



Sonargaon University (SU)

Research Monograph

On

“Constitutional Guarantees vs. Personal Laws: An Analytical Study on the Property Rights of Hindu Women in Bangladesh”

Research Monograph Submitted for the partial fulfillment of the award of the degree
in

LL.B (Hon’s)

Department of Law

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Submitted To

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Letter of Transmittal

To

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Subject: Submission of Research Monograph on “**Constitutional Guarantees vs. Personal Laws: An Analytical Study on the Property Rights of Hindu Women in Bangladesh**”

Dear Sir,

This is a great pleasure to submit the Research Monograph on “**Constitutional Guarantees vs. Personal Laws: An Analytical Study on the Property Rights of Hindu Women in Bangladesh**” as a partial requirement for the fulfillment of my LL.B course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Yours sincerely

.....

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Declaration

I do hereby declare that the Research Monograph Title “**Constitutional Guarantees vs. Personal Laws: An Analytical Study on the Property Rights of Hindu Women in Bangladesh**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.B (Hon’s) Degree. This is an original work of mine. No part of this research, in any way or in form, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

.....

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Supervisor Certificate

This is to certify that the work presented in this dissertation is based on the work, carried out by the author herself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.B. program.

.....

Muhammad Ali

Lecturer

Department of Law

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Thank you

Md. Saiful Islam

ABSTRACT

Much has been debated on the issue of women's right to property and the feasibility of its governance under traditional Hindu legal regime in Bangladesh. Hindus being the minor community in Bangladesh has been in deprivation of the utility of the expected changes for last six decades which in consequences has been creating a regime of flagrant non-compliances with the universal human rights normative framework as to the twin principle of equality and non-discrimination. A Hindu women has limited title over her husband property, she becomes the owner of the property for enjoyment in her life time only after her death the property goes to her husband heirs. I have try to discuss the property rights of Hindu Women's in Bangladesh in my thesis.

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Chapter 1

Introduction

Women's rights in property in Bangladesh. I discussed it only present perspective of Bangladesh Hindu women. Women's are part and parcel of society .They are nerve of the society .we can not disagree their role in the global society .We can't imagine a body without a core. similarly it is not to think a societal improvement without the participation of the women .With this view in mind our national poet quoted that the creation of the world whatever great and beneficial for human being are shared fifty by man and fifty percent women.In Bangladesh practical field of present twenty century they can not live independently .It is disastrous for us like many women around the world, women of Bangladesh have had to face violation to their human right's year after year .These acts of violence are public and domestic .rape ,acid throwing ,fatwa's violence due to the non-payment of a dowry etc .Right is the power or privilege to which is entitled or a thing to which one has a just claim .many different types of rights have been described. Many of them tern's means such kind of right which deal women of female's facility to get rights proper life and right to get to deal ,own economic political etc.Every women have right to get right to life right to proper education freedom of movement ,those are worldwide declaration for all women. To understand the social and cultural life of the Hindus and their view on women, one must understand Hinduism. Hinduism is for the world and there is no 'unworld ness' in it. In Hindu society, every worldly activity is under the control of religion. It orders rituals throughout his life and gives instructions to his descendants, which they must follow in order that his happiness may be secured. So to find out the Hindu view on women, one has to have a look at the life of the Hindus, the position, the importance and the working area of the women in their everyday life.¹

1.1 Research Question

1. How are the Constitutional Guarantees vs. Personal Laws: An Analytical Study on the Property Rights of Hindu Women in Bangladesh?

¹ The Hindu Inheritance (Removal of Disabilities) Act, 1928 , p. 35

1.2 Methodology

In any thesis work, data collection is very necessary. Every research involve a method by which the desired result can be realized. In this regard I have used both qualitative and quantitative methods .It is qualitative because I have Analyzed both the law and theory. It is quantitative because I will show data. In this regard primary and secondary sources have also been applied. Primary sources are law, books, journal and secondary source are newspaper, reports etc. To prepare the thesis paper I have investigated internet, collected some books which are related with Hindu law and also Hindu women rights in Bangladesh, some newspaper which has some articles connected with Hindu law and also Hindu women rights in Bangladesh, find out some journal which are related with the Hindu law, and also with the Hindu woman rights.

1.3 Rational

Bangladesh is a Muslim populated country and India is a Hindu populated country. So there is a huge gap among Bangladesh and India regarding to women rights in property. After partition in 1947 India made several laws relating to women rights in property. The law passed in British period and is still prevailing in Bangladesh. Under this thesis paper I will show how we can solve the problem arising out of women rights in property.

1.4 Literature Review

Several research have been done and books are published on the topic of Hindu women rights in property but there is no such work which exactly focused on Hindu women rights in property. Thus I have found few books are in different libraries but none of them contains adequate material about Hindu women rights in property, few of them are as follows,²

S.T. Desai described in his book”Mulla principle of Hindu law”published in n.mTripathi private Limited,16th ed,2010,about inheritance rights of Hindus and exclusion from inheritance but he did not described about the inheritance rights or property rights of Hindu women specifically. In this paper I will show women rights in property specifically.

² The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 , p. 108

Prof.m.Badar uddin stated about women's property and stridhan in his book "Hindu Ain" published in Mukta law Book House, 3rd ed, 2003, which is not specified, He specified only about this rights of the women's who are belonging to the development of the Hindu community both male and female.

Dr.MiyaMd.AnowarHossain in his books "the Hindu law" published on Hira publication, 3rd ed, 2014, describe about marriage, maintenance, divorce, position of widow, etc but he did not specified that which rights should be include in the laws.

1.5 Scope and Limitation

Time due for the preparation of the thesis paper is very short. Time is a great problem to finish the work properly within time. In order to prepare this thesis paper I have to depend on mainly in internet and various books such as mullah principles of Hindu law, modern Hindu law, Hindu law of Bangladesh, Hinduain act. It is too much necessary to note the laws enacted for ensuring the inheritance rights of a women in Bangladesh and how the Government and NGOs and other institutions are working about this substance. But I am failed due to the limitation time. On the other hand in India essential changes as regards Hindu laws have been made but in Bangladesh ancient pre 1947 laws have remained in force. The reason behind the changes in India is that the common of the population in India is Hindus, they themselves demanded changes, the leaders of this community came forward and consequently changes had been made through enacting laws by legislation .But in Bangladesh the issue is evaded as a sensitive minority issue. Even the leaders of this community don't take any major attempt to address the problem. Democratic environment plays an important role in reforming in Hindu law but the free democratic environment that is needed for the reforms has not suitably developed yet.³

1.6 Capterization of Study

I work about Hindu women rights in property in Bangladesh under Hindu law. A legal study contains chapters. Such as 1st chapter is introductory, 2nd chapter Constitutional Guarantees vs. Personal Laws, chapter 3rd Right relation to succession, 4th chapter is stridhanam and female heir, 5th chapter is right relating to maintenance , and 6th chapter is about conclusion of study in which I will give some recommendation and conclusion

³ The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 , p. 102

CHAPTER 2

CONSTITUTIONAL GUARANTEES VS. PERSONAL LAWS

2.1 Nature, Origin and Sources

Hindu Law, unlike Roman law, is more religious than secular in personality. It is not a codified law but extracted from various religious texts, commentates, usages and customs, and judicial decisions.

