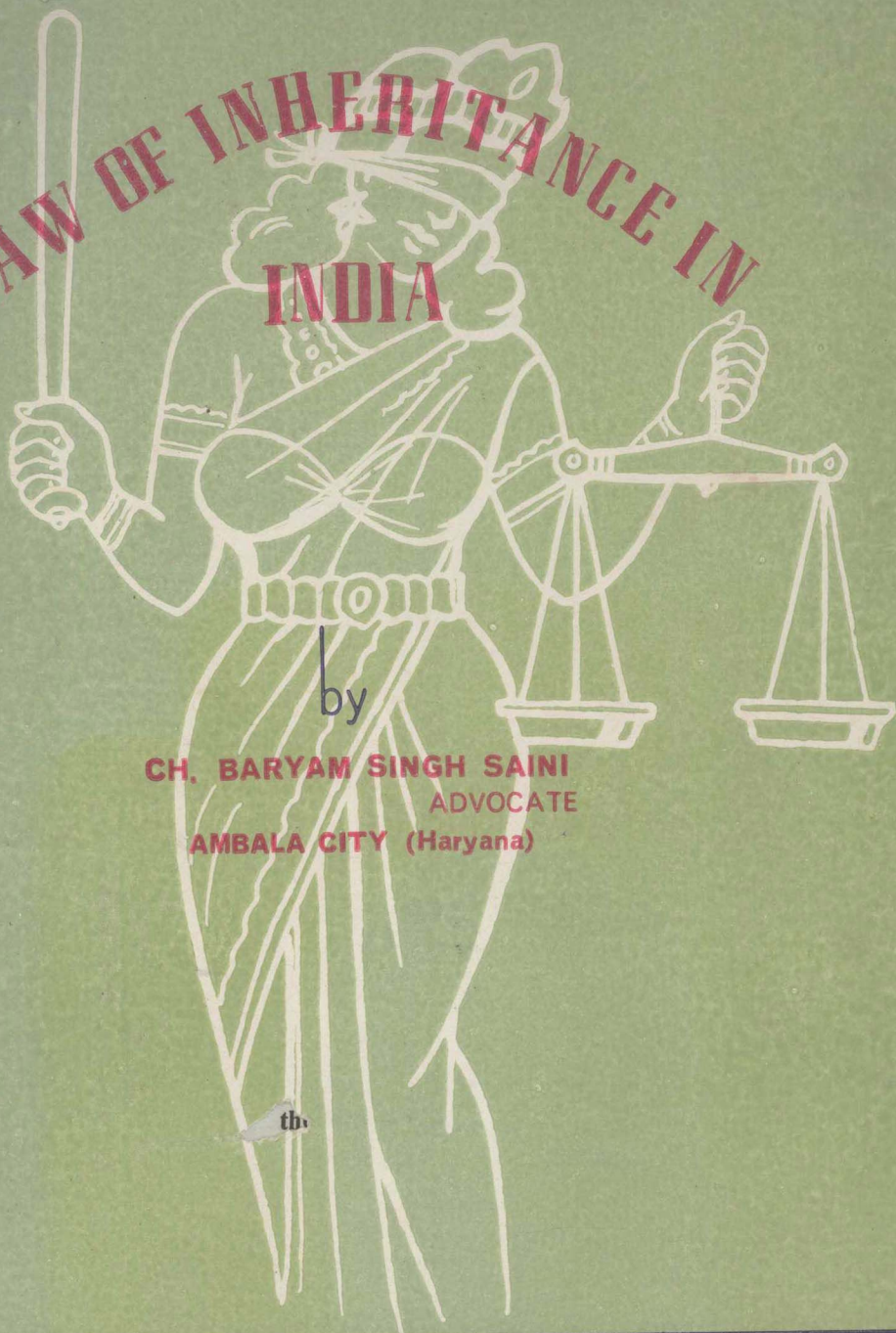


The

LAW OF INHERITANCE IN INDIA



by

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ADVOCATE
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th.

