



DISQUALIFICATIONS UNDER HINDU SUCCESSION ACT, 1956

*By Devansh Agarwal
From Bennett University*

STATEMENT ABOUT THE PROBLEM

This paper will deal with the disqualifications related to Hindu Succession according to the Hindu Law and will make an attempt to understand the judicial and statutory evolution of the succession of the property of a Hindu and the people who are disqualified by the act.

OBJECTIVE AND SCOPE OF STUDY

This paper aims to seek an answer to the disqualifications under the Hindu Succession Act and how they stand today. The disqualifications are widely discussed with the help of relevant statutory provisions and leading case laws.

METHODOLOGY

This research paper is a combination of two types of research methods namely doctrinal and theoretical approaches. This research is mainly focused on the law enforcement of the Hindu Succession Act, 1956 and the amendment Act of 2005, laws related to Murderer in context of disqualification, Consequence of disqualification and under which circumstances person shall not be disqualified from succeeding to any property. Therefore, this research paper would constitute a critical analysis of the law related to disqualifications under the Hindu Succession Act as it is today as well as the various judgments of the court.

CHAPTERIZATION

This research paper consists of five chapters. The first chapter is the introduction to the

scheme of the paper; the second chapter will discuss the first disqualification i.e remarriage which was governed by Section 24 of the Hindu Succession Act, 1956. Section 24 is now omitted. Further, chapter three deals with the disqualification of a person who murders which is governed by Section 25 of the Hindu Succession Act. The fourth chapter deals with the disqualification of a convert under Section 26 of the Hindu Succession Act. This chapter also portrays light on defects or deformities of a person which do not disqualify him under the act. Chapter six finally concludes the research paper.

CHAPTER I – INTRODUCTION

This article sheds light on the researcher's assessment of the 1956 Hindu Succession Act disqualifications. In personality, family law is subjective and split into different branches, one of which is the Hindu Succession Act. A legal heir cannot be disqualified from his rights according to the general principle. Although this law has some exceptions. Under Hindu law, the inheritance rights of a person were not absolute.

Family law is a legal area that deals with family-related problems and domestic relationships, including but not restricted to: the nature of marriage, civil unions, and domestic partnership issues that arise during the marriage, termination of the relationship, and ancillary problems. Family law is a very broad term and its scope is subjective in nature. There are different branches of family law. The most important part under family law is the Hindu Succession Act 1956. In this paper, we concentrated primarily on disqualification under the Hindu Succession Act and what ancient Hindu regulations and modern Hindu regulations say about disqualification. There are certain laws



linked to disqualification law, such as certain remarriage widows may not inherit as widows, disqualified murderer, disqualified deceased converts, disqualified heir succession. There is one exception to exclusion in which individuals will not be disqualified - disease, deformity, and so on - not to exclude. Regardless of the proximity of relationship, a person could, in any case, be disqualified from acquiring property by virtue of his specific physical or mental ailment, or an unmistakable lead. This exclusion from inheritance was not simply on religious grounds, and inadequacy to perform religious ceremonies, yet relied on social and good grounds and substantial imperfections too. In this article, I have talked about the extension, applicability of all the sections identified with disqualification to succession. I went through various case laws, legislative acts that helped me throughout. After the completion of my research work, I have given some suggestions for disqualification to succession that can be seen at the end of this paper. By this, I have concluded my research work. In this research work, I have tried to fulfill all the loopholes of disqualification to succession.

CHAPTER II – REMARRIAGE (SECTION 24)

According to the law, remarriage disables a widow from succeeding to the property of a male Hindu when on the date succession opens; she has ceased to be the widow by reason of remarriage. The section applies only to intestate succession and applies only to Class I and Class II heirs. Prior to the Amendment of 2005, Section 24 given to

exclusion of a certain class of female beneficiaries on the ground of remarriage. Before its exclusion Section 24 keeps running as under:

“Any heir who is related to an intestate as a widow of a predeceased son, the widow of a predeceased son of a predeceased son or the widow of a brother shall not be entitled to succeed to the property of the intestate as to such widow, if, on the date the succession opens, she has remarried.”¹

Before Amendment of 2005, under old section 24 remarriage became disqualification for -

- (i) Intestate’s predeceased son’s widow; or
- (ii) The widow of a predeceased son of a predeceased son; or
- (iii) The widow of a brother of the intestate.

Preceding the amendment of 2005, it is beneficial to take note of that the mother had not been precluded to inherit on remarriage under Section 24 of the Hindu Succession Act, 1956. The Supreme Court in *Smt. Kasturi Devi v. Director of Consolidation*², held that a mother can't be stripped of her enthusiasm for the property on the ground of remarriage. The provision laying down the disqualification of a widowed daughter-in-law to succeed is based on a holy and profound relationship of the spouse with her husband.