The Hindus believe that their law is of divine origin and to them this is positive law emanated from the Deity. The Hindu Kings were bound by the divine laws contained in the 'Smritis' and these were applicable to Kings and subjects alike. By original theory of its origin the law was independent of the state or rather the state was dependent on law. The King used to administer justice as the representative of God and royal edicts, though had the force of divine laws in some matters, these were also considered void if found repugnant to revealed laws. Hence, the theory 'King can do no wrong' or 'The King is the fountain of justice' does not always apply to Hindu law.

The Main Sources of Hindu Law is

(i) The Sruti(ii) The Smriti(iii) The immemorial and approved Customs, by which the divine will or law is evidenced.

- a) **Sruti:** The Sruti comprises the four Vedas, the six Vedangas and the Upanishadas, The 'Sruti'¹ is believed to contain the very words of the Deity.
- b) **Smriti:** The 'Smriti' literally means, that which was remembered, and is believed to contain the precepts of God.
- c) **Customs:** Custom is explained by the Judicial Committee in *Hurpurshad VS. SheoDaya* thus :

"Custom is a rule, which in a particular family or in a particular district, has from long usage obtained the force of law. It must be ancient, certain and reasonable, and being in derogation of the general rules of law, must be construed strictly."

d) **Other Sources of Hindu Law**

- a. Besides three, mentioned above, there are other sources of Hindu law also. These are:

e) **Commentaries or Nibandhas:**

- a. Since the Hindu law is believed to be of divine origin perfect harmony amongst the different Codes must necessarily be expected. But the conflict between the Smritis, seeming or real, has given rise to the commentaries that are called 'Nibandhas'.

f) **Factum Valet:** The principle meaning, "A thing or the nature of a thing, cannot be altered by a hundred texts". The above passage was rendered by Colebrooke into:-
For a fact cannot be altered by a hundred texts".

g) **Puranas:** The puranas, eighteen in number, (excluding upa-puranas) are not considered authoritative, so as to override the 'Smritis.' These illustrate the law by the instances and are looked upon as precedents. Prof. Wilson observes, 'The puranas are not authorities in law; they may be received in explanation or illustration, but not in proof.'

h) **Acts of Legislatures:** The Hindu law has been modified and supplemented in certain respects by the Acts of Legislatures:

- i. Freedom of Religion Act-1850
 - ii. The Hindu Widows' Remarriage Act-1856
 - iii. The Hindu Women's Right to Property Act 1937
- is instances on the point.

i) **Judicial Decisions:** Judicial decisions, to some extent, have become a source of Hindu law. Decisions of the Privy Council and of High Courts are binding on the subordinate courts.⁴ Rules enunciated in the cases of Sri Balasu V. Sri Balasitare instances on the point.

⁴The Collector of Madura V. Mootoo

J) Minor texts and commentaries not regarded as authoritative:

The Upa-Puranas or the minor or subsidiary pura-nas, though regarded generally as spurious, compositions, some rules enunciated by the authors of those have found favour with the courts. The authors called these rules as of conduct, Raghunandana's prohibition of intermarriage between different tribes, though contrary to 'shastras', is based on 'Aditya-Purana' and it was accepted by the court in Malaram V. Thanooram.

j) Equity, Justice and Good Conscience:

The court has the inherent power of applying equity, justice, and good conscience. Mahmood, J. of Allahabad High Court in the case of Ganga V: Lekhrj observed : "To such matters which do not affect the essence of the adoption, the doctrine of factum valet would undoubtedly apply upon general grounds of justice, equity and good conscience, and irrespective of the authority of any text in the Hindu law itself."

But such application must be consistent with the basic provisions and principles of Hindu law and not offending the same⁵.

2.2 Application, Enactments:

- a. The Hindu law applies not only to Hindus by birth, but also to Hindus by faith that is converts to Hinduism⁶.
- b. To illegitimate children where both parents are Hindus.
- c. To illegitimate children where the father is a Christian and the mother a Hindu and the children are brought up as Hindus.
- d. To Jains, Sikhs, AryaSamajists, Dayanandis and NambudriBrahmanas except so far as such law is valid by custom.
- e. To a Hindu by birth who renounced Hinduism but reverted to it afterwards by performing the religious rites

But the Hindu law does not apply to the following persons:

⁵(Ramchandra V. Vinayak 41 L.A. 290,310).

⁶(Shedeo V. Kusian(1922) 50.1.A.58)

- (1) To the illegitimate children of a Hindu father by a Christian mother who are brought up as Christians or to illegitimate children of a Hindu father by a Muslim mother.
- (2) To a Hindu converted to Christianity. A person ceasing to be a Hindu in religion cannot elect to continue to be bound by the Hindu law in the matter of succession after passing of the Succession Act, 1925.
- (3) To the descendants of Hindus who have formed themselves into a separate community with peculiar religion and usages different from the Hindu shastras. The 'Kalais' of Burma constitute such a community.
- (4) To converts from Hindu to Islam. The Khojas, Cutchi Memons etc., who were converts from Hinduism to Islam, and beforehand governed by Hindu law of inheritance and succession would be governed by the Muslim personal law

CHAPTER 3

EXCLUSION FROM INHERITANCE

Manu says in the Manu smriti that Appointment person, and an outcaste are excluded from a share of the heritage, and so are those deaf and blind from birth, as well as mad man-idiots-and-the dumb and others that are devoid of an organ of sense or action,

3.1 Causes of exclusion

Some of the texts regarding exclusion from inheritance are cited above. The causes of exclusion as per Hindu law may be classified as follows

1. **Sex:** Except those expressly mentioned in the texts females are generally excluded from inheritance.
2. **Religious:** (a) Irreligion or renunciation of religion.