SAINI PUBLICATIONS

6848/4 Railway Road, AMBALA CITY (Haryana)



56808

The Law of Inheritance in India Governing

(The Hindus, Mohammedans, Christians, Parsis etc)

Containing

1. The Hindu Succession Act 1956.
2. The Mohammedan Law of Inheritance.
3. The Indian Succession Act 1925 (only intestate succession)
4. The Estate Duty Act 1953 (fundamentals)

&

5. Other allied enactments on the subject.

by

**Ch. Baryam Singh Saini, Advocate
Ambala City.**



with a foreword

by

**His Lordship, Mr. Justice S.C. Mital,
the Eminent Judge of the Hon'ble
Punjab & Haryana High Court,
Chandigarh.**



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सत्यमेव जयते

FOREWORD

Judge Punjab and Haryana.
High Court.

November 18, 1978.

**Foreword by Mr. Justice S. C. Mital, on the Law of Inheritance
in India by Ch. Baryam Singh Saini Advocate, Ambala City.**

The law of Inheritance is one of the most Important and engrossing branch of the civil law. This book represents a commendable attempt on the part of the author, to deal with, the subject, in great depth. While, preserving original approach to the subject, he has taken pains to notice the latest leading cases on the subject under appropriate headings. This work embodies, a complete piece of research. Its utility has been enhanced by the author's analysis of numerous topics and their discussion in all relevant detail I have no doubt that this book will be found to be of immense use to all concerned.

I wish the author, every success in his endeavour.

(Justice S.C. Mital)

PREFACE

No doubt, there are various attempts on the law of Succession or say, inheritance, major part of which is condified in various enactments and commented upon by eminent jurists, but the fragments of the same are coming down to us in the shape of traditions, conventions, customs, usages etc, which have binding force with preference to State-wise enactments providing preference to "Personal Law" of the parties concerned, as the first rule of decision i.e. "Hindu Law" applicable to Hindus and Muslim Law" governing the Mohammedans and so on. So far "Hindu Law" is concerned, the pulsating part of it is condified, for brevity named as "Hindu Code" and the law of Inheritance is a part and parcel of it, under the name and style of "The Hindu Succession Act 1956" which has been exhaustively dealt, with, bringing out its side effects i.e. curtailment on the implications of personal law, not in tune, with the provisions made therein, modifying, basis structure of joint Hindu family and various doctrines emanating therefrom, even embracing latest "Tenancy laws" imbibing therein attempt to convert tenancy rights into proprietary rights, and so on, but nevertheless retaining old concepts of Hindu Law on, such items as Mitakshara coparcenary, Marumakkhattayam, Aliyasantana etc, in their attenuated form. No pains have been spared to deal with the topic intensively and thoroughly. Next to it, the Mohammedan law of Inheritance, uncodified, is available in form of traditions as radically influenced by the Holy Koran, bifurcating itself in two parallel systems, known as Sunni and Shia schools of Inheritance and so on, both in testamentary and intestate succession. Attempt in this regard has been made, to bring out, native difference, on under-lying principles, fully clarified by charts of sharers and residuaries, under both systems, and further illustrated by diagrams and examples, pointing out the practical way of solution of problems falling in the domain of Inheritance and testified by case-law running quite up-to-date strictly in tune with the fundamentals discussed in the book. No doubt, Indian Succession Act 1925, on its testamentary side has been dealt with by numerous authors, and the same side i.e. Testamentary Succession (Wills) has also been dealt in his attempt "The Texture to Contest Alienations under Hindu

Law" Vol. II Chapter 6 parts 3 & 4 by the same author, exhaustively and will serve as a complement and supplement to the book in hand, and thus providing a complete coverage to the law of succession (Inheritance) in India yet, intestate succession in Indian Succession Act 1925, which hithertobefore, remain d practically neglected has been elaborated with diagrams, and illustrations with reference to Schedules, appended to the 1925 Act. The law of Inheritance as availed by the Estate Duty Act, has been dilated, upon bringing out its foundations on which the edifice of the 1953 Act, is so planned. The book would have been incomplete, but for that part.