When she splits away that relationship by remarriage and entering another family, she winds up precluded to acquire the property nor is she qualified to hold the property acquired by her. The equivalent can't, nonetheless, be said of a mother. She is

¹Section 24, Hindu Succession Act, 1956

² Smt. Kasturi Devi v. Director of Consolidation 1977 SCR (2) 25



totally in an alternate position that is the reason the Hindu law didn't give that even the mother would be excluded on the off chance that she remarried.

Any consequent remarriage after the progression has opened won't deny a widow of the offer which she has just acquired as a beneficiary. The area doesn't have any significant bearing to the widow of the intestate or father's widow. It was held by the Patna High Court that a Hindu widow prevailing to the properties left by her husband as a widow after the passing of the Hindu Succession Act would not be divested of the said properties on her remarriage thereon.

In the case of *Cherotte Sugathan v. Cherotte Bharathi & Ors*³, Supreme Court has ruled that a widow, even after her remarriage, is legally entitled to get a share of her first husband's inherited property. This reiteration of the legal provision came from a Bench comprising Justices S B Sinha and V S Sirpurkar while it dismissed a petition by one, C Sugathan's heirs, who had challenged a Kerala High Court judgment allowing inheritance rights to their paternal uncle's widow even after her remarriage. The property in question belonged to one Pervakutty, who willed it in favor of his sons – Sugathan, Surendran and Sukumaran. Sukumaran, who died in 1976, was married to Bharathi. Bharathi married one Sudhakaran, who also died in 1979. But, when the question of sharing the property inherited from Pervakutty arose between his heirs, none were ready to give any share to Bharathi on the ground that she had remarried after Sukumaran's death. The HC held that in the facts of the case, coupled with the

provisions of the Hindu Succession Act, Bharathi was entitled to her share in the property. The apex court, rejecting the appeal against the HC judgment, said, "The succession law brought about a sea change in Shastric Hindu Law. Hindu widows were brought on equal footing in matters of inheritance and succession along with the male heirs." on the grounds that in perspective on Section 24, of Hindu Succession Act supersedes arrangements of the Hindu Widow Remarriage Act, 1856.

The disqualification expressed in Section 24 is limited to the instance of three female beneficiaries. Any beneficiary who is related to the intestate as the widow of the predeceased child, the widow of a predeceased child of a predeceased child, or the widow of the sibling will not be qualified for acquire to the property of the intestate in that capacity widow, if on the date the progression opens, she has remarried."

The father's widow, i.e., the progression mother has not been referenced in this section however she involves a spot as a beneficiary in Entry VI of class II beneficiaries. The mother has been referenced in class I of the Schedule and she acquires by prudence of that not as the father's widow. Aside from the arrangements of the Hindu Widow's Remarriage Act a mother may acquire from her child after her remarriage on the grounds that the blood relationship doesn't stop with her remarriage. After the passing of the Hindu Succession Amendment Act No. 39 of 2005, presently the referenced classes of widows can acquire regardless of whether they have remarried.

³ Cherotte Sugathan v. Cherotte Bharathi & Ors



Where the remarriage by the widow after the demise of her significant other and suit property held as ancestral property, she would not be qualified for any offer in familial property due to her remarriage.

CHAPTER III - MURDERER (SECTION 25)

Section 25 of the Act has the impact of lying down that an individual who commits murder or abets the commission of murder is excluded from acquiring, the property of the individual killed or some other property he may become qualified for prevail by reason of furtherance of succession because of the murder. It isn't necessary for the appliance of this section that the individual Disqualified ought to have been sentenced for murder or abetment of murder. The disqualification will apply on the off chance that it is built up in any following proceeding that the individual to be disqualified had committed or abetted the murder.

The section as per the Hindu Succession Act, 1956 reads as follows "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."⁴

The murder is treated as non-existent and in this manner doesn't shape the stock for a crisp line of descent. The disqualification on the ground of murder extends to every kind of property to which the individual would have been qualified to acquire, had the person not submitted the murder of the intestate. At the end of the day, the murderer is likewise avoided from acquiring the property of some

other person, to which the person in question would have succeeded if the person (intestate) murdered had passed on the normal death.

The heir of the murderer is additionally disqualified from acquiring the property of the person killed. For the property doesn't vest in the killer and thus doesn't devolve on their beneficiaries. The abetter of murder is additionally excluded. Where an individual who had participated in a murderous assault on his father alongside others, who were indicted for murder, all things considered, was given an advantage of uncertainty and was sentenced under Section 324 I.P.C. rather than Section 302 IPC, and still, at the end of the day the disqualifications referenced in Sections 25 and 27 will become possibly the most important factor and act against that individual acquiring or determining any beneficial interest in the property possessed or held by his dad.

