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Case Comment: Arunachala Gounder (dead) by Lrs vs Ponnusamy

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INTRODUCTION

The Constitution of India offers a detailed framework to guarantee equality for all of its citizens.¹ Over the past few decades, women in our nation have not been reluctant to assert their civil claims to inherited and individually acquired property before the courts. The present matter was laid before the Honourable Supreme Court of India challenging the civil appeal passed by the High Court of Madras in a partition suit. The Bench, comprising Justice Krishna Murari and Justice Abdul Nazeer, delivered the landmark decision dated 20.01.2022, in *Arunachala Gounder (Dead) by LRs v Ponnusamy and Ors*². After considering customary Hindu laws and judicial precedents, the Apex Court ruled that if a Hindu male dies intestate leaving behind the self-acquired property, the such self-acquired property would devolve not by way of survivorship, but such devolution shall by inheritance. Furthermore, such self-acquired property would be inheritable by the daughter of such a Hindu male dying intestate.

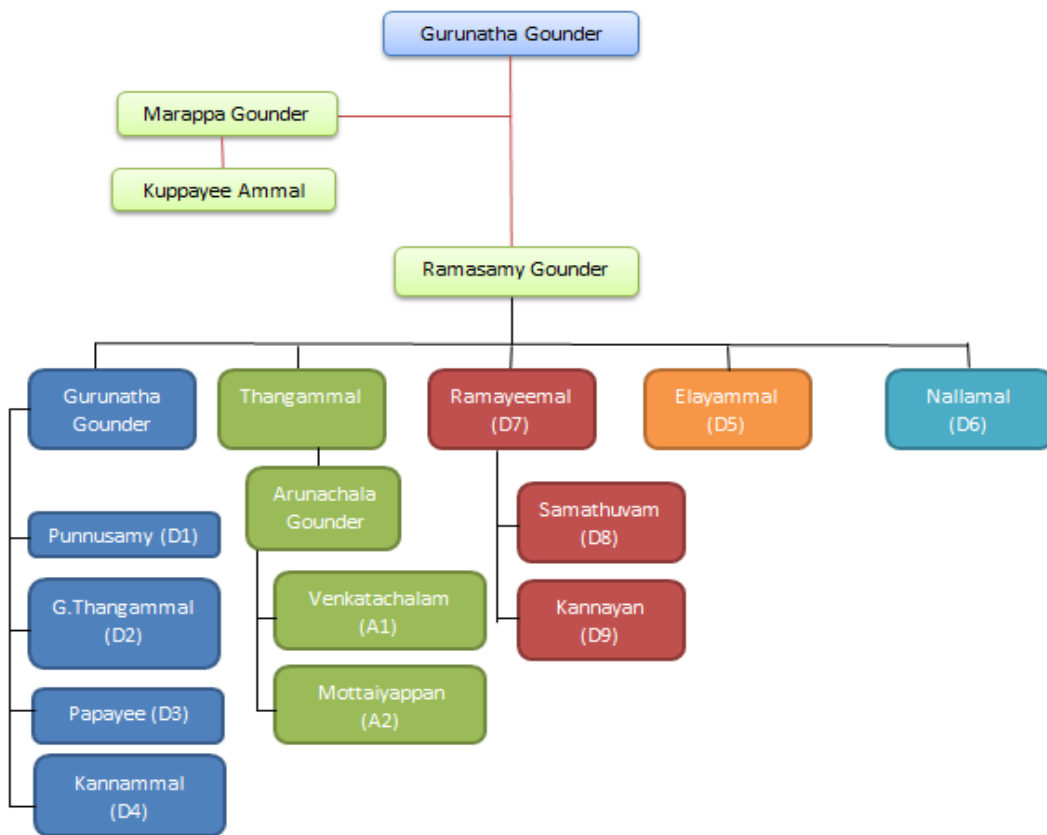
¹ Constitution of India 1950, art 14

² *Arunachala Gounder (Dead) by LRs v Punnusamy & Ors* (2011) Civil Appeal No. 6659/2011

FACTS OF THE CASE

The suit property was self-acquired property of MarappaGounder, who died leaving behind his sole daughter, Kuppayee Ammal. Kuppayee died issueless, who then inherited the property of MarappaGounder on his death. Ramasamy Gounder was the younger brother of MarappaGounder, who predeceased Parappa. Upon the death of Kuppayee, the suit property was then acquired by the five heirs of Ramasamy Gounder in a share of 1/5 each. The five heirs included GurunathaGounder (son of Ramasamy) and his four heirs and legal representatives.

