



FAMILY LAW

No Coparcenary, No Karta: Supreme Court Rewrites the Conversation on Inherited Property

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The Supreme Court's decision in *Darubai & Anr. v. Kamalabai & Ors.*^[1] marks an important reaffirmation of one of the foundational principles governing succession under the Hindu Succession Act, 1956 ("HSA"): property inherited by Class I heirs under Section 8 devolves as [...]

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Introduction

The Supreme Court's decision in *Darubai & Anr. v. Kamalabai & Ors.*^[1] marks an important reaffirmation of one of the foundational principles governing succession under the Hindu Succession Act, 1956 ("HSA"): property inherited by Class I heirs under Section 8 devolves as separate property held in defined shares and not as joint family property governed by the incidents of coparcenary. While the proposition itself is not novel, recurring disputes continue to arise from attempts to invoke traditional concepts of Hindu law particularly *karta*-ship, legal necessity, and survivorship in situations where succession is governed by the statutory framework of the HSA.

The judgment arose from a protracted family dispute spanning more than five decades between a widow and her stepdaughters over agricultural lands and residential properties inherited from a common predecessor. The controversy presented the Court with an opportunity to revisit the distinction between joint tenancy and tenancy-in-common and to examine whether a widow inheriting property alongside other Class I heirs could assume the role of *karta* and alienate the property on the ground of legal necessity.

In answering these questions, the Court undertook a detailed analysis of Sections 8, 10 and 19 of the HSA. The ruling conclusively holds that where heirs succeed to the estate of an intestate under Section 8, they inherit as tenants-in-common with definite and independent shares. Consequently, no heir can claim authority over the entire property merely by invoking the concept of *karta* or the doctrine of legal necessity.

Beyond resolving the immediate dispute, the judgment strengthens the statutory scheme of succession under the HSA and provides important guidance for partition suits, inheritance disputes, and transactions involving inherited property. It serves as a timely reminder that statutory succession has fundamentally altered traditional notions of ownership and management of ancestral property, and that courts will continue to prioritise the legislative mandate over customary doctrines inconsistent with it.

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Background of the Dispute

The dispute traces its origin to the estate of Dajiba, who died intestate, leaving behind his widow, Darubai, and four daughters from a previous marriage. Upon his death, questions arose regarding the ownership and management of certain agricultural lands and residential properties forming part of his estate. What began as a family disagreement over inheritance eventually evolved into a protracted litigation that traversed multiple judicial forums over a period exceeding fifty years.

The daughters instituted a suit for partition and separate possession, asserting their entitlement as Class I heirs under the Hindu Succession Act, 1956. They claimed that the estate devolved equally upon all five heirs and sought recognition of their respective shares. Darubai, however, defended certain alienations made by her from the suit property, contending that she had sold a portion thereof to meet expenses associated with the marriage of one of the daughters. According to her, the transaction was justified by legal necessity and was undertaken in her capacity as the person managing the family property.

The trial court rejected this defence and decreed the suit in favour of the plaintiffs. On appeal, the first appellate court accepted the plea of legal necessity and upheld the validity of the sale transaction. The matter ultimately reached the High Court, which restored the trial court's decree, holding that the defendant could not claim authority to alienate the shares of the other heirs. Aggrieved by this finding, the widow approached the Supreme Court.

Against this factual backdrop, the Supreme Court was called upon to determine a question of considerable significance in Hindu succession law: whether heirs inheriting property under Section 8 of the Hindu Succession Act hold such property as tenants-in-common with distinct and ascertainable shares, or whether one of the heirs can assume the position of *karta* and exercise powers ordinarily associated with the management of joint family property.

The Statutory Framework

The controversy before the Supreme Court centred on the interpretation of Sections 8, 10 and 19 of the Hindu Succession Act, 1956. While Sections 8 and 10 govern the devolution and distribution of the estate of a male Hindu dying intestate among Class I heirs, Section 19 clarifies the nature of such succession by providing that where two or more heirs inherit simultaneously, they take the property *per capita* and as **tenants-in-common**, and not as joint tenants.

The statutory scheme thus departs from the traditional doctrine of survivorship associated with Mitakshara coparcenary and instead confers upon each heir a distinct and ascertainable share in the inherited property. It was the interpretation and effect of these provisions that lay at the heart of the dispute before the Court.

Joint Tenancy Versus Tenancy-in-Common

A significant portion of the judgment is devoted to distinguishing between the concepts of joint tenancy and tenancy-in-common. The Court observed that in a joint tenancy, ownership is collective and governed by the principle of survivorship, whereby the interest of a deceased co-owner automatically accrues to the surviving co-owners. Such ownership is characteristic of a traditional Hindu coparcenary, where individual shares remain undefined until partition.

In contrast, a tenancy-in-common recognises the existence of separate and ascertainable interests in favour of each co-owner, notwithstanding the fact that physical possession of the property may remain undivided. Upon the death of a co-owner, his or her share devolves upon legal heirs through succession rather than by survivorship.