(b) Sins, causing exclusion from membership of religious community or degradation
3. **Moral:** Unchastely
 1. Addiction to vices
 2. Enmity to father
 3. Enmity of father
 4. Enmity of Propositus
4. **Mental disorder:**
 - 1) Insanity
 - 2) Idiocy
 - 3) Dumbness
 - 4) Lameness
 - 5) Impotency
 - 6) Leprosy

3.2 Other incurable diseases

The rules of exclusion from inheritance have undergone a great change since the passing of the (i) Caste Disabilities Removal Act, 1850 and (ii) Hindu Inheritance (Removal of Disabilities) Act, 1928. Moreover, High Courts also differed widely regarding the causes of exclusion from inheritance.

After passing of the Caste Disabilities Removal Act (Freedom of Religion Act) 1850, change of religion or loss of caste is no ground for exclusion.

Under the Hindu Inheritance (Removal of Disabilities) Act-1928, no person other than one "who is or has been, from birth, a lunatic or idiot" is excluded from inheritance. But this Act does not apply to any person governed by the Dayabhaga school of Hindu law.

Reviewing the above Acts and the decisions of different High Courts, the causes of exclusion may be summarized as follows:

a) Under both the schools :—

1. **Sex:** Excepting those expressly named in the texts, females are generally excluded from inheritance. Of course, Mitakshara recognises a larger number of female heirs than Dayabhaga.

2. **Unchastity:** The condition of unchastity is applicable only to the widow under Mitakshara whereas under Dayabhaga, it applies not only to the widow but also to other female heirs⁷. But once the estate has vested in any female heir it cannot be divested by her subsequent unchastity⁸. Unchastity excludes a female from inheriting to a male, but not to a female. It is no bar to inheriting stridhan, even according to Dayabhaga school⁹.

⁷(Sundari V. Pitamban(1905) 32.Cal.871).

⁸(Moniram V. Keri Kolutani(1880) 5.Cal.776).

⁹(Nagendra V. Benoy(1903) 30,Cal.521).

3. Change of religion and loss of caste: These have ceased to be the causes of exclusion since the passing of the Caste Disabilities Removal Act-1850. The Act only protects the actual person who changes the religion or has been excluded from the communion of any religion or has been deprived of caste.

Where the property of a Muslim, converted from Hinduism, has passed to his descendants, Hindu collaterals cannot claim, by virtue of his Act, to succeed under Hindu law¹⁰.

Once a person has changed his religion and his personal law, that law will govern the rights of succession of his children. (1930) 57.I.A.313.

Example:

A married Hindu becomes a convert to Islam and marries a Muslim wife and has children by her. On his death the property will go to the Muslim wife and children and not to his Hindu wife¹¹.

4. Enmity to father and enmity to porosities (Murder):

A murderer is not only disqualified to inherit under Hindu law but also upon the principles of justice, equity and good conscience. Further, no title of the estate of the murdered man can be claimed through the murderer¹². The result is that not only is the murderer excluded from inheritance, but also his son¹³ or any other person claiming through him.

5. Adoption of religious order: Where a person enters a religious order renouncing all worldly affairs, he is excluded from inheritance and from a share on partition.

¹⁰ (MitarSen Singh Vs. Maqbul Hassan (1930) 57.I.A.313

¹¹(Chedambaram V. Ma Nyein Me (1928) 6.Rang.243).

¹²(Kenchava V. Girimalappa(1924) 5.I.A.368),

¹³(Muhammad Khan V. Sis Banu(1906) Punj Rec, No 41), or sister (1924) 51.LA.368),

3.3 Exclusion from partition

A disability which excludes a person from inheritance also excludes him from a share of joint family property on partition. (Ram Soomlar V. Ram Sahve(1882) 8.Cal.919).

According to the High Court of Calcutta and Allahabad a member of a joint family who was not born a lunatic but is a lunatic at the time of partition is not entitled to claim his share by partition¹⁴. RarnSoonder V. Ran Sahaya; In Bangladesh and in West Bengal of India there are persons known as BairagisThey belong to the Vaishnabasect and do not renounce the wordly affairs totally and also do not relinquish property. Such a Bairagiis not excluded from inheritance and his property passes, on his death, to his ordinary relations¹⁵.

The onus of proving disqualification lies on the person who seeks to exclude one who would be an heir, should no cause of exclusion be established. The presumption of Hindu law is against disqualification¹⁶.

¹⁴Bhagwaii Saran Smgh V. ParameshariNandarSmgh (1942) All.518).

¹⁵(Juggu-nath V. Bidianundi 10.W.R.197).

¹⁶(Chun-der V. Kristo. 18.W.R.375).

CHAPTER 4

RIGHT RELATING TO STRIDHANAM AND FEMALE HEIRS

The texts of eight Rishis (sages) are referred to in defining stridhanam. These Rishis are (i) Manu (ii) Narada (iii) Vishnu (iv) Katyayana (v) Apastamba (vi) Vyasa (vii) Devala and (viii) Yajñvalkyā. Some of the texts in this regard are reproduced below:

4.1 Meaning of stridhanam

Manu says in Manusmṛiti that What was given before the nuptial fire, what was presented in the bridal procession, what has been conferred on the wife through affection and what has been received by her from her brother, her mother or her father, are ordained the sixfold stridhanam or woman's property.

Yajñvalkyā says in Yajñvalkyā Samhita that What is given by her father, mother, husband, or what is received before the nuptial fire, or what is presented to her, of her husband's marriage to another wife, or the like, (adya) is denominated stridhanam or woman's property."

It is clear from the above texts that originally six descriptions of properties were recognized as stridhanam. These consisted of gift received by a woman from her (i) father; (ii) mother, (iii) brother, (iv) husband as well as (v) the gift received before the nuptial fire (adhyagni) and the (vi) gift when the bride was taken to her father-in-law's house.

Enumeration of stridhanam : Literally, the word stridhanam means woman's [property] But the word is used in different senses in different schools of Hindu law. In a particular property a woman may have a limited or an absolute interest. Stridhanam belonging to a woman, is a property of which she is the absolute owner and which she may dispose of at any time at her pleasure. Moreover, stridhanam of every description passes, on her death, to her heir and not to the heir of the person from whom such property was acquired.

4.2 Property Regarded Stridhanam

1. Stridhana of women:

(a) All gifts before the nuptial fire (adhyagni) or at the actual ceremony of marriage.

