class II of the Schedule.—The property of an intestate shall be divided between the heirs specified in any one entry in class II of the Schedule so that they, share equally.

12. Order of succession among agnates and cognates.—The order of succession among agnates or cognates, as the case may be, shall be determined in accordance with the rules of preference laid down hereunder:—

Rule 1.—Of two heirs, the one who has fewer or no degrees of ascent is preferred.

Rule 2.—Where the number of degrees of ascent is the same or none, that heir is preferred who has fewer or no degrees of descent.

Rule 3.—Where neither heir is entitled to be preferred to the other under *Rule 1* or *Rule 2* they take simultaneously.

13. Computation of degrees.—(*1*) For the purposes of determining the order of succession among agnates or cognates, relationship shall be reckoned from the intestate to the heir in terms of degrees of ascent or degrees of descent or both, as the case may be.

(*2*) Degrees of ascent and degrees of descent shall be computed inclusive of the intestate.

(*3*) Every generation constitutes a degree either ascending or descending.

14.Property of a female Hindu to be her absolute property.—(*1*)Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.

Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as *stridhana* immediately before the commencement of this Act.

(*2*) Nothing contained in sub-section (*1*) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

15. General rules of succession in the case of female Hindus.—(*1*) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

(*a*) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;

(*b*) secondly, upon the heirs of the husband;

(*c*) thirdly, upon the mother and father;

(*d*) fourthly, upon the heirs of the father; and

(*e*) lastly, upon the heirs of the mother.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased(including the children of any pre-deceased son or daughter) not upon the other heirs referred in sub-section (*1*) in the order specified therein, but upon the heirs of the father; and

(*b*) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (*1*) in the order specified therein, but upon the heirs of the husband.

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STATE AMENDMENT

Kerala.—

Amendment of section 15.—In the Hindu Succession Act, 1956 (Central Act 30 of 1956), in section 15, after clause (b) of sub-section (2), the following clause shall be inserted, namely:—

"(c)" any property inherited by a female Hindu from her pre-deceased son shall devolve, not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the pre-deceased son from whom she inherited the property."

[*Vide* Kerala Act 17 of 2016, sec. 2].

16. Order of succession and manner of distribution among heirs of a female Hindu.—The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestate's property among those heirs shall take place according to the following rules, namely:—

Rule 1.—Among the heirs specified in sub-section (*1*) of section 15, those in one entry shall be preferred to those in any succeeding entry, and those included in the same entry shall take simultaneously.

Rule 2.—If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3.—The devolution of the property of the intestate on the heirs referred to in clauses (*b*), (*d*) and (*e*) of sub-section (*1*) and in sub-section (*2*) of section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death.

17. Special provisions respecting persons governed by *marumakkattayam* and *aliyasantana* laws.—The provisions of sections 8, 10, 15 and 23 shall have effect in relation to persons who would have been governed by the *marumakkattayam* law or *aliyasantana* law if this Act had not been passed as if—

(*i*) for sub-clauses (*c*) and (*d*) of section 8, the following had been substituted, namely:—

"(*c*) thirdly, if there is no heir of any of the two classes, then upon his relatives, whether agnates or cognates.";

(*ii*) for clauses (*a*) to (*e*) of sub-section (*1*) of section 15, the following had been substituted, namely:—

"(*a*) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the mother;

(*b*) secondly, upon the father and the husband;

(*c*) thirdly, upon the heirs of the mother;

(*d*) fourthly, upon the heirs of the father; and

(*e*) lastly, upon the heirs of the husband.";

(*iii*) clause (*a*) of sub-section (*2*) of section 15 had been omitted;

(*iv*) section 23 had been omitted.

General provisions relating to succession

18. Full blood preferred to half blood.—Heirs related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of the relationship is the same in every other respect.

19. Mode of succession of two or more heirs.—If two or more heirs succeed together to the property of an intestate, they shall take the property,—

(*a*) save as otherwise expressly provided in this Act, *per capita* and not *per stirpes*; and

(*b*) as tenants-in-common and not as joint tenants.