The family genealogy is represented in the chart shown below:



The suit for partition was filed before the Trial Court by one Thangammal, daughter of Ramasamy. It was undisputed by the parties that the suit property was independently purchased by Marappa through a court auction process. After considering the evidence

brought on record, the Trial Court concluded that Marappa died in 1949 and the property in question would devolve upon the sole son of deceased Ramasamy Gounder, by survivorship and the plaintiff had no right to file the suit for partition. Thereafter on the first appeal, the High Court of Madras affirmed the decree dismissing the partition suit, thereby determining that it would devolve by way of survivorship. As aggrieved by the decision, the appellant approached the Apex Court in this matter.

ISSUES INVOLVED

The Honourable Court has determined the following issues for the adjudication of the present case:

1. What is the nature and course of a succession of the suit property?
2. Whether a Hindu daughter could inherit her father's separate property and die intestate before the enactment of the Hindu Succession Act of 1956?
3. What would be the manner of a succession of the said property after the death of such daughter?

OBSERVATIONS OF THE HON'BLE APEX COURT

The Court found that it is imperative to look into the origin and sources of Hindu law. It is Vedas, Shrutis, and Smritis which are considered to be the sources of Hindu law. The Smritis, which contains the Dharma Shastra, is thought to have been written down in Lord Brahma's own words. The Sanhitas, Smritis, or, in other words, the textbooks credited to the learned sages Manu, Yajnavalchya, Vishnu, Parasara, and Gautama, among others are considered the authentic texts in Hinduism. Hindu law has evolved continuously through these authoritative texts. Customs, equity, fairness, a good conscience, and judicial rulings have also contributed to the formation of Hindu law in addition to these sources. The Supreme Court came to this conclusion after consulting both customary Hindu law and judicial rulings, noting that both the old customary Hindu law and numerous judicial rulings recognise a daughter's right to inherit the self-acquired property of a Hindu male dying intestate.

Subsequently, the following observations were made by the Apex Court after considering the customary Hindu law:

The Mitakshara School is one of the most significant law schools with a broad scope of practice. With a few minor exceptions, it is applicable to the majority of India, yet the underlying ideas remain the same. The Mitakshara law recognises succession through inheritance, but only for property that is possessed individually by a single person, whether they are male or female. The Mitakshara School includes women as potential heirs to the self-acquired property. "What has been self-acquired by anyone, as an increment, without lessening the paternal estate, similarly a present from a friend or a marriage gift, does not belong to the co-heirs,"³ the digest of "Yajnavalkya states. The Hon'ble Court has also taken note of Manu quoted in Vyavastha Chandrika that "the son of a man is even as himself, and the daughter is equal to the son. How then can any other inherit his property, notwithstanding the survival of her, who is, as it were himself."⁴ The Bengal, Benares, and Mithila sub-schools of Mitakshara recognised only five female relatives as being able to inherit: widow, daughter, mother, paternal grandmother, and paternal great-grandmother. This was prior to the Hindu Law of Inheritance (Amendment) Act 1929. The Hindu Law of Inheritance (Amendment) Act, 1929 expressly listed a number of female heirs who are of the son's daughter, daughter's daughter, and sister as heirs, and the Madras sub-school recognised their inheritable capacity. In Bombay and Madras, the daughter of the son and the daughter of the daughter were *bands*. Aside from a half-sister, a father's sister, and women who were married into the family such as a stepmother, a son's widow, a brother's widow, as well as numerous more women who were categorised as *bands*, the Bombay school, which is most tolerant of women, acknowledged a number of different female heirs. It is abundantly evident from the foregoing considerations that a daughter may have legitimately inherited the father's separate inheritance.