(b) Gifts received in her father's house either before or after the actual ceremony when various other rites appurtenant to marriage are performed, as well as the gift received by the bride when she is taken to her father-in-law's house just after the nuptial ceremony. Adhyabhanika or gifts in the bridal procession come under it. But the term adhyabhanika actually means the gift presented to the bride at the time of dwiragamana or second coming to her father-in-law's house after attaining puberty. In modern times marriage girls in their infancy is a rarity. So the gifts presented to her when she is conveyed for the first time to her father-in-law's house, just after the nuptial ceremony, should be regarded as yautaka, and the gifts presented to her at the time of dwiragamana or second coming to her father-in-law's house (for residing there permanently) should be regarded as adhyabhanika or gift in the bridal procession¹⁷.

2. **Sulka:** The bride's price is known as sulka. It is stridhana according to Vishnu and Devala.

On the grounds of justice and equity the bridegroom's price also should be regarded as stridhana. Moreover, what is presented to the husband of a daughter is stridhana, according to Dayabhaga and it goes to her offspring. (D.B.IV, 1, 17).

3. **Adhyabhanika:** It consists of what is given to the bride when she is conveyed from her father's to her father-in-law's house. In Bangladesh there are two occasions for such gifts: in the first occasion the bride is taken to her father-in-law's house just after the nuptial ceremony to stay there only for a few days; in the second occasion, which is known as dwiragamana or second coming, the bride is conveyed to her father-in-law's house for permanently residing there. In the second occasion also the bride receives some gifts from her father, father-in-law, and other relations. In Bihar and N.W. Provinces there is an usage according to which the bride is not taken to her

¹⁷(Chitramon V. Gopi 10.C.L.J.545).

father-in-law's house just after marriage but she goes there for the first time after attuning puberty for permanently residing with her husband. This is called gawnaor going ceremony; when some property is usually given to her by her parents and relations and this is called gift in the bridal procession¹⁸.

4. Anvadheyaka: It means gift- subsequent. According to Bhriugift received by a woman, after her from her husband, parents or other relations anvadheyaka. The term is used in contra-distinction to yautakaor gift made to a woman at the time of marriage. Under Dayabhagashool, the courses, descent of these two descriptions of stridhanaare different. As per texts and judicial decisions gift received by a woman, after performance of all the ceremonies and rites appurtenant to marriage, is anvadheyaka.

The gift of property to the wife, after marriage, by her husband has been held to be her stridhana under this class¹⁹, see also Ram Gopal F. Narain (1906) 33.Cal.315). According to Dayabhaga school gifts from relations other than the father, fall under the category of ayautaka and under this school, the courses of descent of anvadheyaka from the father and anvadheyaka from other relations are different²⁰.

5 Adhivedamka: It is the gift which a husband is to make to his wife on the occasion of marrying another wife.

6. Vritti: Property or subsistence, given in lieu of maintenance is called vritti. It is stridhana according to all the schools²¹. Immoveable property transferred to a woman by way of absolute gift in lieu of maintenance is stridhana under this class. (Debt Mangal Prasad V. Mahadeo Prasad (1912) 34.A.11.234). It does not make any difference whether the maintenance is awarded during coverture or during widowhood. (1893) 17.Bom.758.

¹⁸ (Churamon V. Gopi, 10.C.L.J.545).

¹⁹ (Jagannath V. Narayana 12, Bom.L.R 545)

²⁰ (Set Prosanno Vs. Kamakshya 33.Cal.32)

²¹ (Court of Wards V. Mohessur (1871) 16.W.R.76).

7. Ornaments: All ornaments, except the family jewels, which any woman of the family is allowed to wear on particular occasions, are stridhana. In other words ornaments received by a woman, as absolute gift, from her husband or other relations are stridhana.

8. Acquisitions by practice mechanical arts:

These acquisitions during maidenhood or widowhood are stridhana according to all the schools. Such acquisitions during coverture are stridhana according to Bombay, Benares and Madras schools but not according to Dayabhaga and Mithila schools. But under Dayabhaga, such property becomes stridhana after her husband's death²².

9. Gift from strangers: Gift by strangers i.e. by is not a relation, belongs to her husband and cannot properly be called her stridhana. But properties given to a Hindu female by strangers during maidenhood, before nuptial fire or at the bridal procession are her stridhana according to all the schools. Properties given or bequeathed to a Hindu female by a stranger, during widowhood are also her stridhana²³. Property given by strangers during coverture is stridhana according to Bombay Benares and Madras schools. Under Dayabhaga, such property becomes stridhana after husband's death.

10. Sandayika: Gifts by affectionate kindred or near relations are known as sandayika. These are stridhana according to all the schools and the husband has no right of control over these properties²⁴.

11. Husband's gifts: So far the moveable property is concerned; such gift is regarded as stridhana under all the schools. In immoveable property given or bequeathed to a Hindu female by her husband is *5/nW/wzna* according to all the schools except Dayabhaga. Under Dayabhaga school, immoveable property given or bequeathed by a

²²(Ram Gopal V. Narain (1906) 33.Cal.

²³(Brij Indar V. Janki (1877) 5.L.A.1).

²⁴(Muthukaruppa Sellathammal. 39.M.298).

husband to his wife is not her stridhana²⁵. It is based on the following text of Narada cited by the author of dayabhaga²⁶.

What is given to the wife by the husband through affection she may even when he is dead, consume as she pleases or may give it away excepting immovable property.

Narada Insurance policy assigned to the wife by the husband is her stridhana 1946 Sind) 171.

12. Property obtained by adverse possession:

Such property obtained by a Hindu female during maidenhood conventure or widowhood becomes her stridhana according to all the schools²⁷.

Property purchased with stridhana and the saving of the income of the stridhana.

These constitute stridhana according to all the schools (Lunhman V KallyChurun)

4.3 Maidens Property and property acquired during widowhood

Except property inherited by her, all property of a maiden, however acquired, constitute her stridhana. But in Bombay school even the property inherited by a maiden is her stridhana.

Similarly all property acquired by a widow constitute her stridhana except:—

(i) According to Bombay school, property inherited by a female, who entered the deceased's gotrabhy (such as widow, mother grand-mother etc.) Does not constitute her stridhana.

According to other schools, property inherited by a female property obtained by her on partition of joint family property do not constitute her stridhana.

²⁵(She Venkata V Venkata (1877) 1 Mad 281)

²⁶Colebrookes Digest Book IV P 477

²⁷(MohimChunder V KashiKanta s(1897) 2.C W. N. 161. 162)

4.4 Presumption of widow's property

If the widow is found in the possession of the property, of the acquisition of which no account is given, then the mere fact that her husband died possessed of considerable property, raised no presumption that the property found in her possession originally belonged to her husband. (Diwan Ram V. Indrapal (1939) 26.CaL87)-Where a woman has been in possession of property, there is no presumption that she had only a limited interest in it²⁸.

