

Laws in a patriarchal society are based on gender and the property and inheritance laws for women in India have traditionally been exploitative. It was post-independence and more so, in recent times that things started looking up. Since there is no Uniform Civil Code in India, hence claims on property and inheritance depend on the claimants' faith. However, inheritance laws for women, whether they belong to any faith, community or sect, provide for women in a slightly different manner than men. Recent amendments in Hindu inheritance laws for women have brought some respite to daughters and wives. The Islamic Laws for women are however different and more rigid, and recent times have brought certain limited changes, though not pertaining to inheritance or property rights. Christian laws are more liberal.

However each faith has its own set of rules. There is The Hindu Succession Act 2005, The Hindu Succession Act 1956, and Hindu Succession Amendment Act 2005. Then there is the Muslim Personal Law Application Act 1937 and The Indian Succession Act 1925. Here we will refer to them as – Hindu Law, Muslim Law and Christian Law. Hindu Law is applicable on Hindus, Jains, Buddhists and Sikhs. You may understand inheritance laws for women and their rights over ancestral property better at the end of the article.

All you need to know about Ancestral Property

To understand how property laws can impact the lives of women let us take the example of the below situation.

How Property Laws for Women Affect Their Living

Consider the situation where Anita gets married and starts living with her husband in his official quarter. Her parents-in-law live separately in a house they built a few years ago. After two years of marriage, Anita's husband dies without leaving a Will or acquiring any property. Anita has to vacate the official quarter. She wants to stay with her parents-in-law but they refuse to allow her. She goes to her parental home, but her brother refuses to allow her to stay with them. Since her father died intestate (without making a Will), Anita's brother resides with his family in the parental property. Where can Anita go, now? What can she claim as her own?

To find an answer to this situation, let us understand property laws for women in detail.

Property and Inheritance Laws for Women Under Hindu Law

Property laws for women have undergone a lot of changes since olden times. Even after independence and framing of the rulebooks, various amendments have brought women's rights at par with that of the males in the patriarchy. Currently, the inheritance laws for women of the Hindu faith stand as stated below.

Also read: All about Transfer of Property Act

Property Rights of Daughter

A daughter stands to inherit an equal share of the parental (father's as well as mother's) property, like her siblings. She is a coparcener in the ancestral property as her brothers and shares the same liabilities towards this said property. A married daughter can ask for maintenance or shelter in her parents' residence if she is widowed, divorced or deserted. Once she attains adulthood, a daughter has complete rights over any property or asset that is gifted or Willed to her.

Property Rights of a Wife

According to Hindu Succession Law, a married woman has total rights over her personal property that she can sell/gift/dispose of as per her wish. She is eligible for shelter, support and maintenance from her husband and his family in case of a HUF (Hindu Undivided Family). In the case of the division of property between her husband and her children, she also gets an equal share as others. And in case of her husband's death, she is entitled to an equal share of the husband's assets divided between her, her children and his mother.

You Might Also Like

How-to-Perform-Police-Verification-Online-for-Tenants

How to Perform Police Verification Online for Tenants

Published: Sep 18, 2023, 15:00

Uniform Civil Code

Uniform Civil Code (UCC) and Its Impact on Property Inheritance & Taxation

Published: Aug 03, 2023, 12:51

E-stamping in India

What Is E Stamp and Everything You Need To Know

Published: Jul 10, 2023, 11:00

conveyance-deed

What is a Conveyance Deed & Why Is It Important?

Published: Jun 06, 2023, 10:00

challenge-a-will

How to Challenge a Will - Who Can Challenge a Will & More

Published: May 27, 2023, 12:59

Power of Attorney (PoA): All You Need to Know

Published: Apr 25, 2023, 15:00

transfer of property act

Transfer of Property Act, 1882: Laws of Transfer Movable/Immovable Property

Published: Mar 25, 2023, 19:00

easy-online-process-to-obtain-encumbrance-certificate-in-kerala

Easy Online Process to Obtain Encumbrance Certificate in Kerala

Published: Mar 02, 2023, 16:00

Property Rights of a Mother

A mother is a Class I heir which means, she inherits an equal share of her deceased son's assets as do his wife and children. If the children divide the family asset after the father's demise, a mother is entitled to an equal share of the property as each of her children. She is also entitled to shelter and maintenance from her eligible children. She has full rights over her properties and assets and can dispose of them the way she likes. On her death, though, her assets are equally inherited by all her children.