The processing of the book, no doubt, has been delayed on account of inexperienced handling, on printing side and printing mistakes on spelling side here and there, but I must owe my thanks to Mr Pradeep, for his patient co-operation, in this project. Last but not the least. I feel highly endebedted to His Lordship Mr. Justice S.C. Mital, the Hon'ble Judge of the Punjab & Haryana High Court, Chandigarh a luminary on legal aspect, who was kind enough to spare his very valuable time in going through the book and appreciating its matter, while blessing it with his kind foreword,

Baryam Singh Saini
Advocate
Ambala City

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The Hindu Succession Act 1956

THE SCHEDULE

(See Section 8)

Heirs in class I and class II

Class I

Son, daughter, widow, mother, son of a predeceased son, daughter, of a predeceased son, son of a predeceased daughter, daughter of a predeceased daughter, widow of a predeceased son, son of a predeceased son of a predeceased son, daughter of a predeceased son of predeceased son, widow of a predeceased son of a predeceased 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 reference to a brother or sister by uterine blood.

The Law Of Inheritance In India

(Hindus, Mohammdens Parsis, Christians etc.)

General

Before one embarks upon such a Complex subject as "the law of Inheritance in India" no clear cut picture is conjured, Indian society is a admixture of numerous sections, founded on religion, caste, creed, sex language and so on. So far law of inheritance is concerned, it acknowledged or took into consideration, religious bonds more than groupism on any other bases since times immemorial. So keeping in view, the stark reality, the law of Inheritance, has been codified, in matters of inheritance in cases of Hindus, Christians and Parsis, but yet much is left in its original traditional form, no doubt modified here and there by conventions, custom, usage etc having force of law and binding force. If viewed superficially, it seems that, there is nothing in common, in various systems of inheritance in vogue in India, emanating from diametrically opposite religious backgrounds and orders, but going underneath, the law of inheritance, as a whole one comes across, uniformity on fundamentals of each system and gives, a better grasp, on the subject matter of this book. For instance the 'general rules of inheritance, seem converging upon unanimity. The Hindu Succession Act, seems to have taken the wind out of the sail of traditional, Mohammadan law' imbibed therein the underlying pragmatic principles of Muhammadan law, while codifying Section 18 to 29, embodying therein, the very things, such as planning the galaxy of heirs on basis of propinquity, more, cutting across agnatic and cognatic lines in classification of heirs in the schedule consisting of class I heirs and class II heir, giving preference to full blood over relations of half-blood, to per capita and tenancy-in-common mode over per stirpes and joint tenancy rules among heirs, disqualifying murderer to inherit his or her victim, doctrine of escheat and so on. In the same way, there is similarity in the definition of various terms employed to express gambit or relationship depicting so called heirs, to bring out the purport of the law of inheritance prevalent throughout India, such as agnates, cognates, full, Consanguine (half), uterine blood, intestate, testamentary succession, related and so on and, if the terminology properly grasped, makes the vision of the persons concerned brighter and clearer, than an essay in isolation of each system the more uniformity and less diversity permeating the domain of the law of inheritance, makes the attempt worth while and fruitful, for its students, the Bench and the Bar alike To bring the instant topic within easy reach and to make it more apprehensive, and logical in approach, the Hindu Succession Act 1956 is taken up, to begin with, and relevant portions of other allied systems, would be referred therein, bringing out common contours therefrom.

THE HINDU SUCCESSION ACT, 1956

SYNOPSIS

1. Introductory
2. Scheme of the Act
 - I. Intestate succession
 - II. Coparcenary (*Mitakshra*, *Marumakkattayam* etc.)—in attenuated form
 - III. Over-riding effect of its provisions
 - IV. Category of heirs—devised
 - V. Female Hindus—improvement in their status
 - VI. Testamentary succession
 - VII. General rules of succession (Section 18 to 29)

COMMENTS

1. Introductory

The expressions "succession" and "inheritance" are legally interchangeable terms and are clearly co-related with "death" which is a fateful event in the panorama of life and ultimately comes imperceptibly to cap this all. Death is a surgical operative force which, on its point of occurrence, strips its victim, off all his right which percolate down and vest concomitantly in the heirs, prescribed by the law of succession, applicable to the individuals concerned. O death ! we thank thee for the light that thou will shed upon our ignorance—Bossuet.

