

**IMPLICATIONS OF HINDU SUCCESSION (Amendment) ACT 2005 –  
COPARCENARY RIGHTS OF DAUGHTERS IN HINDU JOINT FAMILY  
PROPERTY**

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**ABSTRACT**

This paper discusses the history and current impact of the Succession Law in India, which fundamentally changed the status of daughters as equal coparceners in Hindu joint family property. Traditionally, the Mitakshara school and Hindu Succession Act of 1956 deprived women the coparcenary rights, there by perpetuating the long-standing discrimination against women. This patriarchal system was overturned by the Amendment of 2005, which in accordance with the Constitutional Articles 14, 15 and 38 and 174<sup>th</sup> Law Commission Report, provided coparcenary rights to daughters by birth and quashed the rule of survivorship.

In spite of the clear legislative intent the practical implementation of Amendment Act of 2005 was hampered by judicial uncertainty. The Supreme Court's decision has varied from the strict perspective interpretation in Prakash v. Phulavati case to wider interpretation in Danamma v. Amar case. This conflict was settled in Vineeta Sharma v. Rakesh Sharma case, which established the inheritance rights of daughters by birth and father's survival on the date of enactment of the amendment is irrelevant.

The study shows the de-jure gender justice has not translated into de-facto social equity, with a stagnant reality where only 13% of women own residential property and millions of women farmers lack agricultural land titles. Furthermore, the paper analyses the structural loopholes used to bypass the 2005 mandate. Testamentary dispositions are increasingly used as legal instruments by patriarchal structure, exploiting procedural changes such as Repealing and Amending Act of 2025 to execute discriminatory wills and utilizing socio-emotional coercion to secure deeds of relinquishment (Haq-Tyaag).

## KEYWORDS

Hindu Succession (Amendment) Act 2005, Coparcenary Rights, Mitakshara Law, Hindu Undivided Family, *Vineeta Sharma v Rakesh Sharma*, Gender Justice, Repealing and Amending Act 2025, Ancestral Property, Relinquishment deeds.

## INTRODUCTION

The Constitution of India guarantees equality, yet traditional Hindu society and patriarchal norms positioned women as inferior economic matters. Under the Mitakshara school, a daughter in a Hindu Undivided Family (HUF) was considered only a family member and not a coparcener. Consequently, she had no inherent birthright to ancestral property and was strictly denied the right to petition in the court for a partition or to serve as the Karta of the HUF.

Legislative attempts including the Hindu Succession Act of 1956<sup>1</sup>, failed to eliminate discrimination. The Act maintained the system of joint family property transferred by survivorship to the male coparceners, this exclusion violated the fundamental rights and the legislature enacted the Amendment Act in 2005, granting daughters coparcenary rights by birth which brought drastic changes in Section 6<sup>2</sup> of the 1956 Act.

The 2005 Amendment<sup>3</sup> is a vital piece of gender reform, which legally established the coparcenary rights of daughter by birth equal to that of a son. The daughter today has coparcenary rights, right to demand for property division and right to become the Karta of HUF and transfer her share by will. This milestone legislation redefines the position of daughter from a dependent family member to equal coparcener marking a significant move towards economic development.

Early Hindu Law and the Coparcenary System:

Earlier, Inheritance was governed by laws shaped by local customs, conventions and caste practices. According to the Mitakshara school, a Hindu joint family consists of a common male ancestor, his male descendants, their wives and unmarried daughters. The core of the joint family was the coparcenary composed of father and his three generations of male descendants, son, grandson and great-grandson. Male descendants automatically acquire

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<sup>1</sup> [https://www.indiacode.nic.in/bitstream/123456789/1713/1/AAA1956suc\\_\\_30.pdf](https://www.indiacode.nic.in/bitstream/123456789/1713/1/AAA1956suc__30.pdf)

<sup>2</sup> <https://indiankanon.org/doc/1883337/>

<sup>3</sup> <https://www.indiacode.nic.in/repealedfileopen?filename=A2005-39.pdf>

interest in joint family property. Women including daughters, were excluded from the coparcenary rights. The rationale of this exclusion was the societal expectation that daughter would marry and become a member of another family taking away her natal lineage.

