



## STRIDHAN: THE MISUNDERSTOOD CONCEPT OF WOMEN'S PROPERTY

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### INTRODUCTION

“The father guards her during childhood, the husband guards her in youth, the sons guard her in old age; the woman is never fit for independence”<sup>1</sup>, and “Women, even though born of noble families, become ruined by independence; that is why Prajāpati (lord, master) has ordained that they shall not be independent.”<sup>2</sup> are rules from few ancient Indian scripts, and the same ideas are reflected throughout other texts as well.<sup>3</sup>

Women in India historically had very limited rights, were not regarded as deserving of independence, and relied heavily on men for their sustenance. However, women were often given gifts, such as ornaments, jewelry, and dresses, by their relatives<sup>4</sup> as a form of protection and security. These gifts were considered the woman's personal property

and were referred to as stridhan. The women's right over property was of very negligent share right from the ancient times itself but the husbands had all the authority and significant control on all the properties including streedhan.<sup>5</sup>

To bring about a radical change concerning the same, there were many changes introduced through The Hindu Code Bills that were passed in 1955–57 to codify and reform Hindu personal laws.<sup>6</sup> Since then, efforts have been made to estimate the consequences of the necessary reform, including any positive or negative effects. Though the legislature was praised for its progressiveness, the general public was dissatisfied because they were unaware of the previous law or the new law.

One of the most significant changes brought about by the bill was to promote gender neutrality by granting women the right and power to acquire and retain their property because, until then, a wife, a son, and a slave weren't empowered to own any property or wealth, and anything they earned was an acquisition of the patriarch, i.e., the male head to whom they belong.<sup>7</sup>

In addition to its practical significance, Stridhan is also considered a symbol of the love and respect a woman's family and in-laws have for her. The gifts and property that a woman receives as part of her stridhan are typically chosen with care and are meant to

<sup>1</sup> MANU-SMRITI verse 9.3.

<sup>2</sup> NĀRADA (VIVĀDARATNĀKARA, P. 410)

<sup>3</sup> GANGANATH JHA, MANUSMRITI WITH THE COMMENTARY OF MEDHATITHI, (Dec. 27, 2022, 01:16 PM), <https://www.wisdomlib.org/hinduism/book/manusmriti-with-the-commentary-of-medhatithi/>

<sup>4</sup> PARAS DIWAN & PEEYUSHI DIWAN, MODERN HINDU LAW 393 (25<sup>th</sup> ed. 2021).

<sup>5</sup> Mithun Kumar S, *Streedhan: A Critical Study*, 6(3) JETRI, 701-708 (2019)

<sup>6</sup> Kaushik Singh, *Hindu Code Bill and Ambedkar*, Legal Service India (Dec. 25, 2022, 12:39 PM), <https://www.legalserviceindia.com/legal/article-9181-hindu-code-bill-and-ambedkar.html>.

<sup>7</sup> Admin, *Stridhan*, Shonee Kapoor (Dec. 25, 2022, 12:49 PM), <https://www.shoneekapoor.com/stridhan>.



reflect the woman's importance to her new family.

## MEANING

Stridhan, also spelled as Stridhana, Stridhanam, Streedhana, Istridhan, etc., in various documents, scriptures, and verdicts refer to a woman's absolute property.

The term "Stridhan" is derived from the Sanskrit words "Stri," which means "Woman," and "Dhan," which means "Property" or "Wealth."<sup>8</sup> In Hindu personal law, it originally referred to a woman's property, however with the change in times, it has acquired a more technical connotation, as our courts have enlarged the definition through various judgments.

According to Madras High Court, gifts and bequests received by a Hindu woman from her family members constitute stridhan and are entirely at her absolute disposal.<sup>9</sup> Stridhan not only includes movable properties, such as ornaments, jewelry, and dresses but also includes immovable properties<sup>10</sup> such as land and building. As decided by Madras High Court in Venkata Rama Rao v. Venkata Suriya Rao<sup>11</sup>, property purchased from stridhan is also stridhan<sup>12</sup> and unrealized rents and profits arising out of property constituting stridhan are also stridhan.<sup>13</sup>

"A wife's earnings and gifts to her by strangers are her stridhanam descendible to her heirs" and "The wife is the sole owner of wealth acquired by her even during coverture: yet she has no independent power over it so long as her husband lives".<sup>14</sup> It is to be noted that the husband has no say when they're not living together.<sup>15</sup> During coverture she can dispose of gifts from relatives, as she likes and in case she is a minor, this can be done with the help of her guardian.<sup>16</sup> She alone can sue on behalf of the estate and she alone can be sued in respect of it<sup>17</sup>

Concerning the jurisdiction of a court to try the case, the question came before the Rajasthan High Court<sup>18</sup> for consideration. Following the principles laid down by the Supreme court,<sup>19</sup> it was decided, that only the courts the at the place where the offense was committed have the jurisdiction to look into the matter.