Property Rights of a Sister

A sister is a Class II heir and can claim her deceased brother's property only if he has no Class I heirs – mother, wife and children

Property Rights of a Daughter-in-law

As per the inheritance laws for women in the Hindu Succession Act, the rights of a daughter-in-law are very limited. A daughter-in-law has no right over the properties owned by the parents-in-law – whether ancestral or self-acquired. She can acquire rights over such assets only through her husband's inheritance and share.

Property Rights of a Divorced Women

A divorced woman can demand maintenance and alimony but cannot lay a stake on her ex-husband's property. If the property is registered in the husband's name, the law recognises him as the owner. If the property is jointly owned, then the wife has to prove her contribution to the purchase. Then she would be entitled to the share only up to her contribution in the said property, according to property laws for women. In case of separation without a formal divorce, the wife and children are entitled to their inheritance on the man's property whether he has remarried or not.

Property Rights of a Remarried Widow

A widow gets an equal share of the husband's property along with the other Class I heirs – his mother and his children. In case the widowed wife remarried, she was supposed to give up her claim on the ex-husband's property, as per the Hindu Widow Remarriage Act of 1856. But taking Section 24 of the Hindu Succession Act 1956, if the widow remains unmarried when the property distribution is discussed and marries much later, she owns her share of the property.

Property Rights of a Second Wife

The Hindu Marriage Act 1955 considers polygamy illegal and a man cannot have more than one legal wife at any point in time. Thus, the legality of the second marriage is a crucial factor here. If the man remarries after his wife's death or after a formal divorce, the second wife is a Class I heir to his property. If that is not the case, then the second wife is not entitled to the deceased man's assets, though her children from this marriage will be.

Also read: [How to calculate Capital Gains Tax](#)

Property and Inheritance Laws for Women in Christian Law

Let us look into inheritance laws for women of various relationship categories with reference to the Christian law which is also applicable for Jews and Parsis.

Property Rights of a Daughter

A daughter would inherit both the parents' properties equally along with her siblings. She enjoys shelter and maintenance from her parents till she gets married. After that, she is under her husband's maintenance. Her father remains her natural guardian as long as she is a minor. After legally becoming an adult, she has a complete right over her personal property.

Property Rights of a Wife

As a wife, a woman is eligible for maintenance from her husband. If he fails to provide it, she can file for divorce on this ground. According to the inheritance laws for women of the Christian faith, a widow is entitled to one-third of her husband's property while the rest is divided equally among the children of the deceased. She gets half of the assets if there are no children. The minimum amount that the wife must inherit from her deceased husband is marked to be INR 5000.

Property Rights of a Mother

The property laws for women of the Christian faith do not consider a mother as a dependent of the children. As a mother, a woman is not eligible for maintenance. But if the deceased child is unmarried and has no children, the mother is entitled to one-fourth of the asset.

The inheritance laws for women if they are Divorcee, Remarried widow and Second wife, remain the same as in the Hindu Laws.

Property and Inheritance Laws for Women Under Muslim / Islamic Law

This law follows the Sharia rule and has different specifications than the other faiths.

Property Rights of a Daughter

According to the faith, a woman's value is half that of a man. The inheritance laws for women here give daughters half of what the sons are getting. But a woman has complete control over her property and can dispose of it or manage/sell/gift it as per her wish. Daughters have the right to residence in the parental property till marriage and after widowhood/divorce if she has no/minor children. Once the children are grown up enough to take care of their mother, she becomes the children's responsibility.

Property Rights of a Wife

According to property laws for women in the Sharia, a married woman enjoys total ownership over her own properties and other things. She is entitled to maintenance from her husband, necessary reasonable provisions after divorce and a right to the 'Mehr' amount decided during the marriage. In case of death of the husband and she being the only wife, she will inherit one-fourth of his assets, if there are no children; and one-eighth, if there are children in the marriage. If the deceased husband had more than one wife, then each wife's inheritance reduces even further – say one-sixteenth. In case of the absence of other sharers, a Will by the husband can increase the inheritance of the wife up to some extent.

