



FAMILY LAW

Equal Coparcenary Rights and Limits of Review: Supreme Court Clarification

AUTHOR Ayush Shukla

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Introduction

The Supreme Court of India in *Malleeswari v. K. Suguna & Anr.* (2025 INSC 1080, decided on 8 September 2025) delivered a significant judgment that touches on two pillars of Indian property law and civil procedure: the statutory recognition of daughters' equal coparcenary rights and the permissible boundaries of judicial review. The decision affirms that women's claims under the Hindu Succession (Amendment) Act, 2005, and the earlier Tamil Nadu Amendment Act of 1989, cannot be lightly disregarded. At the same time, it reinforces the principle that review jurisdiction is narrow, confined to correcting manifest errors, and cannot be used as an appeal in disguise.

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Factual Background

The dispute arose from a partition suit filed in 2000 by Subramani, son of Munusamy Naidu, seeking division of ancestral property into equal shares between himself and his father. Crucially, his sister, Malleeswari, the present appellant, was not impleaded. The Trial Court in 2003 passed an *ex parte* preliminary decree declaring the partition between father and son.

Subsequently, on 27 December 2004, Munusamy executed a registered sale deed transferring certain suit items to the first respondent, K. Suguna. On the same date, he also executed a settlement deed gifting other properties to his daughter, Malleeswari. In 2008, he executed a Will in her favour, and upon his death in 2011, she was impleaded as his legal heir.

In 2018, Malleeswari sought amendment of the preliminary decree to include her coparcenary rights. She relied on two statutory bases: Section 29A of the Hindu Succession (Tamil Nadu Amendment) Act, 1989, which had already conferred coparcenary rights on daughters in the state, and the Hindu Succession (Amendment) Act, 2005, which extended this entitlement nationally. She claimed a one-third share by birth, and her father's one-third share through the Will, together amounting to two-thirds.

The respondents resisted, contending her application was barred by limitation, that she was estopped from challenging the 2004 sale since she had attested the deed, and that the proper course was to appeal the 2003 decree rather than seek amendment. They also asserted that the 2005 amendment was inapplicable retroactively.

The Trial Court in 2019 dismissed her application with detailed findings. It held that she was impleaded only as her father's legal heir and not as an independent coparcener. It ruled that the Hindu Succession (Amendment) Act, 2005 could not be applied retrospectively to disturb the 2003 decree. The settlement deed executed in her favour was declared void as it was contrary to the court's injunction. Estoppel was applied against her because she had signed as an attesting witness to the 2004 sale. Finally, the Court reasoned that a preliminary decree was a final determination of rights and could only be corrected for clerical mistakes, not fundamentally altered.

On revision, the High Court in 2022 (CRP) allowed her plea, recognising her entitlement to a one-third share based on *Vineeta Sharma v. Rakesh Sharma* (2020). However, on review in 2024, the High Court reversed course, reframing the central issue as whether the purchaser could challenge the ancestral nature of the property, and remanded the matter for fresh consideration.

Issues Raised

Two questions arose for determination before the Supreme Court. First, whether the appellant's entitlement as a coparcener under Section 29A of the Tamil Nadu Amendment Act, 1989 and the Hindu Succession (Amendment) Act, 2005 could be enforced despite a preliminary decree of 2003 that excluded her. Second, whether the High Court in review had exceeded its jurisdiction by effectively reopening settled factual determinations and enlarging the scope of controversy to include questions

such as the ancestral character of the property, which even a pendente lite purchaser could not raise.

Parties' Contentions

• Appellant's Contentions

The appellant contended that both the Tamil Nadu Amendment Act of 1989 and the Hindu Succession (Amendment) Act, 2005 entitled Malleeswari to coparcenary rights. She argued that as the daughter of a living coparcener at the time of both legislative enactments, she had an indisputable one-third share. Relying on *Vineeta Sharma v. Rakesh Sharma*, she submitted that her rights were by birth and could not be defeated by the 2003 decree. The Will of 2008 further gave her her father's share, making her effective share two-thirds.

She further argued that the sale deed of 27 December 2004 was invalid as it was executed after 20 December 2004, the legislative cut-off date under the Hindu Succession (Amendment) Act, 2005, and in violation of the court's injunction. On procedure, she maintained that the High Court, in review, had transgressed the narrow jurisdiction under Order 47 Rule 1 CPC by reappreciating facts instead of correcting an error apparent on the record.

• Respondents Contentions

The respondents urged that the appellant's 2018 application was grossly belated, being filed fifteen years after the preliminary decree and several years after she admittedly knew of the suit. They argued that she had acquiesced by signing the 2004 sale deed as a witness and was estopped from challenging it. They maintained that the 2005 amendment had no retrospective effect and that the correct remedy was to appeal against the preliminary decree of 2003, not seek its amendment. They also defended the High Court's review order, stressing that it fairly allowed the purchaser to contest the ancestral nature of the property and thus required a remand.

Judgment

The Supreme Court allowed the appeal, set aside the impugned review order of 2024, and restored the High Court's CRP order of 2022. The Court held that the High Court had overstepped its review jurisdiction. Instead of pointing out an "error apparent on the face of the record," the review order had embarked on reappreciation of evidence and enlargement of issues, including whether the property was ancestral, which even a pendente lite purchaser could not contest. Such an approach was impermissible in review.

The Court confirmed that the appellant was entitled to recognition of her one-third coparcenary share under both Section 29A of the Tamil Nadu Amendment Act, 1989 and the Hindu Succession (Amendment) Act, 2005. It directed the Trial Court to dispose of all pending applications within three months.

Analysis

The judgment is significant in two respects. First, it clarifies the layered statutory entitlement of daughters. The appellant's claim was not merely under the Hindu Succession (Amendment) Act, 2005 but also under Section 29A of the Tamil Nadu Amendment Act, 1989, which had already placed daughters on par with sons in coparcenary property within the state. By recognising both, the Court highlighted the depth of legislative intent to achieve gender equality.

Second, the Court drew a clear line between appellate and review jurisdiction. Review is confined to three grounds: discovery of new evidence despite due diligence, error apparent on the face of the record, or other sufficient reasons analogous to these. The High Court's review order did none of these. It re-tested facts, reframed issues, and permitted a pendente lite transferee to challenge the ancestral nature of the property an expansion wholly beyond the permissible limits. By restoring the CRP order, the Supreme Court not only vindicated the appellant's substantive rights but also preserved judicial discipline.

Conclusion

The Supreme Court's decision represents a dual affirmation: of women's equal rights in ancestral property and of the strict boundaries of review jurisdiction. It reflects sensitivity to the layered statutory framework Tamil Nadu's 1989 amendment and the national 2005 amendment and ensures that daughters are not denied their rightful inheritance. At the same time, it guards against misuse of review as a second round of appeal. The ruling thus strengthens both substantive justice in succession law and procedural integrity in civil litigation, setting a valuable precedent for future cases.

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