Stridhana according to different schools:

Mitakshara says, while commenting on the text of Yajurveda, that the term stridhanabears no technical meaning and that the word adya(or the like) includes property that a woman may acquire by inheritance, purchase, partition, seizure or finding.' Mitakshara further says that Manu and other sages also intended to lay down the same rule; the enumeration by them of six-fold stridhanamis illustrative and not restrictive.

Here, the commentator changes the law by the fiction of interpretation and ignores the existence of any disability or incapacity in woman with respect to the ownership of property, such as may appear from a perusal of the texts of the Codes.

The result is that according to Mitakshara, property of my description belonging to woman is her stridhamnam.

The Privy Council has declined to accept the above definition of stridhanagiven by Mitakshara, It has held that property inherited by a woman from a male²⁹ or from a female (Sheo Shankar V. Debi Sahai(1903) 301.A.202) or the share obtained by a widow on partition of the joint family property³⁰, is not her stridhana. From the above decisions it may be concluded that the whole of the Vijnaneswarcfsexpansion of adya, in enumerating the stridhanahas been discarded. Hence according to Mitakshara the following descriptions of property of a woman constitute her stridhana.

²⁸(Belo V. Parbati(1940) A11.371).

²⁹(Bhug-mmden V. Myna Baee(1867) 11.MJ.A487)

³⁰(Debi Mangal Prasad V. Mahadeo Prasad (1932) 39.I.A.121)

1. Gifts from relations made at any time and gifts from strangers made before the nuptial fire and at the bridal procession.
2. Property acquired by a female during maidenhood or widowhood, though it be acquired by gift from strangers or by mechanical arts.
3. A gift of property made by the husband at the time of his second marriage, i.e. gratuity on account of super session
4. Property purchased with stridhana and the savings of the income of stridhana.
5. Property obtained by adverse possession.

The Benares and Madras schools adopt and support the definition of stridhan given in the Mitakshara. Property which is stridhana according to Mitakshara, is also stridhana according to Bombay school. In addition to these, Bombay school recognizes as stridhana, every kind of property inherited by a woman, except where. A gift by a father to his daughter even in the form of mahr or simkhar lease constitutes her stridhana³¹. Property of a woman, belonging to her before marriage is stridhana. (19.DX.R.261).

4.5 Stridhana and widow's estate:

The word stri means woman and the word dhan means property or riches. Hence stridhan literally means woman's property. But the term stridhan is used in different sense in different schools of Hindu law. In a particular property a woman may have a limited or an absolute interest. Stridhana belonging to a woman may dispose of this property without the consent of her husband during coverture (except in certain cases) and without the consent of any one during maidenhood or widowhood. Stridhana of every description passes on her death to her heirs and not to the heir of the person from whom such property was acquired.

The expression widow's estate implies a limited estate, the widow may best be described as the owner of the widow's estate except that she cannot sell or otherwise alienate the corpus of the property but for legal necessity or for the benefit of the estate or with the consent of the next reversioners. The widow's position is like that of a legal representative: Rents accruing from it are to be considered as part of the estate.

³¹ramGopal Vs. Narain(1906) 33.Cal.315).

The widow is liable to pay her husband's debts and the estate is liable to be attached in execution of simple money decree obtained against her husband³².

Subject to the above restrictions on alienation; she holds the property absolutely and she completely represents it.

The entire estate being vested in her, she is entitled to manage the same but she must manage it as a prudent owner would do. She must not commit waste or do any act injurious to the reversion. Even if there be no reversionary, she cannot alienate the corpus of the property except for legal necessity. If she does so, then if there be no reversioners, the alienation may be set aside by the Crown or the State taking the property by escheat³³. A widow cannot mortgage the widow's estate or make a gift of it or grant leases thereof for a long term. If she is dispossessed of any portion of the property by a third party, she can sue to recover it ; but if she allows the possession of such person to become adverse to her, the reversionary are not affected by such adverse possession and may sue for possession within 12 years from the date of her death³⁴. *Aurahinda V. Manorama*(1928)55. Cal. 903). She can sell her life interest in the property or mortgage it or make a gift of it to any one she likes. She is entitled to the whole income of the property. She can spend the whole income in any way she likes. She is not bound to pay husband's debts or maintain husband's relations out of the income of the property. She can throw the burden of all such charges on the corpus of the property and sell or mortgage the same to meet those expenses. The widow cannot by an act or declaration of her own, change the character of the property³⁵.

The incidents of the estate taken by other limited heirs such as the mother, father's mother, daughter etc., (except in the Bombay school) are similar to those of the widow's estate.

4.6 Rights of a woman over her stridhana:

The rights of a woman over her stridhanamay be-summarized as follows;—

³²(*PhoolKimwar V. Rikhi Ram* (1935)57. A11.714).

³³(*Kundan V. Secretary of State* (1926)7, Lah. 543 ; 96.I.C.865).

³⁴(*Ranchordas V. Parvatibai*(1899)23.Bom.725 ;

³⁵(*Sham Lall V. Amarendra*(1896)23.Cal. 460,473).

1. During maidenhood a Hindu female can dispose of her stridhana of every description at her pleasure. But so long as a Hindu female is a minor, she can not alienate her property except through her guardian, nor can she dispose of it by will.

2. As per texts, a Hindu female, while under protection of her husband, can dispose of only that kind of stridhana which is called *saudayika*, except those made by the husband. *Saudayika* literally means a gift made through affection. It is a term applied to gifts made to a woman (i) before marriage (ii) at the time of marriage and (iii) after marriage by her parents and their relations, or by her husband and his relations : in other words it means gifts from relations and not gifts from strangers. It also includes bequests from relations³⁶.

It follows that as per texts a woman, during coverture, can dispose of *saudayika* stridhana received from relations other than the husband ; and that she cannot dispose of such stridhana received from her husband during coverture,

From the Judicial decisions it seems that the distinction between *saudayika* and non-*saudayika* stridhana is still maintained; but the distinction between *saudayika* given by the husband and that given by other relations no longer stands. The rule now adopted by the Courts is to ascertain whether the gift passes an absolute estate or a limited estate. If it is an absolute estate, she can dispose of the property at her pleasure whether the gift be from her husband or from other relations. But if the gift passes a limited estate only, she cannot alienate the property³⁷.