"Death" is a stark reality and closes the chapter of life, on this side of the world and what happens thereafter, is an enigma and a baffling mystery for the thinkers, meditators, seers and prophets who have been interpreting and expounding it in their own ways, in order to establish values of life in this world. Death is a mighty universal force, the erasing hand of which has been toppling and tumbling down the crown and stripping naked, the kings, the mighty, the lowly alike of their worldly possessions and belongings. Death being the universal phenomena, occupies a pivotal position in the various facets of life, and is equally recognised by the legal systems of the world. Human beings, by nature are so much attached to the materialistic aspect that, they drift oblivious of this eventuality, and continue stanuous efforts for piling up fortunes after fortunes; obviously under the impact of instincts; major and dominating one, behind being instinct of hoarding or amassing.

So far *Bharatvarsh* is concerned, it touched the heights, in its religious attainments on account of its peculiar spiritual values of life and gave secondary importance to material aspect, fighting-out tooth and nail against baser propensities and laying emphasis upon the infellectual, moral and spiritual achievements. All the institutions for subserving the ends of Indi-

an social fabric have been devised accordingly, giving them religious orientation colouring, direction and purpose. The religious principles, as one finds treasured in *Vedas*, *Upanishadas*, *Epics* etc. at times, turned into rigidities, superstitions, orthodoxy etc. and to counter-balance such extremities; reformatory movements projected themselves in shape of different religions and faiths, palpably to revise the uterine ethical values of life which are tempted to be synthesized in the legal attempts, tenets, commentaries, codifications, religious orders etc to systematise, and gear up the natural ways of life of Hindu society, which remained most dynamic, all embracing and still expanding with requisite elasticity.

Not to go astray any more, our main concern in this attempt is "succession" or "Inheritance", which inseparably emanates from the fateful event (i.e. death), which is beyond human control and unpredictable at the same time. So far Hindu society, in India is concerned, in pre-constitutional era, we find, as many systems of succession or inheritance as the number of schools out of which *Dayabhaga* in Bengal and *Mitakshara*, in the rest of India as tempered and modified by texts, commentaries, customs usages etc. from place to place are predominant.

The basic institution of Hindu society remained and is joint or undivided Hindu family and belongings thereof, known as Joint Hindu family property; which family throughout India is Patriarchic in nature barring Southern, Coastal areas, where matriarchal families are still available. In patriarchic families; head of the family, invariably remains common male ancestor who also remained stock of descent. Male head of Hindu family reigned supreme as *Paterfamilias* and female members of the family occupied secondary position and could never form stock of descent. Even if, females happened to be intermeddlers of the estate on account of temporary break in the chain of the male line, they had inferior type of rights, title or interest popularly termed as "life-estate," or limited estate" or "women's estate," in the property vested in them and thus were relegated to the background and could not form a vanguard of Hindu society, so far proprietary rights, in their true sense were concerned. The only property which they could hold absolutely was termed as *Stridhana* acquired from different sources and rules of succession or inheritance to it were distinct from the rest but, all the same evading straight answer. Rules of succession or inheritance also varied as to nature of properties as, for instance, coparcenary, ancestral, religious self-acquired or separate or non ancestral and so on equally in the hands of males, females or religious institutions etc. Post-constitutional era started with high hopes and bright promises, as concentrated, and epitomised in the constitutional frame work, which devised, not only political institutions but enshrined therein fundamental rights of equality, equality-before law etc. keeping in view the weaker, down-trodden and neglected sections of society, and extended the protection in order to enable them to occupy equally respectable and dignified status in society and, further, in the form of placing moral obligations upon the states and the union "the Directive principles of state policy", as the ultimate object for its attainment and thus transform the Indian society into healthiest one as "Sovereign Social Secular Democratic Republic" and to secure to all its citizens justice liberty and equality of status and of opportunity, which remains part and parcel of our national policy. A birds, eye view on the constitu-

tion, thus reveals that there was discrimination rampant in Indian society and to do away with it, the constituent assembly provided remedies therefor in the framework of the constitution. "If freedom, as embodied is a star of the first magnitude in the constitutional constellation, the rule of law is also a star of magnitude not possessing the same brilliance as the former. The rule of law emerges from Article 14 which prohibits the state from denying to any citizen equality before law or equal protection of the law. Therefore, in the eyes of the constitution, all citizens are equal and have equal rights. No discrimination is permitted as between citizen and citizen and no citizen is branded as a second class citizen or suffers from any disqualification; because of his caste, community or sex (Mr. M.C. Chagla, Article in the Tribune dated 15. 12. 1974)

Article 15 of the Constitution is noteworthy in this regard, which prohibits discrimination on grounds of religion, race, caste, sex or place of birth among the citizens of India. This Article points out, "Women and children, "as one of the weaker sections of Indian society, as already mentioned and directs the state to make ameliorating legislation for them in the very words of sub clause (3) thereof. "Nothing in this Article shall prevent the state from making any special provision for women and children."

