

**CASE COMMENT - REVANASIDDAPPA AND ANR. V. MALLIKARJUN AND
ORS. (CIVIL APPEAL NO. 2844 OF 2011)**

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ABSTRACT

One other widespread misconception that has existed in our society for a while now is the stigma associated with children who are born out of invalid marriages. Be it criminal justice system, or even when all the powers have been granted to the judiciary by such law, it is very important that the relevant authorities will be accountable. Children then confront the situation where individuals are singled out and treated badly due to their appearance, habits, etc. discrimination. The families themselves treat them as their own sons and annoy and meddle in their love life as much as any other well-meaning but ignorant family member would. These issues are not limited to the social sphere but rampant in the peacekeepers too. As a form of discrimination that prevents them off such requests as claiming their parental property. As a consequence of highly changing society, we have to accept the fact that the children who are the inheritors of such marriages are just a normal feature. There are around three hundred thousand immigrants in Canada many of them come to free trip however, by no means they should be made the victim of inequality and they should not be the subject of discrimination. This power they wield often seems as though it was stolen for by the simple reason that they now have the right for their parents to have. This research discussed the landmark judgment of “Revanasiddappa and Anr. v. Mallikarjun and Ors.” a great case that made the situation changed and hence the Indian legal system has turned into a better one.¹ This paper adopts doctrinal approach of research whereby the reliance shall be placed on both primary and secondary resources. This paper illustrates the judicial backdrop of which this case stands out by portraying legal standards from the past and calling for the legal evolution that highlights this case.

Keywords: *Societal Progression, Illegitimate Children, Mitakshara School, Ancestral Property*

1. INTRODUCTION

In a groundbreaking ruling, the Supreme Court of India has recently issued a landmark decision that addresses the nuanced issue of inheritance rights of children born from void or voidable marriages, particularly in the context of the Hindu Joint Family property governed by the Mitakshara system of law. This judgment is monumental not only for its direct impact on inheritance rights but also for its broader implications on the interpretation of family and marital laws in India.

Void and voidable marriages, as defined under the Hindu Marriage Act, 1955 (HMA), present complex legal challenges, especially concerning the status and rights of offspring from such unions. A void marriage is considered legally non-existent from the start, and a voidable marriage is one that can be annulled at the option of one of the parties. Despite the precarious legal standing of these marriages, the Apex Court’s decision emphasizes the need to protect the interests and rights of children emanating from these unions.²

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¹ 2023INSC783.

² *Right of a Child of an Invalid Marriage in Hindu Joint Family Property: A Glimpse into the Recent Supreme Court Judgment* Prime Legal (Sep. 2, 2023, 11:41 AM),

The Court's judgment asserts that children born out of either void or voidable marriages are entitled to inherit the property of their deceased parents. This is a significant evolution in the legal framework, as it prioritizes the rights and welfare of children regardless of the legal status of their parents' marriage. This decision underlines a progressive shift towards recognizing the innocence and rights of children who should not bear the consequences of the legal irregularities pertaining to their parents' marital union.

This landmark ruling by the Supreme Court meticulously navigates through the intricacies of the Hindu Marriage Act, 1955, and the Hindu Succession Act, 1956. Historically, interpretations of these acts have not explicitly addressed the inheritance rights of children from void or voidable marriages in the context of the Mitakshara system of Hindu Joint Family property. The Mitakshara system, a traditional Hindu law system prevalent in most of India, governs succession and inheritance within Hindu Joint Families. This system traditionally emphasized bloodline and legitimacy as the basis for inheritance rights, which often left children from void or voidable marriages in a precarious position regarding their entitlement to their parents' property.³

By holding that children born from void or voidable marriages are entitled to inherit their deceased parents' property, the Supreme Court has made a monumental stride towards ensuring that the rights of these children are protected. This judgment not only provides clarity on an issue that has long been contentious but also marks a symbolic departure from previous judgments that have interpreted the HMA and the Hindu Succession Act, 1956. It embodies a modern and equitable approach to family law, ensuring that the welfare of children is paramount and not overshadowed by the nature of their parents' marriage.