A woman can dispose of her *saudayika* stridhana even during coverture, in any way she pleases, without the consent of her husband³⁸. Her husband has no control over it, nor can he bind her by any dealings with it³⁹. But he can take it at the time of distress. This right to take is personal and if the husband does not choose to take it, it cannot be taken by his creditors in execution of a decree against him⁴⁰.

³⁶(*Judoo Naih V. Basanta Coomar*(1873) 11.Beng.L.R.286).

³⁷(*Damodar V. Puramandas* (1883) 7.Bom.155; *Judoo Nath V. Bussint Coomar* (1873) 11.Beng, L.R.286).

³⁸(*Venkata K. Venkata*(1880) 2.Mad.333 [P.C]).

³⁹(*Mahlm V Doorga*(1875) 23.W.R.184.RCJ

⁴⁰(*Tukaram V. Gunaji*(1871) 8JBom.H.C.A.C.129).

The word take means taking and using ; and if the husband takes his wife's property but does not actually use it or dispose of it in his lifetime, his creditors are not entitled to it, after his death⁴¹.

A woman has got no power to dispose of non-sauda-yika Stridhanai.e. gifts from - strangers, property acquired by mechanical arts etc., during coverture without the consent of her husband⁴². It is subject to her husband's dominion, and he is entitled to use it at his pleasure even if there be no distrers. (Sarubhai Balakdas V. Narayandas Bairagi (1943) Bom.314 ; 209.LC.620). But it is subject only to her husband's control and not to the control of any other person. After her husband's death, her power to dispose of it becomes absolute and she may dispose of it in any way she likes.

Though a woman cannot of dispose of non-saudayika stridhana without her husband's consent, on her death, whether she dies before⁴³ or after her husband, it passes to her stridhana heir.

Property acquired by a Hindu female by mechanical i'tuiitt (i.e. mechanical arts include spinning, painting etc.) or otherwise by her own exertions during coverture, is stridhana according to the Bombay, Benares and Madras (21.Mad 100) schools but not according to Dayabhaga and Mithila schools. But if the woman survives her husband, then, it seems that according to Dayabhaga law such property becomes her stridhana. The phrase by mechanical arts or otherwise by her own exertions during coverture, probably includes the amount earned by a married woman by serving as a teacher, Public servant etc., and it may be deduced that such earnings do not become her stridhana under Dayabhaga so long her husband or she is alive. And she cannot dispose of such earnings, without her husband's consent during coverture under Bombay, Madras and Benares schools. It is doubtful whether such earnings become stridhana¹ at all, under Mithila School.

⁴¹(Nammalwar V. Tharayammal (1927) 50.Mad.941 ; 105.LC.793).

⁴²(Bhou V. Raghunath (1906) 30.Bom.229).

⁴³(Salema V. Lutchmana (1898) 21. Mad.100)

During widowhood, a Hindu female has got absolute power of disposal over every kind of stridhana, whether acquired before or after her husband's death, according to all the schools⁴⁴, except that under Dayabhaga School she cannot dispose of immoveables given by her husband.

4.7 Succession to Stridhanam

It is evident from the above text of Manu that succession to a woman's stridhanavaries according as she was married in an approved form (i.e. Brahma, Daivaetc.) or in an unapproved form (Rakshasa. Paisachaetc.). As per texts or senior Katyayanaand Katyayana, it also varies according to the source from which the stridhanawas received. The rules of descent also are different under different schools.

But all the schools follow the text of Baudhayana(cited in No. 2. above) ;Yajnavalkya etc. regarding succession to the property of a maiden. A maiden's property passes, according to all the schools, in the following

1. Uterine brother
2. Mother
3. Father

In default of them the nearest relations of percents take according to Mitaksharaschool. The fathers relations come first and in default of them the relations of the mother alone become heir. (43.Mad.32).

According to Dayabhaga school, the paternal relations must take a maiden's property in the same order in which they inherit a married -woman's non-yautakaproperty, when she dies without leaving any issue of her (the married woman's) own, and that of her brother and parents.

According to D. F. Mullah it should be in the following order.

⁴⁴(BrijIndarF, Janki(1877) Cal.L.R. 318 ; 5.I.A. 1,15)

4. Father's heirs in order of propinquity; e.g. the full sisters of maiden's father were preferred to the half-sisters⁴⁵.

5. Kinsmen of the deceased herself, that is, her mother's heirs in order of propinquity⁴⁶.

Property given to a damsel by an intending bridegroom before marriage must be returned to him on her death.

The sulkapasses in the following order:

(a) According to Dayabhaga school :

(i) Whole brother,

(ii) Mother.

(iii) Father.

(iv) Husband.

4.8 Widow's Estate

Hindu widow's rights of inheritance to her late husband's property is the least known and little developed area of Hindu law and thus Hindu widows are being deprived of and thereby very often left to live a life without any means of survival. This area of Hindu law of inheritance is in dire need of much development.

Rights under present regime:

There are two schools of law regarding Hindu law of inheritance which are (i) the Dayabhaga School and (ii) the Mitakshara School. Hindu inheritance in Bangladesh is governed by the Dayabhaga School.

It is well settled law of both Dayabhaga and Mitakshara that the widow will inherit a share of her deceased husband's property which she will hold and enjoy up to the end of her life. This is called "life estate" of a Hindu widow. The property held as life estate by a widow must of course return to the male heirs of the deceased after the death of the widow. In the presence of a son or more, the widow gets an equal share as one son takes. In the absence of the son, the widow gets the entire property as "life estate" of her deceased husband left behind. In the presence of widow, deceased's

⁴⁵ (Shakunialabai V. The Court of Wank (1942) Nag.629; 199, LC.379).

⁴⁶ (ShamaRao V. Raghmandan (1939) Bom.228).

daughters cannot get any share of their father's property. However, widow has the responsibility to provide for the maintenance of the unmarried daughters from their father's property (13 DLR 232).

The nature and extent of widow's life estate:

The nature of widow's estate has been extended remarkably in recent times. As long as the widow is alive, no one has any vested interest in the succession of the deceased husband. Subject to restriction on alienation, the widow holds the property absolutely and she completely represents it. Though a widow takes a limited estate, it is a proprietary estate in no way limited in interest, though it is limited in use. A widow can sell her life interest in the property or mortgage it or make a gift to it to anyone she likes. On the grounds of legal necessity, a widow can even alienate the property that she holds under the law of inheritance.