Tracing the evolution of judicial thought from *Jogeswar Narain Deo v. Ram Chund Dutt*^[2] to *CWT v. Chander Sen*^[3] and *M. Arumugam v. Ammaniammal*^[4], the Court reaffirmed that succession under Section 8 of the Hindu Succession Act creates a tenancy-in-common among heirs. Consequently, property inherited under the Act does not acquire the incidents of coparcenary property merely because it originated from a common ancestor. Each heir succeeds to a definite and independent share, capable of separate enjoyment, alienation and transmission in accordance with law.

Reinforcing the Post-1956 Succession Regime

In arriving at its conclusion, the Supreme Court reaffirmed a well-established line of authority that has consistently interpreted succession under the Hindu Succession Act as a departure from traditional Mitakshara principles of survivorship. The Court relied upon the seminal decision in *CWT v. Chander Sen*, which held that property inherited under Section 8 devolves upon an heir in his or her individual capacity and does not become part of the heir's Hindu Undivided Family merely by virtue of inheritance.

This principle was subsequently reiterated in *Yudhishter v. Ashok Kumar*^[5], where the Court clarified that descendants do not acquire birthrights in property inherited under Section 8, as such inheritance is statutory and individual in character. The judgment also drew support from *M. Arumugam v. Ammaniammal*, which recognised that heirs succeeding simultaneously to an intestate estate hold the property as tenants-in-common and not as members of a coparcenary.

By placing reliance on these authorities, the Court highlights that the Hindu Succession Act fundamentally altered the traditional rules governing devolution of property. The decision therefore serves less as a departure from existing law and more as a reaffirmation of the principle that succession under Section 8 creates distinct proprietary interests in favour of each heir, thereby excluding the operation of survivorship and the incidents of coparcenary ownership.

Limits of Karta Authority in Statutory Succession

Having concluded that the parties inherited the property as tenants-in-common under Section 8 read with Section 19 of the Hindu Succession Act, the Supreme Court rejected the widow's contention that she could validly alienate a portion of the property as *karta* on grounds of legal necessity. The Court emphasised that the concept of *karta* is inextricably linked to the existence of a Hindu coparcenary or joint family property, where a designated member manages the estate on behalf of all coparceners.

In the present case, however, the property did not retain the character of joint family property after the death of the intestate. Upon succession opening, the widow and the four daughters each acquired a distinct one-fifth share in the estate. Their rights arose not by survivorship but by statutory succession, thereby creating separate and identifiable proprietary interests.

In such circumstances, no heir could claim representative authority over the shares of the others. The widow's powers were necessarily confined to her own undivided share, and any alienation beyond that share could not be justified by invoking the doctrine of legal necessity. The Court thus clarified that the incidents of *karta*-ship cannot be superimposed upon a tenancy-in-common merely because the property originated from a common ancestor.

The ruling highlights an important principle of Hindu succession law: once property devolves under Section 8, the framework of individual ownership displaces traditional notions of collective family management. The authority ordinarily associated with a *karta* ceases to operate unless a coparcenary or joint family property is otherwise shown to exist.

Significance of the Decision

The decision assumes significance as a reaffirmation of the transformative effect of the Hindu Succession Act, 1956 on traditional principles governing inheritance under Hindu law. While the proposition that property devolving under Section 8 is inherited in an individual capacity is well established, disputes continue to arise from attempts to apply concepts such as survivorship, coparcenary rights and *karta*-ship to property that has already passed through statutory succession. The judgment decisively reiterates that such concepts cannot override the legislative scheme embodied in the Act.

The ruling is particularly important in clarifying that the mere fact that property originated from a common ancestor does not, by itself, confer upon it the character of joint family or coparcenary property. Once succession opens under Section 8, each heir acquires a separate and identifiable interest, and the relationship among the heirs is that of tenants-in-common rather than members of a coparcenary. This distinction has far-reaching consequences for the management, alienation and devolution of inherited property.

The judgment also strengthens the proprietary rights of co-heirs by recognising that no individual heir can assume representative authority over the estate or deal with the shares of others under the guise of legal necessity. In doing so, the Court reinforces the principle that statutory succession creates independent ownership rights which can neither be diluted nor overridden by traditional notions of family management.

From a practical perspective, the decision provides valuable guidance in partition disputes, succession litigation and property transactions involving inherited assets. It serves as a reminder that purchasers, financial institutions and legal practitioners must carefully ascertain the nature of succession and the extent of each heir's share before relying upon transactions executed by a single co-heir. The judgment therefore contributes to greater certainty in property relations while preserving the legislative intent underlying the Hindu Succession Act.

For more information contact at: contact@indialaw.in

1. 2026 INSC 613 (@ Special Leave Petition (Civil) No. 13232 of 2022) ?
2. 1896 SCC OnLine PC 5 ?
3. (1986) 3 SCC 567 ?
4. (2020) 11 SCC 103 ?
5. (1987) 1 SCC 204 ?

Related Practice Areas

Family Law Dispute