Insight into daughter’s right over father’s self acquired property in absence of will in India

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There has been a recent development in the law of Hindu Succession that has marked its birth from the gates of Supreme Court on January 20, 2022, and will undoubtedly play a significant role in strengthening the cause of ‘Woman Empowerment’ and will set an example for generations to come. This progressive step is in the form of a judgement that has been recently passed by a division bench of the Supreme Court of India in the latest case of Arunachala Gouder vs. Ponnusamy1 comprising of S. Abdul Nazeer and Krishna Murari JJ, where it held that the “Right of a daughter in the house to inherit Self Acquired Property of the father which who has died without having a will in place is a right which is covered under the ambit of customary Hindu Law.”

The instant matter came in the spotlight when it was taken up for hearing by the apex court after the appellant was not satisfied by the judgement delivered by the madras high court. This matter answered a significant question of law, interestingly, before the enactment of a very important act concerning Hindu Succession Law i.e. Hindu Succession Act, 1956.

The present matter had an involvement of a property in question which was the self-acquired property of Marappa Gounder and the question of law before the apex court was that whether Kupayee Ammal, the sole surviving daughter of Late Marappa Gounder, inherit the same property by the process of inheritance and the said property shall not devolve by survivorship.

While making considerations in this remarkable case the apex court also noted that the Mitakshara school of Hindu law gives recognition to inheritance of any property by succession but only to separate properties on which the individuals have the right, and females, for that matter are also included as heirs under the ambit of Mitakshara School of Hindu Law.

Based on this central view by the entire division bench the court was of the collective opinion and held as follows:

“It is clear that ancient text as also the Smritis, the Commentaries written by various renowned learned persons and even judicial pronouncements have recognized the right of several female heirs, the wives and the daughter’s being the foremost of them. The rights of women in the family to maintenance were in every case very substantial rights and on whole, it would seem that some of the commentators erred in drawing adverse inferences from the vague references to women’s succession in the earlier Smritis. The views of the Mitakshara on the matter are unmistakable. Vijneshwara also nowhere endorses the view that women are incompetent to inherit.”

The honourable Supreme Court also pointed towards the intention of the legislature over the insertion of Section 15(2) of the Hindu Succession Act which held an important place in the matter.

In India, little girls or women didn’t dependably have property rights. Ladies have been dealt with second rate 100% of the time to men, both as far as legacy right and the ability to hold Property autonomously. There were numerous limitations on both property privileges and women’s’ property right of we talk about, which didn’t exist for men initially. Today, the Law of Inheritance’s whole body has gone through huge changes through resulting regulation and corrections.

It is said that “once a daughter is always a daughter.” The recent judgement is widely being celebrated by the legal fraternity as it strengthens the idea of equality which is enshrined under Article 14 of the constitution of India. Also, it will be seen as an exemplary decision for generations to come in the law of inheritance concerning the Hindu succession.

Also as the matter is decided by the highest decision making institution in the country, it will also send a positive message to the people of the nation and even abroad as India is on the verge of becoming a global super power and is already striving to achieve the same.

v(Endnotes)

1 C.A No. 2259 of 2011.

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