20. Right of child in womb.—A child who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to inherit to the intestate as if he or she had been born before the death of the intestate, and the inheritance shall be deemed to vest in such a case with effect from the date of the death of the intestate.

21. Presumption in cases of simultaneous deaths.—Where two persons have died in circumstances rendering it uncertain whether either of them, and if so which, survived the other, then, for all purposes

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affecting succession to property, it shall be presumed, until the contrary is proved, that the younger survived the elder.

22. Preferential right to acquire property in certain cases.—(*1*) Where, after the commencement of this Act, an interest in any immovable property of an intestate, or in any business carried on by him or her, whether solely or in conjunction with others, devolves upon two or more heirs specified in class I of the Schedule, and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

(*2*) The consideration for which any interest in the property of the deceased may be transferred under this section shall, in the absence of any agreement between the parties, be determined by the court on application being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of or incident to the application.

(*3*) If there are two or more heirs specified in class I of the Schedule proposing to acquire any interest under this section, that heir who offers the highest consideration for the transfer shall be preferred.

Explanation.—In this section, "court" means the court within the limits of whose jurisdiction the immovable property is situate or the business is carried on, and includes any other court which the State Government may, by notification in the Official Gazette, specify in this behalf.

23. [*Special provision respecting dwelling-houses.*]—*Omitted by the Hindu Succession (Amendment) Act*, 2005 *(*39 *of* 2005*), s.* 4 *(w.e.f.* 9-9-2005*).*

24. [*Certain windows re-marrying may not inherit as windows*.]—*Omitted by s.* 5, *ibid*. *(w.e.f.* 9-9-2005*).*

25. Murderer disqualified.—A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder.

26. Convert's descendants disqualified.—Where, before or after the commencement of this Act, a Hindu has ceased or ceases to be a Hindu by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindus at the time when the succession opens.

27. Succession when heir disqualified.—If any person is disqualified from inheriting any property under this Act, it shall devolve as if such person had died before the intestate.

28. Disease, defect, etc., not to disqualify.—No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or save as provided in this Act, on any other ground whatsoever.

Escheat

29. Failure of heirs.—If an intestate has left no heir qualified to succeed to his or her property in accordance with the provisions of this Act, such property shall devolve on the Government; and the Government shall take the property subject to all the obligations and liabilities to which an heir would have been subject.

STATE AMENDMENTS

Tamil Nadu

In the Hindu Succession Act, 1956 (hereinafter referred to as the principal act), after chapter II, the following chapter shall be inserted, namely:--

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"CHAPTER II-A,

Succession by survivorship.

29-A. Equal rights to daughter in coparcenary property.—Notwithstanding anything contained in section 6 of this Act,--

(i) in a Joint Hindu Family governed by Mitakshara Law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as a son and have the same rights in the coparcenary property as she would have had if she had been a son, inclusive of the right to claim by survivorship; and shall be subject to the same liabilities and disabilities in respect thereto as the son;

(ii) at a partition in such a Joint Hindu Family the coparcenary property shall be so divided as to allot to a daughter the same share as is allotable to a son:

Provided that the share which a pre-deceased son or a pre-deceased daughter would have got at the partition if he or she had been alive at the time of the partition shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter:

Provided further that the share allotable to the pre-deceased child of a predeceased son or of a pre-deceased daughter, if such child had been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the predeceased son or of the pre-deceased daughter, as the case may be;

(iii) any property to which a female Hindu becomes entitled by virtue of the provisions of clause (i) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by will or other testamentary disposition;

(iv) nothing in this Chapter shall apply to a daughter married before the date of the commencement of the Hindu Succession (Tamil Nadu Amendment) Act, 1989;

(v) nothing in clause (ii) shall apply to a partition which had been effected before the date of the commencement of the Hindu Succession (Tamil Nadu Amendment) Act, 1989.