#### Pre-Independence Legislative Reforms:

In the 19<sup>th</sup> and 20<sup>th</sup> centuries, the complete denial of property rights to women was unfair, this led to legislative interventions:

- The Hindu Law of Inheritance Act, 1929<sup>4</sup>: The first legislation to introduce Hindu women within the inheritance framework, granting succession rights to female heirs – the son's daughter, and the daughter's daughter.
- The Hindu Women's Right to Property Act, 1937<sup>5</sup>: This Act brought significance change by allowing widow to inherit dead husband's share in joint family property at the time of his death. The widow was granted only limited owner status and was not a true coparcener and daughters had no inheritance rights under this law.

#### Hindu Succession Act, 1956:

After India's independence, the Hindu Succession Act 1956<sup>6</sup> was enacted to replace the customary practices and brought a unifies and uniform legal system for inheritance under Hindu law. Although the Act addressed gender disparities, it preserved the patriarchal nature of joint family. The rule of survivorship was legally enshrined under Section 6<sup>7</sup> of the 1956 Act for Mitakshara coparcenary property. This rule stated that upon the death of Hindu male, his share in the coparcenary property would pass to surviving male coparceners and not in accordance to general rules of succession. The law continued to exclude daughters from coparcenary rights leading to gender discrimination and violating constitutional rights.

#### Constitutional Perspective:

Article 14, 15, and 38 serves as foundational pillars promoting gender equality, non-discrimination and equal justice, especially in context of gender equality and personal laws, emphasising gender discrimination violates constitutional principles.

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<sup>4</sup> <https://www.indiacode.nic.in/repealedfileopen?rfilename=A1929-2.pdf>

<sup>5</sup> <https://www.indiacode.nic.in/repealedfileopen?rfilename=A1937-18.pdf>

<sup>6</sup> Supra note 1.

<sup>7</sup> Supra note 2.

- Article 14<sup>8</sup>: Guarantees equality before the law, ensures every person in India gets equal rights and protection under the law doesn't matter whether male or female. It strikes an arbitrary discrimination and mandates that law must prescribe equal rights for all citizens.
- Article 15<sup>9</sup>: It prohibits discrimination based on sex, religion, caste, race or place of birth and affirms the right to equality and prohibits discrimination either through state law or personal law based on gender.
- Article 38<sup>10</sup>: It deals with obligation on the state to promote welfare and social justice, taking into account the need to remove inequalities, specifically about women and marginalized groups.

174<sup>th</sup> Law Commission Report:

The Law Commission of India plays a crucial role in reviewing laws and recommends reforms that align with justice and constitutional mandate. The 174<sup>th</sup><sup>11</sup> Report “Property Rights of Women: Proposed Reforms under the Hindu Law” served as the blueprint for modernising inheritance under Hindu law.

- The report examined the historical and legal biases against women, highlighting Section 6<sup>12</sup> of 1956 Act, perpetuated gender discrimination by excluding daughters from the coparcenary rights.
- It proposed the legislative move from gender inequality to granting daughters the equal rights as sons in coparcenary property.
- The report identified Section 23<sup>13</sup> of 1956 Act discriminatory as it legally disentitled Hindu females from demanding partition of joint family property. It recommended complete abolition of this section.

Hindu Succession (Amendment) Act, 2005:

The Amendment Act of 2005<sup>14</sup> was enacted by Indian Government after the recommendations of the 174<sup>th</sup><sup>15</sup> Law Commission Report to dismantle patriarchal norms. This

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<sup>8</sup> [https://www.indiacode.nic.in/bitstream/123456789/19150/1/constitution\\_of\\_india.pdf](https://www.indiacode.nic.in/bitstream/123456789/19150/1/constitution_of_india.pdf)

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> <https://cdnbbsr.s3.waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022082470.pdf>

<sup>12</sup> Supra note 2.

<sup>13</sup> <https://indiankanoon.org/doc/1873176/>

<sup>14</sup> Supra note 3.

<sup>15</sup> Supra note 11.

legislation restructured the legal framework to economically empower women under Hindu law.

