

Mitakshara Law – Right of the sole daughter to inherit the self-acquired property of her father, in the absence of any other legal heir having inheritable rights before the commencement of the Hindu Succession Act, 1956 – Whether such suit property will devolve on to the daughter upon the death of her father intestate by inheritance or shall devolve on to father's brother's son by survivorship ? – Failing male issue, therefore, a widow takes the self- acquired property of her husband. No doubt, on failure of male issue and a widow, the daughter would take – Hindoo Law of inheritance comprehends the deceased's family and his near relations, viz, his issue, male and female; his widow, who takes immediately in default of sons- a term which includes grandsons and great-grandsons – But even in undivided families, a widow takes the self-acquired property of her husband – Failing male issue, therefore, a widow takes the self-acquired property of her husband – No doubt, on the failure of male issue and a widow, the daughter would take – In the present case there were no male issues (son) and the widow had pre deceased the father – The daughter shall succeed through inheritance.

Held, From the above discussions, it is clear that ancient text as also the Smritis, the Commentaries written by various renowned learned persons and even judicial pronouncements have recognized the rights of several female heirs, the wives and the daughter's being the foremost of them. The rights of women in the family to maintenance were in every case very substantial rights and on whole, it would seem that some of the commentators erred in drawing adverse inferences from the vague references to women's succession in the earlier Smritis. The views of the Mitakshara on the matter are unmistakable. Vijneshwara also nowhere endorses the view that women are incompetent to inherit.

(2022-1)205 PLR 407 (SC), 2022 SCeJ 0152

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