The Court's decision is reflective of a broader understanding that legal frameworks must evolve to reflect contemporary societal values, emphasizing the protection of children's rights and interests. This judgment is likely to have far-reaching implications, setting a precedent for future cases and potentially prompting legislative changes to further solidify the rights of children born from all types of marital relationships. It underscores the judiciary's role in advancing social justice and equity, particularly for the most vulnerable members of society.

As such, the case brings the court to a crossroad in legal jurisprudence, which invites the courts either to follow through with established interpretations of

<https://primelegal.in/2023/09/02/right-of-a-child-of-an-invalid-marriage-in-hindu-joint-family-property-a-glimpse-into-the-recent-supreme-court-judgment/>.

³ *Ibid.*

customary law or to be progressive and embrace a modern approach that is in sync with prevailing understandings of family and children's rights.⁴

1.1 OBJECTIVE OF STUDY

The researcher by taking the case analysis in consideration has evaluated the property rights of the illegitimate children from the coparcenary property of the parents. The motive of the present case comment is to understand the jurisprudence evolved by the Supreme Court of India through this case by overruling the previous case laws and legislative provisions.

2. RESEARCH METHODOLOGY

This paper adopts doctrinal approach of research whereby the reliance shall be placed on both primary and secondary resources. The reference has been made to the detailed judgment passed by the Supreme Court of India. The previous case laws and legislations like Hindu Marriage Act, 1955 and Hindu Succession Act, 1956 have been referred to.

3. FACTS OF THE CASE & RELATED ISSUE

The intricate legal battle unravelled in the courtroom, stemming from a dispute deeply rooted in the nuances of family law, inheritance rights, and the definition of marital legitimacy. At the heart of this legal contestation was the plaintiff, identified as the first wife, embroiled in a quest to secure a 1/4 share of the property purportedly transferred to the second wife of her husband. The core of her claim revolved around the contention that her husband entered into a subsequent marriage with the second wife during the subsistence of their marriage, thereby rendering the second union invalid under the law and disentitling the second wife and her children from any claim over the ancestral property.

The defendants, on the other side of the courtroom, mounted a robust defence, challenging the very foundation of the plaintiff's claim. Their argument pivoted on the assertion that the property in question was not, in fact, ancestral as claimed but was self-acquired by the husband. This distinction, they argued, was critical as it fundamentally altered the legal landscape governing the inheritance rights. By framing the property as self-acquired, the defendants aimed to establish their rightful inheritance, independent of the ancestral lineage claims put forth by the plaintiff. Moreover, the defendants sought to undermine the plaintiff's standing in the case by questioning her legal status as the legitimately wedded wife, a move designed to extricate any rights she purported to have over the property in question.

⁴ A. Singh *Revanasiddappa & Anr. V. Mallikarjun & Ors.* The Amikus Qriae. (Mar. 6, 2024, 10:25 AM), <https://theamikusqriae.com/revanasiddappa-anr-v-mallikarjun-ors/>.

The trial court's decision to side with the plaintiff injected a new layer of complexity into the legal discourse surrounding the case. This ruling implicitly recognized the legitimacy of the plaintiff's marital status and, by extension, her entitlement to a share in the disputed property. The verdict, however, did not sit well with the defendants, propelling them to seek redress in a higher court, thereby escalating the legal battle to the appellate tier.

Central to the appellate discourse was a fundamental legal query: Do children born out of what is legally considered an 'illegitimate' union have the right to inherit ancestral property? This question pierced through the heart of traditional inheritance laws, challenging long-standing interpretations and societal norms governing the rights of children based on the legitimacy of their birth. The case, thus, transcended the immediate parties involved, touching upon broader legal principles and ethical considerations regarding the rights of children and the definition of a legitimate marital relationship.⁵

The appellate court's deliberation on this matter necessitated a deep dive into the intricate web of legal precedents, statutory interpretations, and the evolving societal norms governing marriage and inheritance. It required a balanced consideration of the rights of all parties involved, including the marginalized position of the so-called 'illegitimate' children in the eyes of the law, against the backdrop of fairness, justice, and the overarching principles guiding inheritance rights. The resolution of this legal conundrum held the potential not only to redefine the contours of familial rights and obligations but also to set a precedent for future cases grappling with similar issues of marital legitimacy, inheritance rights, and the legal recognition of non-traditional family structures.