With reference to Entry no. 5 in the Concurrent List in 7th Schedule to the Constitution, whereupon both Union as well as states are empowered to legislate, which runs with subjects as "Marriage and divorce; infants and minors; adoption; will; intestacy and succession; joint family and partition, all matters in respect of which parties in judicial proceedings were immediately before the commencement of this constitution subject to their personal law, "The Parliament feeling chaotic conditions prevalent in the Hindu society which forms the very back-bone of Indian nation, embarked upon codifying and enacting the personal law of Hindus generally known by the name of "Hindu Code" in order to streamline and modernise its social structure and also provide uniform legislation on various items of the said entry No. 5 and in pursuance thereof enacted, one after the other, i.e. the Hindu Marriage Act, 1955 (XXV of 1955); Hindu Succession Act, 1956 (XXX of 1956) and Hindu Adoption and Maintenance Act, 1956 (LXXVIII of 1956), Hindu Minority and Guardianship Act, 1956 (XXXI of 1956). The theme of the said enactments, as provided in Article 15 of the Constitution remained to abolish discrimination in treatment of Hindu males and females, as is evident in traditional Hindu Law and conferred upon both males and females equal status and equal rights in matters of adoption, marriage, minority, succession and so on. The Parliament ridden on the crust of enthusiasm, to rehabilitate the Female Hindu section known as weaker, or fairer section, and also under the impulse of social reformation to outbalance the hardships suffered for generations by them. Hindu females are equipped thereby with better rights in immovable properties than those of their counter-parts (males) as is specially and particularly evident, from the provisions of Section 14 of the H. Succession Act, while the Hindu males are beset with the same traditional limitations on their powers; while dealing with joint Hindu family properties, as usual. But all the same, this all is constitutionally valid, by virtue of Article 15, (3) of the Constitution

which enjoined upon the States to make special provisions for women and children and the provisions of Section 14 of the H. S. Act, 1956 are in aspiration to Article 15.

2. Scheme of the Act :

The main scheme of the H. S. Act, 1956 is to establish complete equality between male and female *Hindus* with regard to proprietary rights and the rights of the females are declared absolute, completely abolishing, all notions of a "limited estate". In many respects, this Act and Hindu Adoption and Maintenance Act, 1956 are inter-related and complementary; in particulars, the scheme of the latter Act is to project into the law of adoption, the result and the consequence of the introduction of the concept, of absolute estate for males and females alike and the abrogation of the concept of the limited estate. These two Acts have introduced far-reaching vital changes sweeping away and cutting at the root of the old traditions; conservative notions and concepts of customary Hindu Law¹

I Intestate Succession. So far male Hindus are concerned provisions governing them are incorporated and dealt with in Sections 8 to 13, of the Act whereunder general rules and order of succession among four categories of heirs prescribed in the gradation as Class I; Class II heirs; given in the Schedule appended to the Act; agnates and cognates are successively provided in order of preference and also mode of distribution of property among heirs; Class wise and computation of degrees of ascent and descent among agnates and cognates; in order to determine preference in them (agnates and cognates) inter-se rules are succinctly prescribed. Likewise, Section 15 and 16 are meant for regulating succession in case of female Hindus. The said sections are attracted only when female Hindus, as propositus form the stock of descent and property in their hands, constitutes their absolute property by virtue of Section 14 of the Act and no longer remains "limited estate". Sections 15 and 16 lay down general rules of succession, order and manner of distribution of the property devolving among heirs of the female Hindus, while prior to Hindi Seccession Act, females, if happened to succeed, succeeded as life-estate holders on extinction of which, the heirs of the last male holder, known as collaterals (*reversioners*) used to step forward as their heirs or legal representatives.