## BACKGROUND

Earlier, a woman's property comprised of stridhan and non-stridhan. Stridhan was any property that a woman received by way of gifts, before her marriage or that she received as a gift at the time of her marriage or thereafter. This includes gifts from her husband, as well as gifts from her parents and

<sup>8</sup> Monier-Williams, M. (1899). A Sanskrit-English dictionary. Oxford: Clarendon Press.

<sup>9</sup> Rajamma v. Varidarajula Chetti, AIR 1957 Mad 198.

<sup>10</sup> Chamandal Chakubhai v. Bai Parvati, AIR 1934 Bom 151.

<sup>11</sup> Venkata Rama Rao v. Venkata Suriya Rao, ILR (1880) 2 Mad 333 (PC), 8 CLR 304.

<sup>12</sup> B.M. GANDHI, SUMEET MALIK,,ed. HINDU LAW 230, (4<sup>th</sup> ed. 2016).

<sup>13</sup> Mohini Mohan Basu v. Rash Behari Ghosh, ILR (1937) 2 Cal 97.

<sup>14</sup> Salem v. Lutchman, ILR (1898) 21 Mad 1003

<sup>15</sup> Gadadhar Bhat v. Chandrabhagabai, ILR (1893) 17 Bom 690.

<sup>16</sup> *Supra*, B.M. GANDHI, SUMEET MALIK,,ed. HINDU LAW 230, (4<sup>th</sup> ed. 2016).

<sup>17</sup> Vibha Sirothiya, *Stridhan and Woman's' Estate Under Section 14 of Hindu Succession Act 1956*, 498A (Dec. 27, 2022, 07:39 PM), <http://www.498a.org/contents/general/streedhan.pdf>.

<sup>18</sup> Rajesh Kumar v. State of Rajasthan, 2006 Cri LJ 2026

<sup>19</sup> Y. Abraham Ajith v. Inspector of Police, 2004.



other relatives. Whereas non-stridhan comprised what she inherited from a male or female relation. A woman enjoyed larger powers of disposal over her stridhan but had limited interest in non-stridhan. She was called a limited owner of her non-stridhan property.<sup>20</sup>

The Hindu Women's Right to Property Act, of 1937<sup>21</sup> was passed to expand the rights of Hindu women by classifying their property into stridhan and women's estate. Now a Hindu widow had a right over her husband's property which was earlier divided among coparceners, but the right was limited and extended till her death. This concept was rooted in the idea of the widow's financial independence and security. Though the step was revolutionary, it concentrated much on increasing the rights of widows, and not women in general.

Therefore, as criticisms arose, the legislature rectified the issues and passed a better law, The Hindu Succession Act, 1956<sup>22</sup>. The new act introduced key changes in Hindu women's property by erasing the concept of Women's estate and interpreting Stridhan. Under Section 14(1), any property owned by a woman is her absolute property and she is no longer a limited owner. It wouldn't matter if the property was acquired before the commencement of this act. A Hindu woman could now freely sell or transfer such property.

With every right comes certain restriction, those are here as well. Section 14(2) states the exceptions to Section 14(1) which is, when a woman receives limited interest in a property under a decree of a court or an award or under a gift or a will, such limited ownership wouldn't be affected.

The Andhra High Court<sup>23</sup> held that "(A woman had) absolute right and not limited rights. In this connection, it is to be seen that by Section 14(1) of the Hindu Succession Act, 1956 any property possessed by a female Hindu would be held by her as full owner thereof. Statutorily this recognition of the right of a female Hindu was given retrospective effect." And the same was upheld by the Supreme Court.<sup>24</sup>

### DIFFERENCES (DOWRY AND STRIDHAN)

Dowry means any property or valuable security given or agreed to be given either directly or indirectly: a) by one party to a marriage to the other party to the marriage; or b) by the parents of either party to a marriage or by any other person, to either party to the marriage or any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.<sup>25</sup>

Stridhan is often confused with Dowry, as the whole process is almost similar, yet both

<sup>20</sup> Lakshita Khurana, *Powers of female heirs over inherited property*, Ipleaders (Dec. 25, 2022, 12:48 AM), <https://blog.ipleaders.in/powers-of-female-heirs-over-inherited-property>.

<sup>21</sup> The Hindu Women's Right to Property Act, 1937, No. 18, Acts of Parliament, 1937.

<sup>22</sup> The Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956.

<sup>23</sup> Agasti Karuna v. Cherukuri Krishnaiah, 1999 (5) ALD 387.

<sup>24</sup> V. Tulasamma v. V. Sesha Reddi, 1977 AIR 1944.