- Coparcenary right by birth: The Amendment altered Section 6<sup>16</sup>, establishing coparcenary rights of daughters by birth equal to that of the son. Daughter is now granted same rights, obligations and liabilities concerning the coparcenary property as that of a son.
- Abolition of survivorship: The Act abolished the rule based on survivorship where property is passed only to surviving male heirs and replaced it with testamentary and intestate succession.
- Right to Partition and Management: Daughters are also given right to seek for division of joint family property along with coparcenary rights. She is also legally entitled to manage the affairs of HUF as Karta.
- Omission of Section 23: The Amendment omitted Section 23<sup>17</sup> of 1956 Act, thereby empowering female heirs to request the partition of joint family property without the consent of male heirs.
- Right to Dispose Property: Daughter now has a right to dispose her independent share in the coparcenary property through a will or testamentary disposition.

State Amendments to Hindu Succession Act 1956:

Under Mitakshara school daughters were excluded from inheriting ancestral property, while 1956 Act did not recognise daughters as coparceners, it allowed Class I legal heirs alongside other heirs if their father died intestate and left inheritable property. The state of Andhra Pradesh enacted the Hindu Succession (Andhra Pradesh Amendment) Act of 1986<sup>18</sup> granting daughters coparcenary rights, followed by Tamil Nadu in 1989<sup>19</sup> and Maharashtra in 1994<sup>20</sup>. Karnataka enacted the Hindu Succession (Karnataka Amendment) Act 1990<sup>21</sup>, which come into force from 30.07.1994, inserting Section 6A to 6C. The respected states granted daughter coparcenary rights equal as to that of a son. The purpose of these state amendments was twofold- Equality before law under Article 14 and 15. The exclusion of daughter from coparcenary status on basis of her sex was contrary and violative of Article 15. The provision intended to demolish dowry practice which was believed to have stemmed from this exclusion.

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<sup>16</sup> Supra note 2.

<sup>17</sup> Supra note 13.

<sup>18</sup> <https://www.casemine.com/act/in/5a9cccc44a9326534781252c>

<sup>19</sup> <https://www.legitquest.com/act/hindu-succession-tamil-nadu-amendment-act-1989/3C0A>

<sup>20</sup> <https://director.marathi.gov.in/state/1994-40.pdf>

<sup>21</sup> [https://dpal.karnataka.gov.in/storage/pdf-files/23of1994\(E\)\(1\).pdf](https://dpal.karnataka.gov.in/storage/pdf-files/23of1994(E)(1).pdf)

## JUDICIAL PRECEDENTS

*Prakash v. Phulavati, (2016) 2 SCC 36*<sup>22</sup>

A partition suit of daughter claiming coparcenary rights under 2005 Amendment Act, after father died in 1988 before the amendment came into force. The core issue was whether 2005 Amendment Act had retrospective effect. The Supreme Court held that 2005 amendment has prospective effect, granting daughters coparcenary rights only if daughter and father both are alive on the date of commencement of the amendment i, e., 09-09-2005. ‘Living coparcener’ concept was propounded in this case, which meant that father must be alive during the enforcement of the amendment to grant daughter coparcenary rights. The Court observed that: “An amendment of a substantive provision is always prospective unless either expressly or by necessary intendment it is retrospective. In the present case, there is neither any express provision for giving retrospective effect to the amended provision nor a necessary intendment to that effect.”

*Danamma v. Amar, (2018) 3 SCC 343*<sup>23</sup>

A partition suit filed by grandson, the grandfather died in 2001 leaving behind his widow, two sons and two daughters as his legal heirs. The Trial Court and Hingh Court held that daughters were not entitled to share in the property as they were prior to Succession Act and therefore were not coparceners. The core issue was whether daughters can be denied share in property on the ground that they were born prior to Succession Act’s enactment.

The Supreme Court held that the amendment now grants daughter coparcenary rights equal to that of a son and provides same rights and liabilities in the coparcenary property. The Court also clarified that daughter is entitled to a share in coparcenary property and capable of disposing her share either by will or any other testamentary disposition. The Court remarked that the changes have been sought to bring in equality thus seeking to remove disability and prejudice to which a daughter was subjected. It went a step further from *Prakash v. Phulavati*

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<sup>22</sup> *Prakash v. Phulavati, (2016) 2 SCC 36*

<sup>23</sup> *Danamma v. Amar, (2018) 3 SCC 343*

case and observed that 2005 amendment granted coparcenary rights to daughters and such right was not extinguished by father's subsequent death.

*Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1*<sup>24</sup>

Supreme Court reconsidered both Prakash v. Phulavati case and Danamma v. Amar case in 2020 and noted difference of opinion regarding the living coparcenary aspect. Prakash v. Phulavati case clarified that it is not necessary that a predecessor coparcener should be alive to form coparcenary, the birth within degrees of coparcenary is relevant. The Court disagreed with the living coparcenary concept laid down in Prakash v. Phulavati case, it pointed out that substituted Section 6 did not talk about living coparcener rather coparcenary right by birth. It expressly overruled Prakash v. Phulavati case.

In case of Danamma v. Amar, Court clarified that coparcenary rights of daughter existed by birth. Irrespective of date of birth daughter becomes coparcener with the effect from the date of Amendment Act. The Court partly overruled Danamma v. Amar case to the extent that it was contradictory to Vineeta Sharma v. Rakesh Sharma case. The Court emphasised and conferred that right is by birth and are given in same manner as that of a son and with same rights and liabilities as a son.

#### **IMPACT OF AMENDMENT ACT OF 2005:**

- The Structural Reconstitution of the HUF: The traditional Hindu Law directed that only senior-most male coparcener can act as the Karta of the HUF. The Karta has administrative and financial powers, these include the right to alienate the joint family property for legal necessity, manage bank accounts and represent HUF in legal proceedings.
- After 2005 Amendment, daughters were granted exact same rights as that of a son, the gender disqualification evaporated. This was clarified by Delhi High Court in *Sujata Sharma v. Manu Gupta (2015)*<sup>25</sup>. The Court held that the eldest daughter, if she is the senior-most coparcener, is entitled to take over the position of the Karta, even if she is married. This shifted control of family assets from the younger brother or uncles to the eldest daughter.

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<sup>24</sup> Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1

<sup>25</sup> <https://articles.manupatra.com/article-details/A-Case-Analysis-on-Kartaship-of-Joint->

Eradication of Pious Obligation:

Traditionally, Doctrine of Pious Obligation states that a son, grandson and great grandson were obligated to pay the personal, non-immoral debts of their father or grandfather from their share of the joint family property. Daughters were not coparceners and as such had no liability to bore. Section 6(4)<sup>26</sup> of the Amendment Act of 2005, abolished doctrine of pious obligation entirely. After the Amendment, no Court will recognise a creditor's right to proceed against a child on grounds of pious obligation. Now, both son and daughter are equally liable for the legitimate joint family debts of the Karta before partition, limited to the extent of their share in the joint family property.

Economic Impact:

- The inclusion of daughters triggered wealth redistribution within business families operating through HUF structures. The immediate impact of the Amendment was the drastic reduction of the male coparcener's shares. In pre 2005 period, the father and son divided the coparcenary share equally, i.e.,  $\frac{1}{2}$  and daughter had no independent share. After 2005 Amendment, the father, son and daughter, each hold  $\frac{1}{3}$  share, the son's inherent wealth is diluted instantly.
- Many traditional family businesses have their promoter shares held by a HUF. Before, the married women had no say in the management of family business or in voting shares, post amendment, daughters have equal voting rights, right to demand accounts and right to seek injunction against the Karta if the assets of the business are being mismanaged or alienated without legal necessity.

Agrarian Shift:

Prior to 2005, Section 4(2)<sup>27</sup> of the 1956 Act, exempted agriculture land from the purview of the Act. The inheritance of agriculture land was governed by State level land legislations which includes Zamindari and Land Reforms Act of UP, Punjab and Haryana and many other states. These States laws were patriarchal, favouring male members to avoid fragmentation of agricultural land and entirely excluded married daughters.

Amendment Act of 2005 deleted Section 4(2). The Supreme Court clarified that this deletion overrides the central Succession Act and discriminatory state laws regarding devolution. At

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<sup>26</sup> Supra note 3.

<sup>27</sup> Supra note 1.

present daughters have an absolute, indefeasible right to inherit ancestral agricultural land, eroding the localised agrarian patriarchy that had persisted for decades after independence.

