



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA

Semester: VI

B.A./B.B.A. LL.B. (Hons.)

Paper Code: LB-601

Family Law - II

Credit - 04

Introduction:

Family Law II deals with laws relating to Hindu Joint family, devolution of ancestral or coparcenary property, succession to separate property of a Hindu. Besides that, Muslim law relating to gifts, wills and inheritance is also dealt under this course. In the light of recent legal developments, it becomes imperative for law students to understand the general Law on succession. Hence, the Indian Succession Act, 1925 is also made part of its curriculum.

Course Objectives:

1. To analyze both codified and un-codified portions of Hindu Law and Mohammedan Law relating to inheritance, intestate and testamentary succession, gifts, wills etc. in India.
2. To appraise the nature of property transaction that exist in Hindu family relations and the importance of ancestral property and Karta in Hindu family.
3. Develop critical understanding of the property relations in a family, legal incidence of joint family.
4. To introduce the students with the concept of testamentary succession and intestate succession according to the Personal Law of different communities with practical approach.

Learning Outcomes:

On the successful completion of course, students will be able to:

1. Promote independent thinking on a Uniform Civil Code and equality among genders in property relations within the family;
2. Gain requisite knowledge and lawyering skills to handle family law matters of different communities;
3. Understand the property relations in a family, legal incidence of joint family;
4. Understand the concept of testamentary succession and intestate succession according to the Personal Law of different communities with practical approach.

Module - I

Hindu Joint Family, Coparcenary, and Partition

- 1.1. Concept and Requisites of Hindu Joint Family and Coparcenary; Hindu Undivided family; Hindu composite family; and Hindu Trading family; New Coparcenary under the Hindu Succession (Amendment) Act 2005 and its impact;
- 1.2. Karta of joint Hindu family; Karta / manager's legal position; Female as Karta; rights of coparcener, position of daughter, Daughter as Karta;
- 1.3. Alienation of undivided coparcenary property; daughter's right of alienation; Liability for debts; Doctrine of Pious Obligation of a son and Antecedent Debt;
- 1.4. Partition of coparcenary property; Subject of Partition; Persons entitled to ask for Partition; Persons entitled to take share on Partition; Doctrine of representation; Doctrines of per stripes and per capita; Minor's suit for Partition;
- 1.5. Mode of division; Birth and deaths during pending suit; Suit for Partition by stranger; Partial Partition Person and Property; Partition by Metes and Bounds; Re-opening of Partition; and Re-Union; Pre-emption under Hindu and Muslim Law.

Module - II

Hindu Succession (Intestate)

- 2.1. Stridhana and Women's Estate; Women's power of disposition; Women's power of alienation;
- 2.2. Limited and absolute ownership of a Hindu woman;
- 2.3. Succession of Property of a Hindu Female Dying Intestate;
- 2.4. Succession of Property of a Hindu Male Dying Intestate;
- 2.5. Intestate succession under Part V of the Indian Succession Act, 1925.

Module - III

Muslim Law (Inheritance)

- 3.1. General Principles of Inheritance under Shia and Sunni Laws; Doctrine of Increase (Aul) and Return (Radd);
- 3.2. Order of Succession; Allotment of Shares; Rules of Exclusion. Step-children; illegitimate children; Missing persons and Escheat;
- 3.3. Gift (Hiba); Property that may be gifted; Gift to a minor or Lunatic or to unborn persons Death-bed Gifts;
- 3.4. Wakf; Persons capable of making a Wakf; Subjects of Wakf, Wakf of Mushaa; Public and/or Private; Mutawalli; appointment, position, and power; Removal of Mutawalli;
- 3.5. Public Mosques; whether Mosque a juristic person; Sajjadanashin; Khankhah; Kazi; Takla; Imambara; Statutory control of Wakfs in India.

Module - IV

Testamentary Succession

- 4.1. Testamentary Succession under the Hindu Succession Act, 1956 and the Indian Succession Act, 1925;
- 4.2. Will; Codicils and Bequest;
- 4.3. Legacies; Election;
- 4.4. Testamentary Succession (Will-Vasiyat); Extent of testamentary power; Subject of Will;
- 4.5. Persons capable of making Will; Bequests to unborn persons; Revocation; Extent of the testamentary power; Will and Marz-ul-Maut.

Prescribed Legislations

1. The Hindu Gains of Learning Act, 1930.
2. The Hindu Inheritance (Removal of Disabilities) Act, 1928.
3. The Hindu Succession act, 1956.
4. The Hindu Women Rights to Property Act, 1937.
5. The Mussalman Wakf Act, 1923.
6. The Succession Act, 1925.

Prescribed Books

1. Asaf A. A. Fyzee, OUTLINES OF MUHAMMADAN LAW, (2008).
2. Poonam Pardhan Saxena, FAMILY LAW II, (LexisNexis, 2016)
3. V. N. Tripathi, THE INDIAN SUCCESSION ACT, 1925, (Premier Publishing Co. 2016).

Suggested Readings

1. Aqil Ahmad, MOHAMMEDAN LAW, (2016).
2. D. F. Mulla, PRINCIPLES OF MOHAMMEDAN LAW, (Lexis Nexis, 2014).
3. Justice Ranganath Misra, MAYNE'S, TREATISE ON HINDU LAW & USAGE, (2017).
4. Satyajeet A. Desai and D.F. Mulla, HINDU LAW, (2018).
5. Syed Khurshid's, MUSLIM LAW, (2016).
6. Tahir Mahmood and Saif Mahmood, INTRODUCTION TO MUSLIM LAW, (Lexis Nexis 2018).
7. Tahir Mehmood, INTRODUCTION TO HINDU LAW PERSONAL LAW OF HINDUS, BUDDHISTS, JAINS & SIKHS, (2014).
8. Vijender Kumar and J. D. Mayne, HINDU LAW & USAGE, (2014)

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