IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S)(CIVIL) NO(S).732/2020

SNIDHA MEHRA ...PETITIONER(S)

VERSUS

UNION OF INDIA & ORS. ...RESPONDENT(S)

O R D E R

We have heard Sri Goburdhun, learned senior counsel appearing for the petitioner and learned counsel for the respondent(s)-Union of India at length.

2. This Writ Petition filed under Article 32 of the Constitution of India is at the instance of a young lawyer who is stated to have been practicing for about five years, at the time when the Writ Petition was filed. The Writ Petition is stated to be filed in Public Interest.

3. The petitioner herein has sought the following reliefs:

a) Issue, an appropriate Writ of Mandamus, Order, or Directions, or any other appropriate Writ in the nature of Mandamus or any other appropriate Writ, Order or Directions declaring Section 15[1][b] of the Hindu Succession Act 1956 as unconstitutional, Ultravires the Constitution, as violative of Articles 14, 15, 21 of the Constitution and declaring the said Section is obliterated from the statute books, and is struck off

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Date: 2020.12.08 18:30:32 IST
Reason:

from the Hindu Succession Act,1956 from the very inception of enacting the said Act;

b) to direct the Respondents to discharge their constitutional duties and obligation, by framing appropriate laws for Females Intestate/ under Hindu Succession Act by keeping in mind the principles laid down in Article 51 of the Constitution and adhere to formulate the Law by following the Convention of United Nations-Treaty of CEDAW convention on the Elimination of all Forms of Discrimination against Women;

c) or to pass such other order/directions as this Hon'ble Court may deem fit or proper in the interest of justice;

4. Essentially, the petitioner has assailed Section 15(1)(b) of the Hindu Succession Act, 1956 (hereinafter referred to as "the Act") on the premise that it is violative of Articles 14, 15 and 21 of the Constitution of India and hence, has sought for striking down of the said provision.

5. In sum and substance, the grievance of the petitioner is that if a female Hindu dies intestate and in the absence of such a female Hindu having a son, daughter, or husband, her properties cannot devolve only upon the heirs of the husband as per clause (b) of Section 15(1) of the Act. The contention of the learned senior counsel is that her properties must devolve upon her mother and father as delineated in Clause (c) of Section 15(1) of the Act. Learned senior counsel submitted that insofar as sub-section (2) of Section 15 is concerned, the

said Section is crafted on the basis of the source of the properties that the deceased female has inherited from and there could be no quarrel with the same. However, the Act, which was enforced on 17th June, 1956 did not take into consideration the fact that a female Hindu dying intestate would have properties other than what is stated in sub-section (2) of Section 15 of the Act inasmuch as such a female Hindu would also have self-acquired properties. The Section does not take note of this aspect and hence in the event a female Hindu dies intestate, in the absence of a son, daughter or husband, her properties would devolve only on the heirs of her husband. Such a nature of devolution to the exclusion of her matrimonial family is arbitrary and in violation of Article 14 of the Constitution of India.

6. Learned senior counsel gave examples of a female Hindu dying intestate and in the absence of having a son, daughter or husband could have enabled her parents to inherit her property but for the provision of Section 15(1)(b) of the Act. That, in the hierarchy of succession, the parents are in Clause (c) to sub-section (1) of Section 15 of the Act whereas the heirs of the husband are in clause (b) thereof,

who would supersede the parents of the female Hindu dying intestate having self-acquired property also in the matter of succession. He, therefore, submitted that either Clause (b) be struck down or precedence be given to Clause (c) rather than Clause (b) of sub-section (1) of Section 15.

7. Learned Additional Solicitor General, Sri K.M. Nataraj, appearing for the respondent(s) – Union of India submitted that these are questions which have to be raised by affected parties. At the instance of the petitioner who is a practicing advocate, the provision cannot be assailed inasmuch as the said provision has been crafted on a scientific basis depending upon the source from where the female Hindu dying intestate in the absence of a son, daughter and husband, would enable the heirs as stated in Clauses (a) and (b) of sub-Section (2) of Section 15 to inherit. He further submitted that this enactment is of the year 1956. Possibly, at that point of time, the Parliament had not contemplated the fact that in India a female Hindu could have self-acquired property. He also submitted that it is only with effect from 17.06.1956 that Section 14 of the Act has been given effect to wherein the concept of absolute property of a female Hindu

has been recognized.

However, learned ASG submitted that there is a solution to the contentions raised by the petitioner herein inasmuch as a female Hindu dying intestate having separate property or self-acquired property can always resort to Section 30 of the Hindu Succession Act read with the provisions of the Indian Succession Act, 1925. Such a female Hindu can always execute a Will or a testament and have the liberty to bequeath her properties to whomsoever she wishes to, even beyond the heirs who are mentioned in Section 15 of the Act. He therefore submitted that at the instance of the petitioner herein who has filed this Public Interest Litigation, the merits of the case or the validity of Section 15 of the Act may not be considered.

