



Succession in Hindu Undivided Family (HUF)

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A

befitting response to the age old customary practice favoring male as the successor of a Hindu Undivided Family (HUF)

was made by Hon'ble Delhi High Court in its landmark judgment on the 22nd of December 2015 in the matter of Sujata Sharma Vs Manu Gupta.

The main contention in the matter was whether the eldest female member of a Hindu Joint Family can assume the role of Karta in an HUF. It has been practiced for

long that after the demise of the Karta of the HUF, generally the eldest male member of the HUF assumes the role of Karta. This has been the customary practice and had been in existence for quite some time.

The concept of HUF is governed by Hindu Law and the succession series to a Hindu Family is governed by the Hindu Succession Act 1956, as modified. A major modification came in the year 2005, by Hindu Succession (Amendment) Act 2005. Before the amendment act of 2005, Sec. 6 of the Succession Act, which

dealt with the devolution of interest in coparcenary property, gave only the male members a right in the coparcenary property negating the female members. This led to discrimination and negation of the fundamental rights of equality provided by the Constitution. For removal of the discrimination and negation of the rights the Succession Act was consequently amended in 2005, which among other amendments also amended Sec. 6 of the Succession Act 1956.

The Amendment Act of 2005 gave the daughter's a right in the coparcenary


property and devolved the same rights in a coparcenary property as that of a son. Thus the female members of HUF were brought at par and equality among the members was restored. Though the amendment talked about the devolution of equality right in the coparcenary property it remained confined to the same. It did not expressly provide for and remained silent on the management of coparcenary property. As regards management of the coparcenary property, it was held by the Hon'ble Supreme Court in the matter of "Tribhovan Das Haribhai Tamboli v. Gujarat Revenue Tribunal and Ors" (AIR 1991 SC 1538), that the senior most member in the HUF would become the Karta. The managership of the Joint Family Property goes to a person by birth and is regulated by seniority and the Karta or the Manager occupies a position superior to that of the other members.

Nonetheless, due to the absence of an express provision on the management of the coparcenary property, traditionally the eldest male members were appointed as Karta of the HUF. In the present matter of *Sujata Sharma Vs Manu Gupta* the point of management was taken up and contended. It was also contended that the undefined rights will have to be gleaned from customs as well as from the interpretation of ancient texts regarding Hindu religion. Insofar as the right of management has not been specifically conferred on a female Hindu, the customary practice would have to be referred and examined. Moreover Sec 24 and Sec. 14 of the Hindu Succession Act which dealt with inheritance and ownership of a property

belonging to a female, does not expressly provided for management of the coparcenary Property.

In the amidst of the practical scenario and no express provision with respect to the management of the Property, the verdict of the Hon'ble Delhi High Court came as a clear cut resolution. It was held by the Hon'ble Delhi High Court, that the only obstacle that prevented female members from enjoying a right or interest in the coparcenary property was overcome by amending Sec. 6 of the Hindu Succession Act 1956.

The Amendment Act of 2005 was a step towards promoting social equality and gave females an equal right of inheritance as that of males. The objective of the amendment is to recognise the rights of female Hindus as co-parceners and to enhance their right to equality apropos succession. This being the case where there exists an equality of right among the male and female members, if a male member of the HUF by virtue of it being the eldest can become the Karta, the same can be exercised by a female member also.

Thus the curx of the verdict, providing clarification on the fact that a female members of the HUF can become a Karta, if she is the eldest coparcener puts a break to the traditional and age old practice of the eldest male assuming the position. The judgment promotes and is proceeded on the concept of equity and brings about a social equality among the society, preserving the fundamental rights of the citizens of the country. 



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