The Court further pondered upon the notable judgements for the adjudication of the matter before it. Reference was made to the judgement pronounced by the Privy Council in 1863 in *Katama Natchiar v Srimut Rajah Mootoo Vijaya RaganadhaBodhaGooroo Swamy*

³ Edward Roer (tr), *Hindu Law and Judicature from the Dharma-Sāstra of Yajnavalkya* (Kessinger Publishing 2010)

⁴ Jimūtavāhana, *Two Treatises on the Hindu Law of Inheritance* (Hindoostanee Press 1810) 180

*Periya Odaya Tavern*⁵, which observed that “in the event of a Hindu male dying intestate, succession is to be decided by inheritance rather than survivorship. When a male family member is absent, the property passes to the widow, then to the daughter...”⁶ Overall, it appears that some analysts erred in deriving adverse inferences from the vague references to women's succession in the earlier Smritis. The rights of women in the family to maintenance were always extremely considerable rights. It is obvious what the Mitakshara think about the rights of women with respect to the present issue.

JUDGEMENT

In this case, even though the family was still together when MarappaGounder passed away intestate, the property in question will pass to his only surviving daughter, Kupayee Ammal by inheritance rather than by survivorship because it was acknowledged to be the self-acquired property of MarappaGounder. The Hindu Succession Act aims to bring equality among men and women in matters of property and establishes the rights of women as absolute as opposed to the then-existing limited estate of women. The purpose of Section 14(1) of the Act,⁷ which was enacted by the legislature, was to address the limitation that a Hindu woman had, in that she could not inherit an absolute interest in the properties, just a life interest. In accordance with Section 15 of the Hindu Inheritance Act of 1956, Section 14(1) of the same Act changed all limited estates owned by women into absolute estates, and the succession of these properties would occur in the absence of a will or testament. Only when a Hindu female dies without leaving any immediate heirs – her son or daughter or the children of the dead son or daughter – will the exceptions outlined in sub-Section (2) of Section 15⁸ apply. Therefore, if a female Hindu passes away intestate and issueless, the property she inherited from her parents would pass to the heirs of her father, but the property she inherited from her husband or father-in-law would pass to the heirs of the husband. The main purpose of Section 15(2), which was enacted by the legislature, is to guarantee that the inheritance of a female Hindu who passes away without issue and intestate is returned to its original owner.

⁵ *Katama Natchiar v Srimut Rajah Mootoo Vijaya Raganadha Bodha Gooroo Sawmy Periya Odaya Taver* (1863) 9 MIA 539

⁶ *Sivagnana Tevar and Anr. v Periasami & Ors* 1878 (1) ILR Madras 312

⁷ Hindu Succession Act 1956, s 14

⁸ Hindu Succession Act 1956, s 15(2)

Thus, the appeal is allowed and the impugned judgment and decree delivered by the trial court are set aside.

COMMENTS: CONCLUDING REMARKS

Discrimination based on gender is not a new terrain of discussions and debates in a patriarchal society, especially in India. As such, the Hindu Succession (Amendment) Act of 2005 opened up the doors of coparcenary rights to Hindu women in our country. The much-applauded judgement delivered by the Supreme Court in *Vineeta Sharma v Rakesh Sharma*⁹ further ended the ambiguities revolving around the coparcenary rights of Hindu daughters, holding them to have retrospective effect. Despite all these efforts by the legislature and judiciary toward gender-neutral laws with respect to property, there was no jurisprudential clarity pertaining to the rights of women in self-acquired properties. The judiciary, through its landmark judgement in the Arunachala Gounder case, answered all the questions regarding the property rights of Hindu females as to separate property of a Hindu male dying intestate. The origin of the Hindu Succession Act of 1956 and the generally progressive attitude of Hindu customary laws—which recognize women as legitimate heirs in a variety of capacities—have been thoroughly scrutinized by the Supreme Court through this decision. This laudable judgement makes it clear that the rule of proximity would apply in accordance with the rule of succession, and it also demonstrates how several authoritative texts, commentaries, and judicial precedents have crystallized and validated the sole surviving daughter's right to her father's separate properties, even before the 1956 Act was passed. Thus, it is obvious that this much-awaited judgement of the Apex Court of the country would bring an end to the doubts revolving around the self-acquired property rights of women, leading to a drastic improvement in the socio-economic conditions of Hindu females and daughters.

⁹ *Vineeta Sharma v Rakesh Sharma* (2020) Civil Appeal No. 32601/2018