II. Coparcenary (both in *Mitakshara* and *Marumakkattayam* etc.) in attenuated form. Under the old Hindu Law, Hindu coparcenary and coparcenary property in *Mitakshara* were based on Patriarchial system and its *fountain head*, used to be a common male ancestor. *Mitakshara* copercenary, only male members, in the male line of descent upto four degrees including the common ancestor i.e. son, grandson and great grandson, along with their common ancestor, constituted coparcenary and the peculiarity of it is that copercenars acquire interest in the coparcenary property on the very incident of their birth, equal to that of common male holder. Such undivided interest remains unpredictable, unle severance in the status of copercenary takes place; subject to dimi-

(1) AIR 1969 Mad, 72=81 Mad. L.W. 257=(1969)2 M.L.J, 403 (A) (Udayar etc. Vs Vallianmal etc.)

tion on birth of coparceners and increment on death thereof and the coparcenary property passed on the death of a coparcener by *survivorship* to the surviving coparceners and not by succession. For detailed attributes and characteristics of coparcenary and coparcenary property, kindly refer to *Chapter 3 Part I* of Vol. I of "the Texture to Contest Alienations under Hindu Law" by the same author. The Hindu Seccession Act, 1956 took stock of *Mitakshara* coparcenary property and retained it in attenuated and mildly modified form by introducing legal fiction of notional partition of coparcenary property, in case the deceased coparcenar, left behind him surviving female heirs in Class I of the Schedule appended to the Act along with other coparcenars and on such notional partition contemplated having taken place immediately before his death, his interest so determined is allowed to pass by way of succession to all the class I heirs and not by survivorship to the remaining coparceners. Section 6 of this Act is devoted to it in a comprehensive manner describing the order and distribution of coparcenary property among Class I heirs.

On the other hand, where formation of Hindu families is matriarchal in nature and females are taken to be heads of families mostly in Malabar, Konkan areas where *Marumakkhattayam*, *Aliyasantthara* and *Nambudri* laws of succession governed supreme, the law also stands modified by the provisions of Sections 7 and 17 of the H. S. Act, 1956 with the introduction of very legal fiction of notional partition and thereby work out the shares in manner of distribution of the *Tarwad*, *Tavazhi* *Kutumba*, *Kavaru* and *illom* properties among its members and the heirs. To comprehend fully, as to which enactments constitute "*Marumakkhattayam* Law" etc. reference may be made to Clauses (h) and (i) of Sub Section (1) of Section 3 of the Act.

III. Over-riding effect of its provisions :—The Hindu Succession Act, for the first time, in the annals of the history of succession among Hindus gave systematised, simplified and uniform legislation concentrating therein codification of modernised trends in succession and also enacting where it felt necessitated to do so Prior to the Hindu Succession Act, divergent conditions prevailed in the domain of succession based upon texts and commentaries by exponents of different schools of Hindu Law as tempered and modified by customs and usages defined in Clause (d) of Section 3 (1) of the Act, which customs etc. had made the matter worse confused and confounded But Section 4 of the Hindu Succession Act, nullified the operation of texts, rules, customs and usages which formed parts of Hindu Law in matters of succession, for which the provisions are made in the Act as per its Clause (a) of Sub-Section (1) of Section 4 and also abolished other law in force which was inconsistent with the provisions made in this Act by virtue of Clause (b) of Sub-section (1) of Section 4 of the Act. In short, the provisions in the matters of succession enacted in the Hindu Succession Act, 1956 are made supreme and all the texts, rules, customs and usages forming part of traditional Hindu Law have been abrogated thereby. It so zealously guarded the provisions made in this Act that inconsistency of laws in this regard under old traditional Hindu Law, is made equally inapplicable to Hindus defined and elaborated fully in Section 2 of the Act, barring the members of Schedule Tribes as enumerated and described within the meanings of of Clause (25) of Article 366 of the Constitution of India. until Central Government, by way of

notification, otherwise provides for them. In particular, it is note worthy that, legislation in the interest of agricultural reformation and for giving impetus to agrarian reforms and grow-more food policy, by way of enactments thereon such as Punjab Security of Land (Tenures) Act, 1953 etc. supplemented and complemented by State legislations state-wise in placing ceiling upon the agricultural holdings and legislation to minimise; rather prevent fragmentation of agricultural holdings alongwith succession or devolution of tenancy rights in respect of such holdings: have been protected and saved from the adverse influences of the Hindu Succession Act. So the State legislation in that regard providing succession, inheritance etc. in the domain of agricultural holding and disturbing the logic of agrarian reforms have been kept intact and given over-riding effect on the provisions of Hindu Succession Act, 1956.

