

Mitakshara Law [Hindu Law by Mulla (22nd Edition)] , §34 – Devolution of property – In determining the mode in which the property of a Hindu male, governed by Mitakshara Law, devolves on his death, the propositions noted.

(1) *Where the deceased was, at the time of the death, a member of joint and undivided family, technically called coparcenary, his undivided interest in the coparcenary property devolves on his coparceners by survivorship.*

(2) (i) *Even if the deceased was joint at the time of his death, he might have left self-acquired or separate property. Such property goes to his heirs by succession according to the order given in § 43, and not to his coparceners;*

(ii) *If the deceased was at the time of his death, the sole surviving member of a coparcenary property, the whole of his property, including the coparcenary property, will pass to his heirs by succession according to the order given in § 43;*

(iii) *If the deceased was separate at the time of his death from his coparceners, the whole of his property, however acquired, will pass to his heirs by succession according to the order given in § 43;*

(3) *If the deceased was re-united at the time of his death, his property will pass to his heirs by succession according to the Rule laid down in §60.*

According to 'Mulla' under Mitakshara Law, the right to inherit arises from propinquity, i.e., proximity of relationship. Mitakshara divided blood relations into three classes, namely –

(a) Gotra-sapindas, i.e., Sapindas belonging to the same gotra or family as the deceased from 1st-7th degree;

(b) Samanodaka, i.e., persons belonging to the same gotra or family as the deceased from 8th -14th degree; and

(c) Bhinna gotra sapindas, i.e., Sapindas belonging to a different gotra or family from the deceased.

'Gotra Sapindas' and 'Samanodaka' are persons connected to the deceased by an unbroken line of male descendants i.e., all agantes; and Bhinna gotra sapindas are persons connected to the deceased through a female i.e, cognates such as a sister's son. 'Bhinna gotra sapindas' are also known as 'Bandhus' in Mitakshara. These classifications while now archaic and delineated as class-I, class-II, class-III and class-IV heirs under the Hindu Succession Act, 1956, are of importance with respect to the property in question considering its succession opened before the commencement of the Hindu Succession Act, 1956.

The Gotra Sapindas of a person, according to Mitakshara are :-

(i) His six male descendants in the male line; i.e., his son, son's son's son, etc.

(ii) His six male ascendants in the male line, the wives of the first three of them, and probably also of the next three; ie, his father, father's father, father's father's father, etc, being F1 to F6 in the table and their wives, that is M1 to M6, being the mother, father's mother, father's father's mother, etc.

(iii) The six male descendants in the collateral male line of each of his male ascendants; i.e., to X6 in the line of F1, being his brother, brother's son, brother's son's son, etc; to X6 in the line of F2, being his paternal uncle, paternal uncle's son, etc; to X6 in the line of F3, being his paternal grand-uncle, paternal granduncle's son, etc.; to X6 in the line of F4; to X6 in the line of F5', and to x6 in the line of F6.

(iv) His wife, daughter, and daughter's son.

The Sapinda relationship extends to seven degrees reckoned from and inclusive of the deceased and six degrees, if you exclude the deceased. The wife becomes a sapinda of the husband on marriage. The daughter's son is not a gotraja sapinda, he is a bandhu because he is related to the deceased through a female. However, for the purpose of succession, he is ranked with gotraja sapindas.

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Arunachala Gounder v. Ponnuswamy, (2022-1)205 PLR 407 (SC), 2022 SCeJ 0152