<sup>25</sup> S.2, The Dowry Prohibition Act, 1961, No. 28, Acts of Parliament, 1961.



purposes are the exact opposite. Stridhan differs from dowry in many ways, former depicts gifts voluntarily consented to bride with happiness before, during, or after the marriage, while the latter involves valuables and properties given or agreed to be given often by exploiting and threatening (coercion) the bride or her family, on behalf of the bridegroom before, during, or after marriage. Stridhan is given to the bride while dowry is given on behalf of the groom's family. Stridhan of a deceased woman is passed on to the legal heirs while dowry isn't. The most significant difference between dowry and stridhan is the presence of undue influence, exploitation, and demand in dowry which increases the burden on every bride's family, while stridhan is given voluntarily. This system (of dowry) has been reduced since the implementation of The Dowry Prohibition Act in 1961,<sup>26</sup> but some traces remain in parts of India. The Indian courts have established a distinction between Stridhan and dowry. The fundamental reason behind such distinction is that if any marriage breaks down in the future, the woman will be able to recover the goods she received as Stridhan, which will not be the case with the dowry gifts.<sup>27</sup>

Stridhan is a woman's asset, but dowry makes the woman a liability to her parents for it is not her fair share of property that has been given willingly. Today's Dowry is not for the bride but for the well-being of the groom and his family members. Mainly

Stridhan enhances the economic status of the Hindu woman as it provides support for financial problems. But woman lack access to dowry.<sup>28</sup>

It is pertinent to understand that if the dowry was refused, the bride shall not forfeit her right over streedhan, where her husband isn't entitled to regard that property as his own within areas she has acquired the streedhan. It is also important to note here that patriarchal parents sometimes divest their daughters from possessing equal rights in their property under the mask of dowry-less marriage.<sup>29</sup>

The Supreme Court<sup>30</sup> laid down the differences between dowry and stridhan and held that the articles entrusted to the woman for her exclusive use made her the sole owner of the same while the husband had no rights towards them under usual circumstances.

The Punjab & Haryana High Court<sup>31</sup> ruled that even though some articles presented were meant for the use of both spouses, certain ornaments by nature belong only to the bride, constituting stridhan. If those articles were converted for the use of another person during entrustment, then it would amount to a criminal breach of trust. The groom's family is obligated to return the stridhan during separation. The Supreme Court<sup>32</sup> has specifically observed that the retention of streedhan is a continuing offense. It is suggested that women maintain a list of

<sup>26</sup> The Dowry Prohibition Act, 1961, No. 28, Acts of Parliament, 1961.

<sup>27</sup> Oishika Banerji, *Women's Property Under Hindu Law*, Ipleaders (Dec. 28, 2022, 12:01 AM), [https://blog.ipleaders.in/womens-property-under-hindu-law-an-overview/#Stridhan\\_vis\\_a\\_vis\\_dowry](https://blog.ipleaders.in/womens-property-under-hindu-law-an-overview/#Stridhan_vis_a_vis_dowry).

<sup>28</sup> Rapti Dhar, *Stridhan to Dowry: A Journey of Hindu Woman's Lost Rights*, 6 (2020).

<sup>29</sup> *Supra*, Mithun Kumar S, *Streedhan: A Critical Study*, 6(3) JETRI, 701-708 (2019).

<sup>30</sup> *Pratibha Rani v. Suraj Kumar*, 1985 AIR 628.

<sup>31</sup> *Bhai Sher Jang Singh v. Virinder Kaur*, 1979 CriLJ 493.

<sup>32</sup> *Krishna Bhattacharya v. Sarathi Chowdhury*, (2016) 2 SCC 705.



stridhana received to prepare better for an event of an unfortunate situation.

### DIFFERENCES (STRIDHAN AND WOMAN'S ESTATE)

A woman's property was classified into stridhan and woman's estate before The Hindu Succession Act, of 1956 was passed. The Hindu Women's Right to Property Act, of 1937, amended the old Hindu Law of all the schools to give greater and absolute rights to women to alienate property, but unfortunately, the statute gave only limited interest to the women in the property and came to be known as "Limited Estate."<sup>33</sup>

Women's estate also called "Widow's Estate" deals with the limited rights and ownership of women, and she was called a limited owner of such property obtained by inheritance and partition. A widow takes as heir only a specified and qualified estate, she is a mere life tenant of the property, as being merely entitled to the enjoyment of the property without any power of disposal over it.<sup>34</sup> With limited ownership, she could enjoy the property and income arising out of it during her lifetime, which constitutes the characteristics of the absolute owner with the exception that she could not have power in terms of alienation or disposal i.e., including the inability to transfer the property to her heirs. Hindu women had limited interest in their power to dispose of women's estates when compared to the absolute power of

disposal she enjoyed over her stridhan. She has no right to sell, mortgage, gift, lease or alienate the estate except in case of a legal necessity or for the benefit of the estate. If the next reversioners agree<sup>35</sup> she may do it. In such a case she could pass an absolute estate to the alienee to the same extent as an alienation made by a full owner<sup>36</sup> except when taking benefit under election.<sup>37</sup>

