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CASE COMMENTARY OF-

VINEETA SHARMA V. RAKESH SHARMA (2020) 9 SCC 1

**THE REAL REFORM BROUGHT ABOUT BY THE VINEETA SHARMA
CASE**

By- Ranjani Priya,

I. INTRODUCTION: A JUDGMENT THAT ARRIVED FIFTEEN YEARS LATE

While certain judgments resolve conflicts, there are others that have more profound implications in changing the social fabric of the country. *Vineeta Sharma v. Rakesh Sharma*¹ is one such judgment that went beyond the narrow scope of succession laws and provided relief from the unbalanced parameters that existed as the social reality. This judgment was the Supreme Court's effort to ensure the actual implementation of the promise of gender equality under the Hindu Succession (Amendment) Act, 2005. Vineeta Sharma is not merely a succession case but a constitutionalisation of Hindu personal law.

For decades, the daughters belonging to Mitakshara Hindus have not been given coparcenary rights in spite of their role in the family. While sons inherited coparcenary rights at the time of birth, the daughters did not inherit equal rights in the ancestral property. The Hindu Succession (Amendment) Act, 2005 attempted to eliminate such discrimination by providing daughters with coparcenary rights by birth.

The Hindu Succession (Amendment) Act, 2005 attempted to change the situation in favour of daughters of Hindu families by giving them equal rights to become coparceners. They were to

¹ *Vineeta Sharma v. Rakesh Sharma* (2020) 9 SCC 1.

become coparceners “by birth,” similarly to the way the system operated with sons. Despite the very progressive language used in the amendments, the judicial interpretations following it rendered it less effective. The confusion caused by conflicting judgments in the Supreme Court raised questions about whether the daughters would have coparcenary rights when their father died before 9th September 2005, i.e., before the date of the amendment.

It was during this time of legal ambiguity and social discrimination that the Vineeta Sharma case arose. This judgment went beyond the interpretation of Section 6 of the Hindu Succession Act Amendment² and the previous rigid comprehension of the amendment by the courts.

II. HISTORICAL BACKGROUND: THE DEEP ROOTS OF EXCLUSION

As per the old law, the Mitakshara Coparcenary law, only male members of the family enjoyed an interest in the joint property through birth.³ Women were not allowed to enjoy coparcenary rights, thus furthering their dependency and restricting access to family resources. It is due to this discrimination that the amendments in the Hindu Succession Act, 2005, became possible.

Feminist scholars such as Bina Agarwal have consistently argued that property ownership is one of the most significant determinants of women's economic autonomy⁴. Viewed through this lens, Vineeta Sharma represents more than a technical clarification of succession law.

The Law Commission of India took a step to address this discrimination⁵, capitalising on the previous legislation made by the states of Andhra Pradesh⁶ and Karnataka, among others, to enact the Hindu Succession (Amendment) Act, 2005. Under this Act, women were conferred coparcenary rights by birth, thus making them equal in all respects with males. However, despite the tremendous success that this amendment represented in terms of women's rights protection, it faced an instant challenge in court.

Indeed, the heart of the controversy rested on the interpretation of the amendments made to Section 6 of the Act. In *Prakash v. Phulavati*⁷, the Supreme Court took an extremely narrow

² Section 6, The Hindu Succession (Amendment) Act, 2005 (Act No. 39 of 2005).

³ *State Bank of India v. Ghamandi Ram*, (1969) 2 SCC 33; Mayne's *Treatise on Hindu Law & Usage*.

⁴ Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press 1994).

⁵ Law Commission of India, *Property Rights of Women: Proposed Reforms under the Hindu Law*, Report No. 174 (May 2000).

⁶ The Hindu Succession (Karnataka Amendment) Act, 1990 (Karnataka Act No. 23 of 1994).

⁷ *Prakash v. Phulavati* (2016) 2 SCC 36.

view, stating that the 2005 amendment was applicable only if both the daughter and their coparcener father were alive on September 9, 2005. By imposing such a survival requirement, which is not present anywhere in the wording of the law, the Court effectively denied thousands of daughters the right to inherit their ancestral property simply because their fathers had died before the amendment came into effect. This approach was promptly criticised in *Danamma @ Suman Surpur v. Amar*⁸, in which the Supreme Court reversed its position and granted coparcenary rights to those daughters whose father died in 2001.

Unfortunately, since the bench in *Danamma* did not explicitly overrule the controversial decision of the *Phulavati* case, it generated complete chaos. Lower courts throughout India were left guessing about the proper interpretation of this scenario, thus leaving many daughters to litigate for years without getting their fair share of inheritance. This is exactly what brought the Supreme Court to settle this dispute once and for all in the *Vineeta Sharma* case.

III. CASES RELEVANT TO THE JUDGMENT

The panel of three judges in *Vineeta Sharma v. Rakesh Sharma* managed significant judicial disagreements due to contradictory division bench interpretations of the Hindu Succession (Amendment) Act, 2005.