Alienation of life estate by widow:

Widow has the power to alienate the estate (i) for religious or charitable purposes and (ii) other purposes amounting to legal necessity. Religious or charitable purposes may be of two folds: (i) performance of funeral and Sradha ceremonies of the deceased owner and the payment of debt (ii) the performances of religious ceremonies of persons whose ceremonies the deceased owner was bound to perform e.g. Sradha ceremony of the husband's mother etc and the religious or charitable acts which are supposed to conduce to the spiritual welfare of her husband. Pilgrimage to Gaya for performing the husband's Sradha (but not pilgrimage to Benaras) is considered good religious purpose. The following purposes have been held to amount to a legal necessity for which alienation may be made: Costs of taking out probate or Letters of Administration or a succession certificate in respect of the estate of the deceased owner; Payment of arrears of Government revenue and of decrees of rent accrued due after the death of the deceased owner; Maintenance of herself and of persons whom the deceased owner was bound to maintain, such as deceased's mother, unmarried daughter etc. arriage of relations of the deceased owner, such as his daughter etc.

Widow's rights of mutation: As the widow has clearly legal rights to own and possess the land and as she has the rights to even transfer then she should have the rights to get her name mutated to ensure that she could manage and maintain the property

properly and enjoy the rights and title to it. ⁴⁷On one hand, a branch of critiques suggest the present regime as quite insufficient and they claim legislative interference and pass a law to make Hindu widows and other women equally entitled as their male counterparts are. Other branches of thoughts, on the other hand, are quite convinced that the present regime is quite effective and they oppose any kind of interference as the regime is part of their sacred belief in religion. We feel we may stand with any side of this debate. We welcome statutory interference to make the provisions of Hindu women's rights of inheritance more straightforward and simple. In contrast, we also believe that the present regime is capable of providing rights to Hindu women and widows if the provisions are taken with due respect and implemented as those really should be.

⁴⁷ <http://www.daily-sun.com/arcprint/details/88662/Hindu-widow:-Law-of-inheritance-and-rights-of-mutation/2015-11-06>

Chapter 5

RIGHTS RELATING TO MAINTENANCE AND SUCCESSION

5.1 Liability for maintenance

Liability for maintenance may be two-fold : —

- (i) Absolute: A man is bound to maintain his aged parents, his virtuous wife and his minor children, whether he inherits any property or not. He is also bound to support his infant illegitimate children. (Sec, 488 of Cr. P.C.)
- (ii) Limited liability: The ancestral immoveable property is the hereditary source of maintenance of the members of the family. The ancestral property can be alienated subject to the charge of maintenance of the members of the family who are entitled to it.

5.2 Females who are entitled to maintenance

According to Hindu law the following persons are entitled to maintenance:—

1. Daughter: A father is bound to maintain his unmarried daughters. After his death they are entitled to be maintained out of his estate⁴⁸, The father is under a moral, though not legal obligation to maintain a married daughter if she is unable to obtain maintenance from her husband or after his death from his family.

Under Hindu law, a daughter on her marriage ceases to be a member of her father's family and becomes a member of her husband's family and she is entitled to be maintained by her husband and after the husband's death out of the husband's estate, but if the husband leaves no estate, then, her father-in-law, if he has got sufficient property of his own, is morally, though not legally bound to maintain her, but after his death she acquires a legal right to be maintained out of his estate.

If she is unable to obtain maintenance from her husband or after his death, from his family, his father, if he has got separate property of his own, is under a moral, though

⁴⁸(BaiMangal V. BaiRukhmini(1899) 23,Bom.291).

not a legal obligation to maintain her. But it is not settled whether after the father's death, she acquires a legal right to be maintained by his heirs out of his estate⁴⁹.

2. Parents: A son is under a personal obligation to maintain his aged parents. He is bound to maintain

Under Hindu law, a daughter on her marriage ceases to be a member of her father's family and becomes a member of her husband's family and she is entitled to be maintained by her husband and after the husband's death out of the husband's estate, but if the husband leaves no estate, then, her father-in-law, if he has got sufficient property of his own, is morally, though not legally bound to maintain her, but after his death she acquires a legal right to be maintained out of his estate.

If she is unable to obtain maintenance from her husband or after his death, from his family, his father, if he has got separate property of his own, is under a moral, though not a legal obligation to maintain her. But it is not settled whether after the father's death, she acquires a legal right to be maintained by his heirs out of his estate⁵⁰.

3. Parents: A son is under a personal obligation to maintain his aged parents. He is bound to maintain them even if he inherits no ancestral property⁵¹.

4. Grand children :It is not the personal obligation of the grand-father to maintain his grandson or granddaughter. But he is under a moral obligation to maintain them⁵².

5. Female members of the family: The Karta of a joint family is under a legal obligation to maintain all the male members of the family and their children. On the death of any one of the male members, he is bound to maintain his widow and his children⁵³.

6. Illegitimate daughters :The illegitimate daughter of a Hindu by a woman who is not a dasi is entitled to maintenance for life according to Mitakshara and upto minority according to Dayabhaga.

⁴⁹(Matilal V. Brajabashi(1960) 12.D.L. R.142).

⁵⁰(Matilal V. Brajabashi(1960) 12.D.L. R.142).

⁵¹(Subba-rayana V. Subbakka (1885) 8.Mad.236).

⁵²(Manmohini V. Balak Chandra (1871) 8.Beng, L.R.22).

⁵³(Bhagwan Singh V. Mst. Kewal(1927) 8JLah.360 = 101. I.C.201).

The illegitimate daughter of a Hindu by a non-Hindu woman are entitled to maintenance as per Sec.488 of Cr.P.C. (See "SUCCESSION", supra).

7. Concubine: A concubine, in the continuous and exclusive keeping of a Hindu until his death* is entitled to maintenance out of his estate⁵⁴. But her right to maintenance is conditional upon her continued chastity⁵⁵,

8. Wife and widow: A wife or a widow is entitled to maintenance out of the property of her husband or late husband as the case may be. This has already been discussed in the chapter "MARRIAGE", supra)

5.3 Amount of Maintenance

In determining the amount of maintenance the following circumstances should be considered:

- i. The value of the estate⁵⁶.
 - (ii) The position and status of the deceased husband and of the widow.
 - (iii) The amount which may reasonably be necessary for ordinary expenses of living of the widow as well as what might reasonably be spent for religious and allied purposes⁵⁷.
 - (iv) The past relation between her and her husband⁵⁸.
- the share to which her husband would have been entitled on partition if living⁵⁹.

A widow who has once received a sufficient allotment for her maintenance, but has dissipated it, is not entitled to further maintenance⁶⁰,

5.4 Maintenance to other females

The principles of determining maintenance to a widow apply mutatis mutandis in determining the amount of maintenance to other females.