IV. Categories of heirs—devised

The galaxy of heirs to the estate of a propositus both male as well as female Hindus has been redefined and rearranged, avoiding male denomination and maintaining equilibrium in descent, where under previously the male Hindus constituted stock of descent, and female Hindus, intervened only as limited owners of life-estate holders on termination of which, the heirs of the last male holders stood in order of succession as defined under different systems of succession in consonance with the applicability of the schools of Hindu Law, mainly bifurcated in *Dayabhaga* and *Mitakshara*. The three classes of heirs as recognised by *Mitakshara* school of Hindu Law with local modification and variations caused by customs and usages etc in order of preference were (I) *Gotraja*, *Sapindas*, (II) *Samanodakas* and (III) *Bundhus*, while on the other hand, classification of heirs seriatum, known under *Dayabhaga* school, extending to Bengal alone, were (I) *Sapindas*, (II) *Sakulyas* and (III) *Bandhus* which as such ceased to exist in cases of succession opening after the commencement of the Hindu Succession Act and are replaced and substituted by four statutory classifications, styled as Class I and Class II heirs prescribed in the Schedule given at the end of the Act and agnates and connates. The descendants either male or female including the widow and mother of the intestates are bracketed as Class I heirs in the Schedule appended to the Hindu Succession Act. The said group of twelve heirs comes first in the order of preference in matters of succession to estate of the intestate in case of male Hindus as per terms of Section 8 of this Act, while Section 10 thereof displays the mode of distribution among Class I heirs, of the property left by male propositus among Class I heirs inter se per stirpes. Next to Class I heirs in order of succession come Class II heirs, per provisions of Section 8 in case of male Hindu dying intestate, while the manner of distribution of the property left by the deceased among heirs in Class II of the Schedule is provided under Section 11; entry-wise and the heirs specified in the first entry would exclude the heirs clubbed together in Entry II and those in Entry II; to the exclusion of those concentrated under Entry III and so on and so fourth but all the heirs in one entry would take *per capita* and would share it equally. Thereafter in order of preference, come agnate and last of all are placed in the waiting list, the cognates, by virtue of Section 8 of the Act. The order of succession among agnates and cognates is by computation of the degrees (S. 13), firstly in terms of ascent, the nearer coming 1st. If not

decisive in that way, in fact having no degrees of ascent, then counting degrees of decent, respectively and last of all, viz where preference cannot be determined firstly by ascent and secondly by descent, then they take simultaneously in accordance with the provisions of Section 12 of the Act. The common factor in order of preference is propinquity and blood lies connecting the propostus, who is beheldened firmly and strictly to his progeny first and thereafter to the nearer in degrees of ascent, decent; for they are supposed to be thicker in blood wherein love and affection has lesser hold than in these heirs among both agnates and cognates, no doubt agnate exclude cognate as already said. Note worthy thing in this regard is that Class I and Class II heirs also strictly eschew discrimination in terms of sex, but are placed according to nearness in devotion, love and affection, blood running stonger in veins, as cementing tie; quite in consonance with the clarification of heirs under Muhammadan Law. This phenomena in placing the heirs in Entries I to IX, seriatum is apparent in eliminating distinction on the ground of sex. For instance in Entry II descendants immediately in, down percolation of blood collaterally are bracketed together as brother and sister with equal degrees and this gets further clarification upon having a look upon the heirs in Entries No IV, V, VII, VIII and IX keeping in view strictly consanguinity and nearness in degres of ascent and descent in placing both males and females on equal footing with equal status; and equal righ in property of the intestate.

