INDIALAW


CIVIL

# Daughters as Heirs: The Supreme Court’s Firm Stand on Interlocutory Res Judicata in Partition Suits

AUTHOR Tannya Baranwal, Tanvi Dalvi

PUBLISHED 21 May 2026

## Introduction

In a significant pronouncement on the interplay between procedural finality and the substantive rights of Hindu daughters as legal heirs, the Supreme Court of India, by its judgment dated 15 May 2026 in B.S. Lalitha & Others v. Bhuvanesh & Others (2026 INSC 499), set aside an order of the High Court of Karnataka that had rejected a partition suit filed by three daughters of a Hindu male who died intestate. The decision authoritatively settles three important questions: the applicability of interlocutory res judicata to successive applications under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC); the true nature of Section 6(5) of the Hindu Succession Act, 1956 (H.S. Act) as a saving clause rather than a jurisdictional bar; and the independent and pre-existing rights of daughters as Class I heirs under Section 8 of the H.S. Act upon the intestate death of their father.

Table of contents



## Factual and Procedural Background

Sri B.M. Seenappa died intestate on 6 March 1985, survived by his widow, four sons, and three daughters the appellants herein. The defendants contended that an oral partition among the sons took place in 1985 and that in 1988, the daughters received monetary consideration and signed a family settlement document (Palupatti) as consenting witnesses. The appellants disputed these transactions entirely and challenged a registered Partition Deed dated 16 June 2000, executed exclusively among the widow and the four sons without the daughters participation or any allotment of share to them. In 2007, the daughters filed a suit seeking partition and 1/8th share each for all eight legal heirs.

An initial application under Order VII Rule 11(d) CPC, filed in 2008, resulted in the rejection of the plaint by the Trial Court. On appeal, the High Court of Karnataka reversed this in 2013, holding that even assuming the daughters had no coparcenary share, the father having died intestate, the daughters retained a right in his share and the suit was maintainable. More than eight years later, the legal representatives of one defendant alone filed a second Order VII Rule 11 application, invoking the Supreme Court's decision in Vineeta Sharma v. Rakesh Sharma (2020) 9 SCC 1 as a purported change in law. The Trial Court dismissed this second application, but the High Court reversed that dismissal and rejected the plaint prompting the present appeal to the Supreme Court.

## The Court's Analysis on Res Judicata

The Court firmly held that the doctrine of interlocutory res judicata, as expounded in Satyadhyan Ghosal v. Deorajin Debi (AIR 1960 SC 941). The issue of whether the plaint was liable to rejection on account of the registered Partition Deed and Section 6(5) had been directly and substantially decided by the High Court in 2013, and that decision was final and binding. The Court rejected the High Court's reasoning that res judicata was inapplicable because the second application was filed by a different defendant. All defendants, being sons or their legal representatives of the same propositus, litigated under the same title within the meaning of Explanation VI to Section 11 CPC and shared a common and indivisible interest. Furthermore, invoking additional sub-clauses of Order VII Rule 11 in the second application did not circumvent res judicata, as any such grounds could and ought to have been raised in the first application under Explanation IV to Section 11 CPC.

On the 'change in law' exception recognised in Mathura Prasad Bajoo Jaiswal v. Dossibai N.B. Jeejeebhoy (1970) 1 SCC 613, the Court held that Vineeta Sharma does not disturb the foundational basis of the 2013 order. That order rested upon daughters' independent rights as Class I heirs under Section 8 upon their father's intestate death a position which Vineeta Sharma neither addresses nor alters. The invocation of Vineeta Sharma was characterised as a transparent attempt to re-agitate a concluded issue.

## Section 6(5): A Saving Clause, not a Bar

The Court undertook a meticulous analysis of the statutory scheme and legislative history of the H.S. Act. Section 6(5), read with its explanation, saves from the retroactive operation of the 2005 Amendment only those partitions effected before 20 December 2004 by a registered deed or court decree. This is consonant with the decisions in Ganduri Koteshwaramma v. Chakiri Yanadi (2011) 9 SCC 788 and Prasanta Kumar Sahoo v. Charulata Sahu (2023) 9 SCC 641, both of which affirm the narrow and strict application of this provision.

Crucially, the Court drew a clear distinction between a jurisdictional bar which prevents a court from entertaining a suit and a saving clause, which provides a defence on merits to be proved at trial. Section 6(5) falls squarely in the latter category. The validity of the 2000 Partition Deed, allegedly executed without the daughter's knowledge or consent and conferring no share upon them, is a contested question of fact and law that cannot be resolved at the threshold under Order VII Rule 11. The Court reiterated the well-settled principles from Mayar (H.K.) Ltd. v. Owners, M.V. Fortune Express (2006) 3 SCC 100 and Nusli Neville Wadia v. Ivory Properties (2020) 6 SCC 557 that disputed facts cannot be adjudicated under Order VII Rule 11, and the court must take the plaint averments as correct.

## The Independent Right Under Section 8

Perhaps the most significant dimension of the judgment is the Court's affirmation that the daughters possessed an independent and pre-existing right in their father's share, entirely unconnected to the 2005 Amendment. By operation of the proviso to the erstwhile Section 6 read with Section 8 of the H.S. Act, upon the father's intestate death in 1985 with daughters surviving as Class I heirs a notional partition was deemed to occur, and his undivided share devolved by intestate succession upon all Class I heirs, including the daughters. This right crystallised two decades before the 2005 Amendment and cannot be extinguished by Section 6(5), which operates only within the ambit of the substituted Section 6. The plaint, which set up the father's intestate death and claimed shares for all legal heirs, was held to disclose a clear cause of action under Section 8, notwithstanding the absence of a specific citation of the provision.

## Conclusion and Significance

This judgment carries considerable practical significance for litigants and practitioners in Hindu succession and partition matters. First, it reinforces the doctrine of interlocutory res judicata as a robust safeguard against serial applications designed to frustrate pending suits. Second, it resolves the longstanding uncertainty over Section 6(5) by categorically holding that it is a defence on merits and not a threshold bar. Third, and most significantly, it reaffirms that the rights of daughters as Class I heirs under Section 8 upon their father's intestate death are independent of the 2005 Amendment and cannot be negated by a saving clause addressed solely to the new coparcenary rights.

For more details, write to us at: contact@indialaw.in

## Case Title: B.S. LALITHA AND OTHERS VERSUS BHUVANESH AND OTHERS

## Related Practice Areas

Civil & Commercial Litigation