Property Rights of a Mother

A widow or divorced mother is entitled to maintenance from her children and inheritance of one-sixth of the asset of her deceased child. Her own property is divided according to the guidelines of Muslim Law.

A divorcee under Muslim inheritance laws for women gets her 'Mehr' amount and ceases to belong to her husband and his family. She is not a recipient of property from a deceased ex-husband. The same is the case for a remarried widow who cannot claim any property rights from her dead husband. A second wife under Muslim laws is a legal wife and has the same rights as the first or third wife.

Hindu Succession Act: Can a woman give her property to her paternal side heirs?

Property and Inheritance Laws for Women in India: Maintenance

According to the Section 125 of Criminal procedure describes the following things for maintenance of wives, children and parents:-

If any person refuses to maintain the following things even when in means:-

Wife-who is not able to take care to maintain herself

Does not take of legitimate or illegitimate minor children

Father or mother- unable to take care of themselves

In such a case, the Indian Court can issue an order to give a monthly allowance for maintenance of dependents.

Can Woman Criminals Claim Inheritance in the Property?

A person proven guilty of serious crimes will not inherit property as per Hindu Succession Act.

Lessons from other Countries: Inheritance Laws

In western and European countries like the USA, Germany and France, the inheritance law is written in gender neutral language. Whereas in India it is written using words like sons, daughters, parents, children and spouses. Usage of such words implies that all the people are entitled to inherit the property irrespective of the gender. If such a practice is implemented in India then gender neutral inheritance law in India.

Inheritance Laws for Tribal Woman

Let us discuss the inheritance laws for tribal women in India:-

In India, Scheduled Tribes (ST), be it inheritance, marriage or succession, are governed by customary laws

Property inheritance right is not covered under Hindu Succession Act 1965 or Indian Succession Act 1925

However, Supreme Court asked the government to re-examine the provision in the Hindu Succession Act.

According to Hindu Succession Act, a woman has an equal share in the property as male.

"When a daughter belonging to a non-tribal is entitled to the equal share in the property of the father, there is no reason to deny such right to the daughter of a tribal community. Female tribal is entitled to parity with male tribal in intestate succession," the said Supreme Court.

What is Immovable property? Types and Legal Rights

The Final Word on Property Laws for Women

The amendments in the property laws for women and changes in the various judgements have brought

some traces of legal rights to women. It is important that you know your legal rights under inheritance laws for women so that no one can deprive you of your possessions.

What is Title Deed of Property?

Online Property Registration Details

IGRSUP - Property registration in UP

Property Title Fraud

Freehold property versus Leasehold Property

Land Encroachment Act

What are Property Valuation Services

Safest Cities for Women in India

Ancestral Property - all you need to know

Frequently asked questions

What rights does a Hindu wife have under property laws for women?

Under Hindu law, a wife gets an equal share of the assets of the deceased husband divided between other Class I heirs, the children and mother. This applies only if the man dies intestate. If there are no children and other claimants, the wife is entitled to the total property.

Does a daughter-in-law have any claim in the property of the parents-in-law?

No, a daughter-in-law has limited claims on the property of her parents-in-law. She has claims on only what belongs to her husband.

Does a second wife have any rights under inheritance laws for women?

If the marriage takes place after a formal divorce or demise of the first wife, the second wife is the legal wife. Thus, she has all the rights of a wife. This is true about Hindu Law and Christian Law. As per Muslim Law, the second wife is as much a legal wife as the other wives and has equal rights as others.

What are the rights of a daughter on the property of her father?

As per Hindu Succession Act, a daughter is a Class I heir to a deceased man dying intestate. This means she has equal rights to the property as her brothers, mother and grandmother.

Under Islamic law can a wife inherit the complete property of the husband?

Under Islamic law, the wife of a man dying intestate will never be entitled to complete property. But a Will stands more powerful than general laws for all faiths. Thus, if a man writes additional shares of his property in the name of his wife, she legally inherits it after his death.