Procedural Safeguards: The Bar on Oral Partition:

A massive loophole emerged as the enforcement of the 2005 amendment. Male heirs tried to deny the rights of their sisters by claiming that the family property had been partitioned orally years before the amendment was enforced. Historically Hindu Law recognised oral partitions, and this became a common defence to protect property division before 2004. This was curtailed by the legislature and Supreme Court through the explanation of Section 6(5) and landmark judgment of *Vineeta Sharma v. Rakesh Sharma (2020)*<sup>28</sup>:

- A partition is legally recognised before the cut-off date of 20<sup>th</sup> December 2004, only if it is affected either by a registered partition deed or a formal decree of a court.
- The Supreme Court held that a mere plea of oral partition even if supported by localised revenue entries is insufficient to eliminate a daughter's right. Oral partitions are recognised in exceptional situations, when they are supported by incontrovertible public documents over the decades. This procedural rigidity eliminated the ability of brothers to fraudulently deny sisters their rightful shares.

## **CHALLENGES AND IMPLEMENTATION ISSUES**

Amendment Act of 2005 brought significant legal reforms yet the daughters face numerous challenges rooted in cultural and societal norms. Patriarchal system viewed property as male right and creates resistance from families and communities when daughters claim their rights. This mindset perpetuates the notion that daughters are not capable of managing or inheriting family property, resulting in social discrimination in claiming rightful shares.

Amendment provides daughters right to claim coparcenary status, yet implementation of these rights comes with complexities<sup>29</sup>. Many women do not have legal resources or knowledge to assert their rights. The ambiguity of amendment provisions often leads to disputes and confusion in legal proceedings. The resistance of male family members often creates complexities in enforcement of daughter's rights.

Women also face difficulties in asserting their rights due to ongoing litigation. Many cases concerning the rights of daughter in coparcenary property are pending in Courts leading to delay and uncertainties. The long procedure dis-courage women from claiming their rights,

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<sup>28</sup> Supra note 24.

<sup>29</sup><https://ijcrt.org/papers/IJCRT2503705.pdf>

especially under societal and familial pressure to conform to patriarchal norms. Fear of litigation and public stigma serve as barrier to prevent women from asserting their rights.

De Facto Realization in Modern India:

The fundamental legal changes described in resulted in the landmark ruling of *Vineeta Sharma v. Rakesh Sharma (2020)*<sup>30</sup> resolved centuries of ambiguity. However, the 2026 scenario profounds a disconnect between legal text and social reality. Modern India is striking sociological paradox, women seem to have achieved de-jure equality leading to corporate boardrooms, technological innovation and governance. Yet the de-facto realisation of Amendment Act of 2005 is heavily compromised by deep rooted patriarchal norms of domestic sphere and devolution of ancestral wealth.

Gender justice:

Gender Justice is a legal and constitutional concept; it is the state's obligation to ensure that law does not discriminate.

- Article 14, 15 and 38<sup>31</sup> of Indian Constitution grants equality before law and prohibit discrimination on basis of sex. The Amendment Act of 2005<sup>32</sup> achieved gender justice by harmonising personal law with constitutional pillars, dismantling the discriminatory coparcenary system under Mitakshara school.
- The Supreme Court in *Vineeta Sharma v. Rakesh Sharma* case affirmed that daughters are granted coparcenary rights by birth and Amendment Act of 2005 has retrospective effect.
- Gender Justice assumes a legal decree is enough, it acts on a presumption that daughter and son in India possess same social, financial and emotional capital to petition for claiming their rights. The reality has been ignored.

Social equity is missing link in Contemporary India:

- It requires dismantling patriarchal conditioning. Yet Indian Society glorifies sacrificing sister, women who voluntarily signs relinquishment deeds to keep the joint family intact. When a woman demands her share, she is branded as greedy, whereas man receives his share naturally by birth.

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<sup>30</sup> Supra note 24.

<sup>31</sup> Supra note 8.

<sup>32</sup> Supra note 3.

- The Amendment Act of 2005 granted women with coparcenary rights by birth but no systemic mechanism to automatically enforce them. To achieve equity, women often have to hire lawyers, navigate delayed judicial system<sup>33</sup> and withstand her male relatives who actively contest her claims.