In *Vallikanna v. R. Singaperumal*⁵, it has been held that a person who has killed his father or a person, from whom he needs to acquire, stands completely disqualified. Section 27 of the Hindu Succession Act makes it further certain that if any person is disqualified from acquiring any property under this Act, it will be considered as though such person had died before the intestate.

That shows that a person who has murdered a person through whom he needs to acquire the property stands disqualified on that record. That implies he will be regarded to have pre-deceased him. The impact of Section 25 read with Section 27 of the Hindu Succession Act, 1956, is that a murderer is

⁴ Section 25, Hindu Succession Act, 1956

⁵ *Vallikanna v. R. Singaperumal* AIR 2005 SC 2587



completely disqualified from prevailing to the estate of the deceased. That means that a person who is blameworthy of committing the murder can't be treated to have any relationship at all with the deceased's estate.

In *Chamanlal v. Lai Mohanlal*, it has been held that where a widow was prosecuted for the murder of her better half however at the end was cleared from that charge; she was not disqualified from acquiring the property of her husband.

CHAPTER IV – CONVERSION (SECTION 26)

Section 26 of the abovementioned act deals with disqualification upon conversion to another religion. It is laid down under this section, where a Hindu ceased to be a Hindu by converting to any religion whether before or after the commencement of this Act, the 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 children or descendants are Hindus when the succession opens.

Section 26 disqualifies the believer's relatives and the kids destined to such relatives to acquire the property of any of their Hindu relatives. Be that as it may, the youngsters or relatives of such kids brought into the world after his change are not influenced by the standard on the off chance that they are Hindus when the progression opens. Section 26 keeps running as under:

“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 Hindu at the time when the succession opens.”⁶

It is intriguing to take note of that the converts have not been precluded to acquire; just his relatives or offspring of relatives have been excluded to acquire, in the event that they don't stay Hindu when the progression opens. The section is a review in activity and applies to those people likewise who had progressed toward becoming converts before the initiation of this Act.

Accordingly where 'W' has got three children specifically 'X' 'Y' and 'Z' and 'Z' changes over to Christianity during the existence time of W. On the demise of W, 'Z' will be qualified for an offer alongside 'X' and 'Y'. He would not be excluded to acquire according to Section 26 of the Act and would get 1/3 offer in the property of 'W'.

In the above illustration if Z dies after conversion during the lifetime of 'W' leaving behind him his two sons 'M' and 'N', who are born to him after conversion, 'M' and 'N' would be excluded from inheritance.

Under the old Hindu law physical incapacity or need for organ, deafness, dumbness, and incurable visual impairment, incurable disease, etc, mental incapacity like lunacy, idiocy, etc. were the grounds of exclusion from inheritance. The Hindu Inheritance (Removal of Disabilities) Act, 1928 removed all the disqualifications except lunacy or idiocy.

⁶ Section 26, Hindu Succession Act, 1956



Section 28 of the Act has declared that defect, disease, deformity, etc. shall not be the grounds of exclusion from inheritance. The only disqualifications under the Act are those that are mentioned in Sections 24 to Section 26. Section 26 runs as follows-

“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.”⁷

CHAPTER V – CONCLUSION

Despite the fact that the Hindu Succession Act, 1956, and its amendments have gone far in simplifying the standards managing succession among the Hindus, there are different discrepancies still to be settled.

The principle of equality is likened with "equal treatment" in a basically inconsistent society. Law of disqualification under HSA is managed by S. 24 to 28 and as for these sections, a person can be excluded distinctly if there should be an occurrence of remarriage by few widows explicitly referenced in the area, when a person commits murder for the encouragement of property and when an individual is a descendant of a convert. Under just these three conditions an individual can be excluded to acquire and rest all disqualifications regular under old Hindu Law are canceled. As indicated by my view the accompanying ought to be incorporated into the disqualification of succession there is no uncertainty that these sections ordered by the governing bodies are very much established and it has worked superbly in giving a couple of explicit grounds of exclusions. Be that as it may, in regard to

above exchange it is presented that not many different grounds of disqualifications ought to be included expansion to those as of now referenced and they are as per the following-

Firstly, a person tormenting someone else ought to likewise be precluded to acquire the property of that someone else. Besides, Attempt of murder should also be a ground to disqualification to succession even that attempt was unsuccessful under S.25. Secondly, the Stepmother of the expired individual should also be precluded on remarriage under S.24 of the Hindu Succession Act, 1956. Thirdly, a person committing assault of the woman from whom he will acquire should also be excluded.

Notwithstanding, it can't be contended that The Hindu Succession Act rolled out a progressive improvement in the law identifying with succession. Hence the author submits that the present law of disqualification under Hindu Succession Act is appropriate for Hindu law and as such there is no need for any kind of change or alteration in these laws except that some other grounds of disqualifications as mentioned in the paper shall be added in Hindu Succession Act.

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