

Gist of EPW August Week 4, 2020

Women's Right to Property Ownership

Context:

In the *Vineeta Sharma vs Rakesh Sharma* (2020) case, the Supreme Court has acknowledged the rights of Hindu women over their fathers' property. With this, it has put an end to the controversies which were created earlier due to contradictory judgments made by two different benches of the Supreme Court.

For [landmark Supreme Court judgements](#), click on the linked article.

Background:

- Hindu Succession (Amendment) Act, 2005 was enacted by the Indian parliament to give Hindu women, the right over their fathers' property.
- It was the culmination of the efforts by Dr. Ambedkar, who intended to end the discrimination of daughters in property-related matters of Hindu joint family.
- Previously, many state governments took steps to reform Hindu laws to make them gender just in their own capacity.
 - States such as Kerala, Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra have passed their own amendments to Hindu law, making daughters equal to sons, in matters related to the inheritance of property.

Benefits of providing ownership to women in their fathers' property:

- Studies have concluded that property ownership protects women from marital violence.
- As compared to employment and education, property ownership by women is more effective in reducing domestic and marital violence.
- After amendments to the Hindu Succession Act in 2005, there has been considerable improvement in the status of education of girls and the employability of women.
- It provides them with higher social status apart from security and economic freedom.

Effectiveness of Hindu Succession (Amendment) Act, 2005:

- Although the 2005 amendment was a move in the right direction, its actual implementation remains ineffective.
- The Centre for Land Governance, drawing upon the data of the 2011 census and 2015–16 National Family Health Survey, has concluded that there is a large disparity in land ownership across different states of India.
- Meghalaya with 26% landholding by women tops the chart, while Punjab is at the bottom where landholding by women is only 0.8%.
- In general, Southern and North-eastern states have done better than northern and western states.
- Agrarian states such as Bihar and Rajasthan have also fared poorly in providing landholding rights to women.
- Further analysis shows that states, where daughters have coparcenary rights over their fathers' property, have a better rate of property ownership by women.

Hurdles in implementation of the Act:

- Inconsistency in the recording of landholdings across various states is a major issue. Many states rely on paper documentation of land records. These are not always maintained or updated.
 - This leads to irregularities in recordings of women's rights to property, depriving them of asserting their claims over their fathers' property.
 - To avoid this, an initiative has been taken by Karnataka to digitise land records.
- Women farmers are the ones who suffer the most. Although they work in their own fields, they fall prey to land grabbing by relatives and others because they are not able to show proper land records whenever required.
 - To address this issue, a private member bill was introduced in parliament by [M.S Swaminathan](#) to recognise the rights of women farmers over their properties. However, the bill didn't arouse much interest across the political spectrum.
- Agriculture is a state subject, hence the bill was debatable. The State governments need to take lead in this aspect, as ultimately, the responsibility lies with them.
 - Even in urban areas, women have to fight legal battles to assert their rights over their fathers' property. In the absence of a clear title, women are forced to undertake long and expensive litigation to claim what is rightfully theirs.
 - Moreover, in doing so, they also have to resist pressure from their family members to give up their rights in favour of their brothers "in the interests of the family."

Conclusion:

- The judgment of the Supreme Court in the Vineeta Sharma case will surely benefit every Hindu woman in asserting her rights over her father's property.
- It will bring clarity in the interpretation of the law and will also encourage women to claim their rights.
- However, given the broken state of India's judicial system, the judgment is unlikely to transform the status of women radically.
- The government and the judiciary will have to do more to protect women's right to property.
- The law intends to ensure women's rights in the Hindu joint family. However, unless there is a wider social change, the implementation of this law will be very difficult.