8. Apart from the above submissions, learned ASG also contended that the petitioner has lost sight of the fact that Section 15 pertains to general rule of succession in the case of female Hindus which implies that it would operate after the death of a female Hindu dying intestate i.e., in the absence of her making a testament or Will and, therefore, Article 14 which incorporates the Doctrine of Equality and Non-

Discrimination would not apply in the instant case. He, therefore, submitted that at the instance of the petitioner, who is a practicing advocate and who has no private interest in assailing the Section, may not be entertained at all as it would only be an academic exercise and therefore, the Writ Petition may be dismissed.

9. We have considered the arguments advanced at the Bar. We have given our anxious consideration to the arguments advanced by learned senior counsel for the petitioner.

10. The grievance of the petitioner appears to be that if a female Hindu dies intestate in the absence of a son, daughter or husband, only her husband's heirs cannot succeed to her properties to the exclusion of her parents and siblings or others entitled to succeed. The grievance is elaborated by various instances wherein it was stated that the parents who have educated their daughter and given her in marriage and due to unfortunate circumstances, if such a daughter (female Hindu) has lost her husband and her children or in the alternative, has lost her husband and has been childless at the time of her demise, then only the heirs of the husband

cannot inherit her estate if she dies intestate. In other words, the contention was that there ought to have been a parity between the heirs of the husband and at least the parents and siblings of the Hindu female dying intestate who could have divided the estate on par.

11. Section 15 of the Act deals with general rules of succession in the case of female Hindus while Section 16 deals with order of succession and manner of distribution among heirs of a female Hindu. For ease of reference, Sections 15, 16 and 30 of the Act are extracted as under:

> "**15. General rules of succession in the case of female Hindus.—**(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16, —
>
> (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
> (b) secondly, upon the heirs of the husband;
> (c) thirdly, upon the mother and father;
> (d) fourthly, upon the heirs of the father; and
> (e) lastly, upon the heirs of the mother.
>
> (2) Notwithstanding anything contained in sub-section (1),—
>
> (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred in sub-section (1) in the order specified therein, but upon the heirs of the

father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

16. Order of succession and manner of distribution among heirs of a female Hindu.—The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestate's property among those heirs shall take place according to the following rules, namely:—

Rule 1.— Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry, and those included in the same entry shall take simultaneously.

Rule 2.— If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3.— The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub-section (2) of section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death."

Sub-section (1) of Section 15 states that the property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16. *Firstly,* upon the sons and daughters (including children of any pre-deceased son or daughter) and the husband; *secondly,* upon the heirs of the husband; *thirdly,* upon the mother and father; *fourthly,* upon the heirs of the father and *lastly,* upon the heirs of the mother. Sub-section (2) has an overriding effect inasmuch as it begins with a non-obstante clause and it applies only in the absence of any son or daughter of the deceased female Hindu dying intestate. Sub-section (2) of Section 15 applies in a case where such female Hindu dies childless. Thus, if a female Hindu dies intestate having a son, daughter and husband, they would succeed to her estate to the exclusion of the other heirs mentioned in the said sub-section. However, if such a female Hindu dies intestate and in the absence of her son or daughter, not upon the other heirs specified in sub-section (1) but upon the heirs of the father if such a female Hindu has inherited property from her parents and upon the heirs of the husband if she has inherited property from her husband or her father-in-law. According to Section 16 Rule 3, insofar as

the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub-section (2) of Section 15 which shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death.

Therefore, under clause (a) of sub-section (2) of Section 15, in the absence of any children of the deceased female Hindu dying intestate even in the absence of her husband, any property inherited from her parents would devolve upon the heir of her father. Similarly, in the absence of any children of the deceased female Hindu dying intestate, any property inherited from her husband or father-in-law shall be succeeded by the heirs of her husband.

12. Having given our anxious consideration to the contentions raised by learned senior counsel at the bar, at the instance of the petitioner herein, we do not wish to entertain the petition to consider the validity of Section 15(1)(b) of the Act, as this writ petition is filed purely as a public interest

litigation. In the circumstances, we do not propose to consider the merits of its validity of the said provision and we leave that question open while we dispose of the Writ Petition.

13. However, we also find that there may be instances where a heir of the husband may seek to succeed to the estate of a married Hindu women, who has died intestate, whereas her parents also could have succeeded at par, if not to the exclusion of the heirs of the husband of such a woman as delineated under Section 15(1)(b) of the Act. The Parliament in its wisdom has thought that in the first instance heirs of the husband should succeed and thereafter the devolution of her estate must be upon her mother and the father. Since we are not entertaining this petition to consider on merits the validity or otherwise of Section 15(1)(b) of the Act, we do not wish to make any observation on the question of its validity.

14. However, liberty is reserved to a party to raise such an issue in an appropriate case. But prior to raising such an issue, if a claim is made by the parents or the heirs of the father or mother as stated in Section 15(1)(c),(d) and (e) to the estate of the female Hindu dying intestate and Section 15(2)

does not apply, then in such a case we direct the parties to go in for mediation in the first instance.