1. The Clubbed Matters

- **Lead Case:** *Vineeta Sharma v. Rakesh Sharma* (Civil Appeal No. 32601 of 2018). The controversy took place between members of the Hindu undivided family where the father, Dev Dutt Sharma, died on December 11, 1999, and left behind his wife, three sons, and one daughter (appellant Vineeta Sharma). After the death of one of the unmarried brothers in 2001, Vineeta moved for a suit for partition of her 1/4th share in the coparcenary property. The Delhi High Court rejected her contention and observed that since her father had expired before the amendment in 2005, she could not claim coparcenary rights in view of the decision in *Prakash v. Phulavati*.

2. Expressly Overruled Precedents

⁸ *Danamma @ Suman Surpur v. Amar* (2018) 3 SCC 343.

- Prakash v. Phulavati ⁹(2016)
- Mangammal v. T.B. Raju (2018)¹⁰

3. Partially Overruled Precedents

- Danamma @ Suman Surpur v. Amar (2018)¹¹

4. Reaffirmed Precedents

- Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum (1978)¹²
- State Bank of India v. Ghamandi Ram (1969)¹³

IV. THE CORE ISSUE BEFORE THE COURT

The primary question before the three-judge bench in *Vineeta Sharma* was straightforward yet immensely significant:

Can a daughter claim coparcenary rights under the 2005 amendment even if her father died before 9 September 2005?

V. THE SUPREME COURT'S REASONING

A. Coparcenary Rights Are Acquired by Birth

It was stated that she becomes a coparcener by birth, similar to a son. Hence, the applicability of the amendment would be regardless of whether the father was alive at the time the amendment came into effect.

This is the principle which shaped the judgment of the Court.

The court rejected the “survival criterion,” which was laid down in the case of *Prakash v. Phulavati*, on the grounds that no such criterion exists under Section 6. This is because the section provides for the right to become a coparcener “by birth” in the same way as a male child, irrespective of whether the father survives or not.

⁹ *Prakash v. Phulavati* (2016) 2 SCC 36.

¹⁰ *Mangammal v. T.B. Raju* (2018) 15 SCC 662.

¹¹ *Danamma @ Suman Surpur v. Amar* (2018) 3 SCC 343.

¹² *Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum* (1978) 3 SCC 383.

¹³ *State Bank of India v. Ghamandi Ram* (1969) 2 SCC 33.

B. Constitutional Equality and Gender Justice

One of the strongest aspects of the judgment was its recognition of the discriminatory nature of traditional coparcenary law.

The Court observed that exclusion of daughters from coparcenary rights contributed to oppression and negation of constitutional equality.

This acknowledgement transformed the case from a technical succession dispute into a constitutional statement on gender justice.

The court acknowledged the economic and dignitary consequences for women that result from exclusion from ownership of property. In doing so, it considered Section 6 to be in violation of Article 14 and Article 15 of the Constitution when read together.

C. Safeguarding Previous Dealings

In addition to this, the Court did not seek to undo every previous property settlement.

The Court made it clear that partitions made prior to 20 December 2004 will be safeguarded. Oral partitions will also be recognised under certain limited conditions based on compelling proof.

Such an approach was essential for the following reasons: while the Court sought to grant daughters greater rights, it also ensured legal clarity and stability in existing dealings.

VI. THE REAL IMPACT OF VINEETA SHARMA: BEYOND PROPERTY, TOWARDS RECOGNITION

Vineeta Sharma v. Rakesh Sharma gained real meaning in establishing a precedent for the implementation of the Hindu Succession (Amendment) Act, 2005, which had been ambiguous and controversial for almost fifteen years.

The impact of the judgment cannot be confined to the matter of succession law, though. The concept of property is related to economic security and social standing. Through establishing equal rights for daughters, the Court questioned the old notion of women becoming outsiders to their family of origin once they got married.

Moreover, this judgment shows how constitutional morality plays an increasing role in shaping personal laws. Despite legal reforms, women continue to own a disproportionately small share of agricultural land in India, highlighting the practical significance of inheritance rights. Rather than opting for a restrictive interpretation of the section, the Court opted to interpret the purpose of Section 6, which was aimed at eliminating gender discrimination in Hindu coparcenary laws.

However, the judgment is not without its critics. In view of the Court's readiness to entertain oral partitions under certain special circumstances, it still leaves room for daughters' claims to be frustrated by means of fictitious family arrangements. Indeed, the effectiveness of the judgment continues to depend on judicial vigilance during trial.

Finally, Vineeta Sharma ensured that the 2005 Amendment was converted from being a mere legislative change into a substantive legal right. Despite the obstacles posed by society and procedure for securing the rights of women to inherit property, the decision clearly makes it certain that equality in respect of coparcenary property is a constitutional obligation.