Women are actively encouraged to participate in capitalist economy, celebrated as CEOs, scientists, and political leaders. However, this modernity stops at a threshold of familial home. Society encourages women to earn wealth through their own labour, but it resists women from taking ownership of ancestral wealth, which creates hypocritical system. A woman is considered equal when she is contributing to nation's GDP, but is considered as greedy or outside while claiming her legal rights or demanding partition of the joint family property. Her professional success is often celebrated, but this acceptance is conditional on her economic power being restricted to external market and not disrupting the internal hierarchy of the family.

The moment of focus shifts from women's pay-check to family deed, the illusion of equality is broken. Despite the Amendment Act of 2005 granting daughter coparcenary rights by birth, the right to demand for property division or become Karta is not merely seen as a financial asset. The ancestral property is closely associated with patriarchal norms, caste dominance and generational power. The historical rationale for excluding women out, the notion that a daughter will marry and take property away from her natal lineage, remains highly active in collective subconscious. Thus, daughter claiming ancestral property is not seen as a right belonging to her, she is seen as eroding family legacy and passing it to her husband's family.

When a son asks for his share of property, it is treated as natural right, but when daughter ask for equal rights in the property, she is immediately branded as greedy and disrespectful, or influenced by her in-laws. Her right to claim for her share of the property or demand for partition is treated as an act of aggression that breaks home. The family doesn't recognise her claim as a realisation of constitutional right, instead views her as violating the sacred, unwritten social contract of affection and respect.

The data from mid-2020 show that formal legal rights have not contributed to widespread asset distribution. National housing and land registry data shows that only 13%<sup>34</sup> of women in

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<sup>33</sup> Supra note 29.

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<https://thefederal.com/category/womens-march/property-rights-women-hindu-succession-act-law-inheritance-gender-equality-233438#:~:text=In%20several%20instances%2C%20women%20themselves,ownership%2C%20at%20just%208%20percent.>

India are exclusively own residential property. Over 75% of primary agricultural labour in rural economies is performed by women, yet women hold less than 9%<sup>35</sup> of agricultural land titles. Millions of female farmers are legally omitted and land titles are registered to male lineal descendants. They are systematically denied access to institutional banking credit, crop insurance and direct benefit transfer schemes that require formal proof of ownership.

### **STRUCTURAL LOOPHOLES: EVOLVING EVASIONS IN 2026**

As the judiciary closed traditional avenues of discrimination and patriarchal family structures, legal practitioners developed workarounds to evade the mandate of 2005 Amendment.

- **The Testamentary Disposition:** The Amendment Act of 2005 replaced the rule of survivorship with testamentary and intestate succession<sup>36</sup>. Families increasingly use testamentary disposition or wills to evade the law. It is a common practice for patriarchs to execute wills to legally transferring 100% of the assets to their sons, as an individual has absolute right to dispose the self-acquired property and their specific, divided share of ancestral property by will. This disinherits daughters through legal means that courts cannot overturn.
- **Procedural Acceleration:** The enforcement of Repealing and Amending Act of 2025<sup>37</sup>, introduced a shift by officially removing the mandatory requirement of probate for Hindus in presidency towns (Mumbai, Kolkata, Chennai). This procedural change intended to reduce judicial delays, created unintended effect of making it easier to disinherit daughters. Long probate process delays the implementation of discriminatory wills and property transfer title, yet without that delay male heirs can quickly implement discriminatory wills and transfer property titles, resulting in very little time for daughter to discover, contest or delay the transfer.
- **Coerced Relinquishment:** The most common de-facto barrier is the socio-emotional coercion for daughter, to extract Relinquishment Deeds<sup>38</sup>. Usually upon the death of the father, daughters are pressured to sign away their coparcenary share in favour of their brothers or son of the family. This coercion is reinforced by Relational Penalty, the unspoken agreement that if a daughter who claims her legal share will be completely withdrawn from social ostracism and forfeit from the emotional and physical security of her family.

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<sup>35</sup> <https://ijapt.org/index.php/journal/article/view/370>

<sup>36</sup> Supra note 29.

<sup>37</sup> <https://www.indiacode.nic.in/bitstream/123456789/22046/1/A2025-37.pdf>

<sup>38</sup> Supra note 29.