15. We direct that there should be a pre-litigation mediation prior to filing of any suit or proceeding in a court of law in the above fact situation. If such a party approaches a Mediation Centre for the purpose of resolution of such a dispute, then the Director/Registrar of the concerned Mediation Centre or the Member Secretary of the concerned Legal Services Authorities whether of the State, District or Taluk Level, shall entertain such a representation or an application and enable the parties to mediate the dispute prior to filing of any suit or other proceeding in a court of law and if there is a settlement, the settlement agreement must be treated as a decree of the court and consequently, resolve the dispute.

16. More importantly, we find that possibly in the year 1956, the Parliament in its wisdom thought that there may not be many women in this country, who would be having self acquired properties but the progress of the women during the decades thereafter cannot be underestimated. Women of this country have progressed having the strength and backing of

Articles 14, 15, 16(1), 21 and several other Articles of the Constitution both in the Chapters of Fundamental Rights as well as the Directive Principles of State Policy. This would apply even to Hindu women with whom we are concerned in the instant case.

17. Education, employment and entrepreneurship of women in this country including Hindu women has led to their acquiring self-acquired properties. If such self-acquired properties are to be succeeded to only by the heirs of the husband, if a female Hindu dies intestate and in the absence of having a son, daughter or husband, possibly it may lead to heart-burn insofar as her maternal and paternal family are concerned.

18. We do not wish to make any further observation in this regard also. However, through this order we appeal to all women and particularly Hindu women who are likely to be in the position of Section 15(1)(b), at the time of their death, to take immediate steps to make a testament or Will, preferably a registered Will, well in advance, bequeathing their properties, including their self-acquired properties in accordance with Section 30 of the Hindu Succession Act read

with the provisions of the Indian Succession Act, 1925. We say so in order to safeguard the interests of not only Hindu women in this country, but all women in general so as to avoid any further litigation in this regard.

19. We appreciate the petitioner and learned senior counsel for trying to persuade us with regard to Section and constitutional validity of Section 15(1)(b) of the Act. However, we have already observed that we do not wish to venture into this issue at the instance of the petitioner herein and we reserve liberty to the concerned parties to assail the said provision in the absence of there being any resolution of their dispute through mediation, permanent lok adalat etc. prior to any suit or proceeding being filed in a court of law.

20. The Writ Petition is disposed of in the aforesaid terms.

....., J
(B.V. NAGARATHNA)

....., J
(R. MAHADEVAN)

NEW DELHI;
NOVEMBER 19, 2025

ITEM NO.21 COURT NO.5 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION(S)(CIVIL) NO(S).732/2020

SNIDHA MEHRA PETITIONER(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT(S)

IA NO. 111528/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA NO. 67124/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA NO. 2087/2021 - CLARIFICATION/DIRECTION
IA NO. 67125/2020 - EXEMPTION FROM FILING AFFIDAVIT

WITH

T.P.(C) NO. 457/2022 (IV-B)
FOR EXEMPTION FROM FILING O.T. ON IA 29470/2022
IA NO. 29470/2022 - EXEMPTION FROM FILING O.T.

Date : 19-11-2025 These matters were called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) : Mr. Sumeer Sodhi, AOR
Ms. Sandali Sharma, Adv.

Mr. D.N. Goburdhun, Sr. Adv.
Mr. Aakarsh Kamra, AOR
Ms. Gouri Goburdhun, Adv.

For Respondent(s) : Mr. Tushar Mehta Ld SG, Solicitor General
Mr. Tushar Mehta, Solicitor General
Mr. K.M.Nataraj, A.S.G.
Mrs. Archana Pathak Dave, A.S.G.
Mr. Sansriti Pathak, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Pranay Ranjan, Adv.
Mr. Vanshaja Shukla, Adv.
Mr. Mayank Pandey, Adv.
Mr. Rajat Nair, Adv.
Mr. Indira Bhakar, Adv.
Mr. Aman Mehta, Adv.
Mr. V. Chitrambresh, Adv.

Dr. N. Visakamurthy, AOR
Mr. Mrinal Elkar Mazumdar, Adv.
Mr. Hitarth Raja, Adv.
Mr. Aman Mehta, Adv.

Mr. Sudhir Naagar, AOR
Mr. Manohar Naagar, Adv.
Mr. Ravinder Singh, Adv.
Mr. Mohit Singh, Adv.
Ms. Savita Naagar, Adv.
Ms. Rajshree Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

WRIT PETITION(S)(CIVIL) NO(S).732/2020

Writ petition is disposed of in terms of the signed order, which is placed on file.

Pending application(s), if any, shall stand disposed of.

T.P.(C) NO. 457/2022:

Although this is a transfer petition, in order to explore the possibility of a settlement in the matter, we refer the matter to the Supreme Court Mediation Centre on 11.12.2025 at 11:30 AM.

The parties are at liberty to appear before the Mediation Centre either in-person or through video conferencing facility.

The Director of the Mediation Centre is requested to assign this case to a senior and experienced Mediator knowledgeable in Hindu Law.

Report of the learned Mediator be placed on record.

List immediately thereafter.

(B. LAKSHMI MANIKYA VALLI)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)