29-B. Interest to devolve by survivorship on death.—When a female Hindu dies after the date of the commencement of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, having, at the time of her death, an interest in a Mitakshara coparcenary property by virtue of the provisions of section 29-A, her interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act:

Provided that if the deceased had left any child or child of a pre-deceased child, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

Explanation I.--For the purposes of this section, the interest of a female Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to her if a partition of the property had taken place immediately before her death, irrespective of whether she was entitled to claim partition or not.

Explanation II.--Nothing contained in the proviso to this section shall be construed as enabling a person who, before the death of the deceased, had separated himself or herself from the coparcenary or any of his or her heirs to claim on intestacy a share in the interest referred to therein.

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29-C. Preferential right to acquire property in certain cases.--(1) Where, after the date of the commencement of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, an interest in any immovable property of an intestate or in any business carried on by him or her, whether solely or in conjunction with others, devolves under section 29-A or section 29-B upon two or more heirs, and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

(2) The consideration for which any interest in the property of the deceased may be transferred under this section shall, in the absence of any agreement between the parties, be determined by the court on application being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of, or incidental to, the application.

(3) If there are two or more heirs proposing to acquire any interest under this section, that heir who offers the highest consideration for the transfer shall be preferred.

Explanation.--In this section "court" means the court within the limits of whose jurisdiction the immovable property is situate or the business is carried on and includes any other court which the State Government may, by notification in the Tamil Nadu Government Gazette, specify in this behalf.".]

[Vide Tamil Nadu Act 1 of 1990, s. 2]

CHAPTER III

TESTAMENTARY SUCCESSION

30. Testamentary succession.—[1]*** Any Hindu may dispose of by will or other testamentary disposition any property, which is capable of being so [2][disposed of by him or by her], in accordance with the provisions of the Indian Succession Act, 1925 (39 of 1925), or any other law for the time being in force and applicable to Hindus.

Explanation.—The interest of a male Hindu in a Mitakshara coparcenary property or the interest of a member of a *tarwad*, *tavazhi*, *illom*, *kutumba* or *kavaru* in the property of the *tarwad*, *tavazhi*, *illom*, *kutumba* or *kavaru* shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be property capable of being disposed of by him or by her within the meaning of this [3][section.]

[4]* * * * *

CHAPTER IV

REPEALS

31. [*Repeals*.]—*Rep. by the Repealing and Amending Act*, 1960 (58 *of* 1960), *s.*2 *and the First Schedule* (*w.e.f.* 26-12-1960).

1. The brackets and figure "(*1*)" omitted by Act 58 of 1960, s. 3 and the Second Schedule (w.e.f. 26-12-1960).
2. Subs. by Act 39 of 2005, s. 6, for "disposed of by him" (w.e.f. 9-9-2005).
1. Subs. by Act 56 of 1974, s. 3 and the Second Schedule for "sub-section" (w.e.f. 20-12-1974).
2. Omitted by Act 78 of 1956, s. 29 (w.e.f. 21-12-1956).

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THE SCHEDULE

(*See* section 8)

HEIRS IN CLASS I AND CLASS II

Class I

Son; daughter; widow; mother; son of a pre-deceased son; daughter of a pre-deceased son; son of a pre-deceased daughter; daughter of a pre-deceased daughter; widow of a pre-deceased son; son of a pre-deceased son of a pre-deceased son; daughter of a pre-deceased son of a pre-deceased son; widow of a pre-deceased son of a pre-deceased son [1][son of a predeceased daughter of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son].

Class II

I. Father.

II. (1) Son's daughter's son, (2) son's daughter's daughter, (3) brother, (4) sister.

III. (1) Daughter's son's son, (2) daughter's son's daughter, (3) daughter's daughter's son, (4) daughter's daughter's daughter.

IV. (1) Brother's son, (2) sister's son, (3) brother's daughter, (4) sister's daughter.

V. Father's father; father's mother.

VI. Father's widow; brother's widow.

VII. Father's brother; father's sister.

VIII. Mother's father; mother's mother.

IX. Mother's brother; mother's sister.

Explanation.—In this Schedule, references to a brother or sister do not include references to a brother or sister by uterine blood.

1. Added by Act 39 of 2005, s. 7 (w.e.f. 9-9-2005).

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