

THE HINDU SUCCESSION (ANDHRA PRADESH
AMENDMENT) ACT, 1986.*

ACT No. 13 OF 1986.

[22nd May, 1986.]

An Act to amend the Hindu Succession Act, 1956 in its application to the State of Andhra Pradesh.

Whereas the Constitution of India has proclaimed equality before law as a Fundamental Right ;

And whereas the exclusion of the daughter from participation in coparcenary ownership merely by reason of her sex is contrary thereto ;

And whereas such exclusion of the daughter has led to the creation of the socially pernicious dowry system with its attendant social ills ;

And whereas this baneful system of dowry has to be eradicated by positive measures which will simultaneously ameliorate the condition of women in the Hindu society ;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty sixth Year of the Republic of India as follows :

1. (1) This Act may be called the Hindu Succession (Andhra Pradesh Amendment) Act, 1986.

Short title,
extent and
commence-
ment.]

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force on the 5th September, 1985.

2. In the Hindu Succession Act, 1956 (hereinafter referred to as this Act) after Chapter-II, the following Chapter shall be inserted, namely :

Insertion of
new Chapter
11-A in
Central Act
30 of 1956.

*Received the assent of the President on the 16th May, 1986. For Statement of Objects and Reasons, Please see the *Andhra Pradesh Gazette*, Part IV-A, Extraordinary, dated the 5th September, 1985, at page 6.

"CHAPTER-II-A

Succession by survivorship

29-A. Notwithstanding anything contained in section 6 of this Act—

Equal rights
to daughter
in coparcen-
ary property.

(i) in a Joint Hindu Family governed by Mitakshara Law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son and have the same rights in the coparcenary property as she would have had if she had been a son, inclusive of the right to claim by survivorship; and shall be subject to the same liabilities and disabilities in respect thereto as the son ;

(ii) at a partition in such a Joint Hindu Family the coparcenary property shall be so divided as to allot to a daughter the same share as is allottable to a son :

Provided that the share which a pre-deceased son or a pre-deceased daughter would have got at the partition if he or she had been alive at the time of the partition shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter;

Provided further that the share allottable to the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, if such child had been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or of the pre-deceased daughter as the case may be ;

(ii) any property to which a female Hindu becomes entitled by virtue of the provisions of clause(i) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by will or other testamentary disposition ;

(iv) Nothing in clause (ii) shall apply to a daughter married prior to or to a partition which had been effected before the commencement of the Hindu Succession (Andhra Pradesh Amendment) Act, 1986 :

29-B. When a female Hindu dies after the commencement of the Hindu Succession (Andhra Pradesh Amendment) Act, 1986 having at the time of her death an interest in a Mitakshara coparcenary property, her interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act :

“Interest to devolve by survivorship on death.”

Provided that if the deceased had left any child or child of a pre-deceased child, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or interest at succession as the case may be, under this Act and not by survivorship.

Explanation-1.—For the purposes of this section, the interest of a female Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to her if a partition of the property had taken place immediately before her death irrespective of whether she was entitled to claim partition or not.

Explanation-2.—Nothing contained in the proviso to this section shall be construed as enabling a person who, before the death of the deceased, had separated himself or herself from the coparcenary or any of his or her heirs to claim on intestacy a share in the interest referred to therein.

29-C. (1) Where, after the commencement of the Hindu Succession (Andhra Pradesh Amendment) Act, 1986 an interest in any immovable property of an intestate or in any business carried on by him or her, whether solely or in conjunction with others, devolves under section 29-A or section 29-B upon two or more heirs, and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

Preferential right to acquire property in certain cases.

(2) The consideration for which any interest in the property of the deceased may be transferred under this section shall, in the absence of any agreement between the parties be determined by the court on application being made to it in this behalf, and if

any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of or incidental to the application.

(3) If there are two or more heirs proposing to acquire any interest under this section, that their who, offers the highest consideration for the transfer shall be preferred.

Explanation :—In this section 'court' means the court within the limits of whose jurisdiction the immovable property is situate or the business is carried on, and includes any other court which the State Government may, by notification in the *Andhra Pradesh Gazette*, specify in this behalf."