3.1 POSITION BEFORE THIS JUDGEMENT

The intricate legal challenge at the heart of this discussion emanates from divergent interpretations and applications of Section 16 of HMA, a pivotal piece of legislation that governs matrimonial disputes and issues related to marriage within the Hindu community in India. Section 16, divided into subsections, plays a critical role in determining the legitimacy and corresponding rights of children born from marriages that are either void ab initio (void from the outset) or can be annulled (voidable).

Subsections 1 and 2 of Section 16 explicitly confer legitimacy on children born from both void and voidable marriages. This legislative intent underscores a protective stance towards the welfare and rights of children arising from such unions, ensuring they are not disadvantaged due to the legal status of their parents' marriage.

⁵ *Legitimacy of illegitimate child: Supreme Court's Bold Move Grants Recognition, Yet Curbs Property Rights for Children of Null Marriages* Prime Legal (Feb. 9, 2024, 03:25 PM), <https://primelegal.in/2024/02/09/legitimacy-of-illegitimate-child-supreme-courts-bold-move-grants-recognition-yet-curbs-property-rights-for-children-of-null-marriages/>.

Nonetheless, the inclusion of subsection 3 introduces a nuanced limitation, circumscribing the inheritance rights of these children by explicitly excluding them from claiming rights in the property of anyone beyond their parents. This subsection has become the focal point of legal scrutiny and debate, as it intersects with broader issues of property law and the rights of children.

The legal quandary garnered significant attention and led to divergent judicial opinions at the apex of the Indian judiciary, the Supreme Court. Notably, contrasting decisions in *Bharatha Matha & Anr. v. R Vijaya Renganathan & Ors.*⁶ and the case in-hand created a palpable rift in the legal community regarding the interpretation and application of Section 16(3) HMA. The former case concluded that children born from void or voidable marriages were entitled to inherit only the self-acquired property of their father, explicitly excluding ancestral coparcenary property, which is property inherited up to four generations of male lineage. In stark contrast, the subsequent judgment expanded the scope of inheritance rights for such children, asserting their entitlement to both self-acquired and ancestral property, thereby setting the stage for a significant re-evaluation of established legal norms.

The judiciary's conventional practices were marked by a hesitancy to stray from entrenched legal principles. This reluctance stemmed from a desire to maintain legal consistency and predictability across case law, albeit at the expense of fully recognizing the broader ramifications of social justice and the fluidity inherent within societal constructs. Such steadfast adherence to legal precedent not only facilitated a degree of stability within the legal domain but also inadvertently contributed to a scenario where the law was at risk of trailing behind the pace of social advancement.⁷

This scenario frequently led to an oversight of the imperative for legal doctrines to adapt and evolve in tandem with shifting societal norms and realities. This judgment, therefore, signifies a departure from the traditionally narrow interpretations of law, advocating for a jurisprudence that aligns more closely with contemporary values and the evolving fabric of society, thus recognizing the necessity for the law to be a living entity that responds proactively to the changing contours of social justice and equity.

3.2 WHY NEED OF CHANGE AROSE

Analysis of Social, Legal Developments

The dawn of the 21st century has been marked by profound social transformations that permeate every layer of society, reshaping the landscape of global interaction and individual identities. This era is characterized by an amplified consciousness regarding the fundamental rights of individuals, a notable escalation in educational

⁶ (2010) 11 SCC 483 (India).

⁷ *Supra* note 2.

achievements, and an increasingly vocal populace advocating for equity and justice across diverse societal divisions. These changes are reflective of a broader evolution in societal norms and values, emphasizing inclusivity, accessibility, and fairness.