- **The Illusion of Notional Ownership:** In several urban centres, State Government have introduced lower stamp duty rates and taxes for properties registered under women's name. This has resulted in a statistical increase in female property registration; research shows this is largely notional ownership. The women are used as a financial instrument for tax optimization. The real management, control, financial returns and decision-making power on the asset strictly remain with the male members of the family.

*Madhuri Patel v. Shyam Sunder (2021) SC 456*<sup>39</sup>

This case highlighted the need for women to be aware of legal aid access in inheritance rights. The Supreme Court affirmed that many women are unaware of their legal rights and often lack resources to navigate the complex process of litigation. As a result, the Court highlighted the need to raise awareness among women about their inheritance rights and provide them legal aid. The legal entitlements hold little value if women are not empowered to understand and claim them, by raising greater awareness and providing legal aid. The ruling highlighted the critical necessity for involving legal measures, educational initiatives and support mechanisms to enable women to exercise their inheritance rights comprehensively.

*Rajeshwari Devi v. State of Uttar Pradesh (2022) SC 987*<sup>40</sup>

The Supreme Court addressed the issue of unnecessary delays in inheritance disputes, which created significant barrier for women in claiming their property rights. The Court noted that prolonged litigation creates significant barrier which discourage women from claiming their deserved shares. The Court directed the Lower Courts to expedite cases relating property rights of daughters. This directive aimed to ensure that inheritance disputes were resolved quickly, encouraging women to claim their inheritance without fearing lengthy legal processes. The Court acknowledged the need for quick judicial action, stating that timely justice is necessary to empower women to assert their inheritance rights.

*Khushbhu Jain v. Union of India (2023) SC 1234*<sup>41</sup>

This case shifted the emphasis from legal interpretation to effective implementation of law. The Supreme Court observed that there are practical difficulties faced by women in obtaining their legitimate inheritance and that legal rights are of no value unless they can be practically accessed. The Court reaffirmed daughters are entitled to ancestral property and urged for the

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<sup>39</sup> Madhuri Patel v. Shyam Sunder, (2021) SCC Online SC 456.

<sup>40</sup> Rajeshwari Devi v. State of Uttar Pradesh, (2022) SCC Online SC 987.

<sup>41</sup> Khushbhu Jain v. Union of India, (2023) SCC Online SC 1234.

simplification of legal process to facilitate claims of inheritance. The Court also recognised that procedural obstacles frequently hinder women from asserting their rights. The Court recognised awareness of achieving gender justice in inheritance is a matter of practical means of enforcement, not just legal rights.

## **RECOMMENDATIONS**

Implementation Mechanisms: There is an administrative gap between the law and practical application of the law. Women are disproportionately discouraged by the lengthy and expensive process of settling property disputes. Establishing fast-track courts or specialized family property tribunals, is essential for time-bound resolutions. Legal aid facilities to waive court fees for women, digitizing land records will ensure transparency of family assets.

- **Awareness Campaigns:** A right is effective only if the right-holder has power to exercise it without guilt. The Amendment Act of 2005, should be explained in simple language through vernacular outreach by local media and panchayat. The explicit separation of inheritance right from dowry should be normalised through cultural shift and make it normal for women to claim their share.
- **Judicial Sensitization:** The administration should be trained to recognise and dismantle unconscious biases. Courts must be trained to scrutinize relinquishment deeds, ensuring women are not signing away the rights due to family coercion or lack of financial literacy.

## **CONCLUSION**

The Amendment Act of 2005 and Vineeta Sharma v. Rakesh Sharma ruling, marked a landmark step towards gender justice by granting daughters coparcenary rights by birth. However, there is still gap between legal rights and social equity in 2026. Traditional patriarchal norms and social coercion continue to deter women from claiming their rights, with only 13% women with residential property and less than 9% women with agricultural land titles. Families evade the 2005 mandate by structural loopholes by discriminatory wills, relinquishment deeds. India must move beyond paper rights to transform from de-jure equality to de-facto empowerment. Fast-track Courts, legal aid, awareness campaign to ensure daughter's coparcenary rights without fear or relational penalties will lead to achieving true gender justice. The inclusion of digital land record integration, mandatory biometric consent for HUF partitions, implementing strict legal safeguards against coerced relinquishment, ensuring daughters can fully claim their constitutional rights.

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