⁵⁴(Rama Raja V. Papammal(1925) 48.Mad 805-90J.C.983).

⁵⁵(Yashvantmv V. Kashibai(1888) 12.Bom.26).

⁵⁶(Shridhar V. Mst, Sitabai(1938) Nag.289).

⁵⁷(Devi Per sad V. Gtmwantf(1895) 22.Cal.410).

⁵⁸(PyrushathamdasF. -Bet Rukmlni(1938) Bom. L.-.170.I.C.897).

⁵⁹(Jayanti V. Alamelu(1904) 27.Mad.45 ;SrimathiSabitri V. Mrs. F. A. Savi(1934) 13.Pat.359 = 145.I.C.I).

⁶⁰(Savitribai V. Laximibai (1878) 2.Bom,573).

The amount of maintenance is liable to be increased or diminished whenever there is such a change of circumstances as would justify a change in the rate⁶¹. But an agreement by a widow not to claim any increase in future even in case of change of circumstances is binding upon her, (Purushoihamdas V. Bat Rukminisupra).

5.5 Is maintenance charge upon the estate ?

The claim for maintenance is not a charge upon the estate until it is fixed or charged by a decree of a Court, or by an agreement between the person entitled to maintenance and the holder of the estate or by the will by which the property was bequeathed. So a bonafide purchaser for value without notice of such claim is not liable for the maintenance. The claim is also liable to be defeated by a transfer to a purchaser for value even with notice of the claim, unless the transfer was made with the intention of defeating the widow's rights and the purchaser had notice of such intention⁶², But where maintenance has been made a charge upon the property, and the property is subsequently sold, the purchaser must hold it subject to the charge⁶³. Where the property belonging to the husband or to the joint family is sold for payment of debts, the sale is binding on the widow and she has no right of maintenance against the purchaser or against the property sold even if the purchaser had notice of her claim for maintenance. Where the maintenance has been made a charge upon the property, it takes precedence over the right of subsequent purchaser of the same property in execution of a money decree, though the decree was in respect of debts binding on the family.

If a Hindu alienates entire property by gift or by will with the intention to defeat the right of his widow to maintenance, the donee or devise takes the property subject to the widow's right of maintenance and the widow may enforce her right against it

5.6 Right relation to succession

As per provisions of the Hindu Women's Rights to Property Act 1937/1938, a widow takes the same share as a son. The widow of a predeceased son inherits in like manner as a son if there is no son surviving of such predeceased son ; and in like manner as a son's son if there is surviving a son or son's son of such predeceased son. The same

⁶¹(Rajender V. Putto (1879) 5.Cal.L.RJ8).

⁶²(Sarolah V. Bhoobun(1888) 15.CaL292).

⁶³(KulodaProsad V. Jogeshar(1900) 27.Cal.194).

rule applies mutatis mutandis to the widow of a predeceased son of a predeceased son. In case of a Mitakshara joint family the widow shall take the place of her husband.

1. Illegitimate Daughter: Illegitimate daughter of a Hindu is entitled neither ground that the term *dasiputra* means an illegitimate son ; it does not include *dasikanya* or an illegitimate daughter. But such a daughter can claim maintenance from the putative father under Sec, 488 of Cr. P. C,

2. Widow:

In default of male issue, the lawfully wedded wife (*patni*) succeeds. The widow takes only a limited interest and on her death the estate goes to the next heirs of her husband. Except in certain cases, she has no power to alienate the corpus of the property. Two or more widows take as joint tenants with rights of survivorship and equal beneficial enjoyment. As per Hindu Women's Rights to Property Act—1937/1938, a widow takes the same share as a son. (see the Hindu Women's Rights to Property Act—1937 in the appendix).

An unchaste widow does not succeed to her husband's estate. Mann defines *sadhvipatni* or chaste wife as follows:—

which is rendered by Sir William Jones thus :— "While she, who slight not her lord, but keeps her mind, speech and body, devoted to him, attains his heavenly mansion, and is called *sadhvi* or virtuous by good men."

But once her husband's estate has vested in her she will not be divested for unchastity subsequent to her husband's death⁶⁴.

3. Predeceased son's widow etc.: Predeceased son's widow and widow of predeceased son of predeceased son succeed simultaneously and take per stirpes. (See 1—3, son, grand-son etc, above).

4. Daughter: The daughters are heirs in default of the widow. Of the daughters unmarried and unprovoked one takes in preference to those who are provided and

⁶⁴(*Moniram V. Ken Kolitani* (1880) 5.Cal.776).

married. A daughter takes a widow's estate and on her death it goes to her father's heirs,

In Bombay a daughter taking property of her father inherits it as stridhana.

Unchastity of daughter is no ground of exclusion from inheritance. An illegitimate daughter cannot succeed to her father's property as against a legitimate daughter. The illegitimate daughter, even of a Sudra has no right of inheritance to her father⁶⁵, But she is entitled to inherit to her mother.

Two or more daughters of a class take the estate jointly with rights of survivorship. Any daughter may alienate her life interest in the property. Daughters may enter into any agreement regarding their respective rights in their father's estate, provided such agreement does not prejudice the rights of revers loners⁶⁶.

5. Mother: Mother or adoptive mother comes after the daughter's son. Mother takes in preference to the father. A step-mother is not entitled to inherit to her step-son, except in Bombay. Unchastity or re-marriage does not exclude the mother from inheritance. The mother takes a widow's estate.

⁶⁵(Bhikya V. Babu(1908) 32.Bom 562).

⁶⁶(KailashV.Kashi(1897) 24.Cal.339).

Chapter 7

CONCLUSION

According to Bangladesh Law Hindu women only get a limited share. They inherit life interest in the property. There are five female Sapindas according to the Dayabagha law, namely the widow, the daughter, the mother, the father's mother and the mother of father's father. No other female relation is recognized as heir by the said school. Moreover a daughter cannot receive any property; even she cannot get life interest in the presence of son, grand son and great grandson. Although in neighbouring India laws in this regard have been updated since independence in 1947, in Bangladesh the pre-1947 laws are still prevailing. To minimize the existing problem can be removed by the strictly enforced the statute laws relating to Hindu women and this can be possible if the government take necessary initiative as early as possible. Govt. Should follow the principles of law relating to Hindu women right in compression in India & such like Hindu Majority. Hindu women rights society can proposed some ideas about these to the govt.'s so relating organs. To implements the Hindu Women rights is possible only by the govt. good wish.

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