The Hindu Women's Right to Property Act, 1937 was passed, under which, on the death of the husband, ownership wasn't transferred to the surviving coparceners but to his widow's share. But the limited ownership terminated on her death, or maybe remarriage, going back to the heirs of the husband.<sup>38</sup> A widow or other limited heir may in the exercise of her power of management grant leases of properties belonging to the estate; but she has no power to grant a permanent lease or a lease for a long term to bind the reversioner, unless it is justified by legal necessity, or it is for the benefit of the estate or made with the consent of the next reversioners.<sup>39</sup> Unless a widow is found to have wasted the property, she is answerable to none.<sup>40</sup> In case the widow is found to waste the property the other parties will have their remedy.<sup>41</sup> This concept of ownership without absolute powers of disposal was rooted in the idea of the widow's financial independence and security. Since this act focused more on the rights of widows and not women in general, a revision was

<sup>33</sup> Sheetal Kotian, *Stridhana-The Parting Gift*, FOXMANDAL (Dec. 31, 2022, 12:08 AM), <https://www.foxmandal.in/stridhana-the-parting-gift>.

<sup>34</sup> *Supra*, B.M. GANDHI, SUMEET MALIK,,ed. HINDU LAW 238, (4<sup>th</sup> ed. 2016).

<sup>35</sup> *Sahu v. Mukand*, 1955 SC 481.

<sup>36</sup> *Supra*, B.M. GANDHI, SUMEET MALIK,,ed. HINDU LAW 239, (4<sup>th</sup> ed. 2016).

<sup>37</sup> *S. Shanmugham Pillai v. K. Shanmugham Pillai*, (1973) 2 SCC 312.

<sup>38</sup> *Supra*, Lakshita Khurana, *Powers of female heirs over inherited property*, Ipleaders (Dec. 25, 2022, 12:48 AM), <https://blog.ipleaders.in/powers-of-female-heirs-over-inherited-property>.

<sup>39</sup> DINSHAH MULLA, PRINCIPLES OF HINDU LAW 197-198 (10<sup>th</sup> ed. 1946)

<sup>40</sup> *Surendra Nath Majhi v. Ishwar Majhi*, AIR 174 Cal 216.

<sup>41</sup> *Ramachandra Velayudha v. Seeniathal*, AIR 1954 Mad 1011.



needed which came in the form of The Hindu Succession Act, 1956, which was passed conferring absolute property rights across all the sections of women through Section 14 of the Act. The object of The Hindu Succession Act, of 1956, is to benefit Hindu women by enhancing their limited interest in property to absolute interest<sup>42</sup> and to ensure equality of status and opportunity.<sup>43</sup>

The concept of women's estate was repealed after the enactment of The Hindu Succession Act, 1956 with retrospective effect. According to this, a Hindu woman acquired full ownership of any property, movable or immovable, in her possession. Completely scrapping the concept of limited ownership by giving them the right to claim, use and dispose of their property without being answerable to anyone.

This act was brought into force to enable women to become absolute owners of their properties by converting the properties from limited estate to full estate and enabling the succession of their property to their legal heirs in case a will wasn't made. This also implemented equality of genders and protected the right of the owner to settle the property according to her wishes, except for property received by way of gift, will, award, decree or order, or any other instrument. She is in no sense a trustee to those who come after her.<sup>44</sup>

## CONCLUSION

The concept of stridhan has a rich and storied history. It has undergone significant changes with the introduction of The Hindu Succession Act, 1956, which is undoubtedly a giant leap forward towards gender

neutrality as it has completely transformed the status of a women's property to stridhan, which can as per her wish or in case of her demise is heritable to her heirs.

In recent years, thanks to various laws and amendments put into place along with favorable judgments, further efforts have been made to a greater extent to protect and ensure the autonomy of women over their stridhan, including the introduction of the Marriage Laws (Amendment) Act<sup>45</sup>, 1976 and The Hindu Succession (Amendment) Act, 2005<sup>46</sup>. Despite these positive developments, it is important to continue working towards gender equality and the empowerment of women in all areas of life, including property and financial independence. The judiciary too, has played a vital role as we have seen in all those judgments that have transformed the socio-economic status of women, giving them the rights that they have been denied for centuries.

As we move towards a more equitable and just society, we must recognize and address the legal challenges and protections surrounding stridhana. By doing so, we can ensure that every woman has the opportunity to exercise her right to property, wealth ownership and to achieve financial independence and security.

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<sup>43</sup> G. Gurumurthy v. K. Ayyappa, (1975) 4 SCC 458.

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<sup>45</sup> The Marriage Laws (Amendment) Act, 1976, No. 49, Acts of Parliament, 2001.

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