V. Female Hindus-improvement in their status :—

Under tradititional Hindu Law, female heirs in contrast with the male holders, were given very pigmy stature and enjoyed curtailed rights and limited estate in the property devolving upon them either under the old Hindu Law or bestowed upon them by statutes such as Hindu Women's Right to Property Act, in joint Hindu family property known by v-rious names as coparcenery, ancestral and so on and the Hindu Law of Inheritance (Amendment) Act 1929 etc. which enatment got repealed by Section 31 of the Act after serving their purpose and their ultimate objects which in a way, have been imbled in the Hindu Succession Act, uniformly. The Parliament, by enabting Section 14, has not only ameliorated and improved the status of female Hindu by enlarging their limited estate held either before or after the Act, by them in a large variety of ways enumerated in the Explanation added to Section 14 (1) into absolute estate provided they were found in possession of such property as limited owners, still makin allowances for the sanctity of grants by way of gifts, will, awards, orders, decrees etc. which conferred upon female Hindus, restricted estate, for the first time or otherwise, having no right, title or interest in such restricted estate prior to such grants, as enshrined in sub-section (2) of Section 14 by way of exception to the general rule provided by Section 14 (1). To know the details on this branch of law, kindly refer to Chapter 4 Part 5 of Vol I of "The Texture to Contest Alienations under Hindu Law" by the same author, under the head", "*Sridhana* (Women's property) with all constituents thereof, both under the Orthodox Hindu Law as well as modern trends harnessed thereunder'. The peculiar feature of Hindu Suceesion Act is that, by making female Hindus,, absolute owners of the property held by them at the commencement of the Hindu Succession Act, made them stock of descent which they could not claim to be as such under the traditional Hindu Law

and thus elevating the Hindu females to the status of absolute owners' in the ensuing Sections 15 and 16 of the Act, a new class of heirs with general rules of succession in terms of the provisions of S. 15 and 16 further provided, order of succession and also mode of distribution of the property among the heirs of a female Hindu dying intestate after the enforcement of the Hindu Succession Act 1956.

So far the logic of Section 15 goes, it has laid down the general rules of succession in Section 15 (1) (a) to (e) and appended two exceptions in the garb of Sub section (2) (a) and (2) (b) of Section 15 of the Act. Under sub-section (1) of Section 15, five categories of heirs to a Hindu females dying intestate, have been devised in order to succeed to the propo-situs, successively one after the other viz. those listed in Entry (a), would succeed to the property of the intestate, to the exclusion of all in the succe-eding Entries (b) to (e). In the absence of the heirs in entry (a) then those bracketed in Entry (b) would take the property of intestate (female) exclud-ing the heirs in ensuing Entries (c), (d) and (e) and in this way, the heirs entry-wise would enjoy the order of preference. But there are two exceptions incorporated in sub-section (2) of Section 15 namely 15 (2) (a) and 15 (2) (b), keeping in view dynasty-wise interest as well as wide range of inheritance conferred on female Hindus, in order to keep the devolution of the property, strictly within the bounds of paternal and in-laws sides. If such property devolves upon the intestate from her father or mother; by making the same heritable, only by the heirs of her father, and likewise, if the property devolves upon her from her husband or father-in-law, viz. from in-laws' side, then on the death of such female Hindu, it would go to the heirs of the husband. But if the female dies intestate leaving behind her sons and daughters (including the children of predeceased son or daughter); then the provisions of Sub section (2) of Section 15 lose charm and her sons and daughters (including the children of predeceased son or daugh-ter), inherit equally the property inherited by the propo-situs either from paternal side or from husband or father-in-laws in utter disregard of dynasty-wise claim, provided in the above two exceptions of Sub-Section (2) of Section 15 of the Act; for the blood of both sides i.e. paternal through the intestate female and of in-law's side through her husband, runs equally and strongly in the veins of the sons and daughters, and in case of de-mise of either, then the children of the deceased (son or daughter) Section 16 is explanatory in nature, as complementary and supplementary to the provisions of S. 15. It provides both; the order of succession among the heirs of the intestate as given in Section 15. As already referred Rule I of Section 16 is devoted to explain the order of succession among heirs listed in successive entries (a) to (e) of Sub-section (1) of Section 15 and it, in a nut shell, says that those mentioned in Entry (a) would come first to succeed, and shall be pre-ferred to those in any of the succeeding entries (b) to (e) and so on and at the same time, these included in the same entry would take simultaneously. Rule II provides the manner of distribution of property of the intestate, in case, the only heirs are the sons and daughters; they would take simultaneously per capita, but in case, any of the sons or daughters happen to die before the death of the intestate leaving behind him or her surviving his or her Children, then all the