On the legal front, there has been a discernible global shift towards the acknowledgment and protection of human rights, a movement that has placed considerable pressure on national legal systems worldwide. This international momentum towards human rights advocacy demands that countries scrutinize and possibly reform their legal frameworks to align with evolving global standards. This process involves a comprehensive review and adaptation of domestic laws to ensure they not only respect but also actively promote and protect the rights and dignities of all citizens. Such legal recalibrations are essential in fostering an environment where justice is not just an ideal but a lived reality for everyone, irrespective of their social, economic, or cultural backgrounds.

Discussion on the Limitations or Inadequacies

Before this landmark decision, the legal framework was perceived as progressively insufficient in tackling the intricacies associated with modern disputes. The prevailing legal doctrines, which were heavily anchored in the precedents and statutes established in previous centuries, frequently did not offer fair solutions to the disputes emanating from novel societal and economic engagements. This discrepancy brought to the forefront the severe constraints of a strict compliance with antiquated legal interpretations, which proved to be inadequately prepared to address the modern-day challenges highlighted by the case in question.

The inadequacies of the then-existing legal systems were multifaceted. First and foremost, the legal principles that had served as the backbone of the judicial process were primarily derived from conditions and realities vastly different from those of the contemporary era. The economic landscape, societal norms, and technological advancements had evolved, leading to new types of interactions and conflicts that these principles were not designed to resolve. As a result, there was an increasing recognition of the need for a legal paradigm that could adapt to and reflect the complexities of modern life.

In addition, statutes, which are supposed to codify the will of the legislative body and provide clear guidelines for legal conduct, were also found lacking. Many of these statutes had not been updated to account for new developments in technology, business practices, or social behaviour, leading to gaps in the law where new types of disputes fell outside the scope of existing regulations. This gap necessitated a reinterpretation of old laws in light of current realities, a process that was not always straightforward and often resulted in legal uncertainty.

The case underscored these critical limitations by presenting issues that could not be satisfactorily resolved within the constraints of the prevailing legal doctrines. It

served as a catalyst for re-evaluating and adapting the legal framework to better align with the demands of modern society.

This case illustrated the imperative for a more flexible and dynamic legal system, capable of addressing the nuanced and evolving nature of contemporary disputes. It called for a departure from a rigid and antiquated legal approach towards a more adaptable and forward-looking judicial process, which recognizes the changing socio-economic landscape and incorporates a more equitable and comprehensive method of dispute resolution.

3.3 RULING IN THE JUDGMENT

In an insightful and detailed judgment, the court delved into the complexities of inheritance rights, particularly focusing on the status and rights of children born out of wedlock or from marriages that are not recognized by law as valid. The court's interpretation hinged on the nuanced legal provisions contained within Section 16 of the Hindu Marriage Act 1955 (HMA), coupled with relevant sections of the Hindu Succession Act 1956 (HSA), setting a precedent with far-reaching implications.

At the core of the court's decision was the principle that children, regardless of the legal status of their parents' relationship, should not bear the brunt of societal or legal sanctions. This principle was eloquently encapsulated in the court's observation that "the honorable court said that 'In view of the legal fiction contained in Section 16, the illegitimate children, for all practical purposes, including succession to the properties of their parents, have to be treated as legitimate. They cannot, however, succeed to the properties of any other relation on the basis of this rule, which in its operation, is limited to the properties of the parents.'"⁸

The judgment further elaborated that under the amended Section 16(3), there exists no limitation on the rights of these children to inherit their parents' property, be it self-acquired or ancestral. This ensures that such children are entitled to a share of their parents' wealth, recognizing their rights in a manner akin to children born within legally sanctioned marriages.

Additionally, the court made a poignant observation regarding the nature of the parent-child relationship, emphasizing that the legitimacy of the relationship between the parents should not overshadow the rights of a child born from such a union. This underscores a progressive move towards acknowledging the rights of children as independent of the legal status of their parents' relationship.

The court's ruling is particularly significant in the context of children born from unions that are not recognized as valid marriages under the law. The judgment specifically addressed the scenario of children born from marriages that are either

⁸ *Supra* note 5.

void or voidable under Sections 16(1) and 12 of the HMA, respectively. It clarified that such children are to be considered legitimate, with rights to their parents' property, provided these marriages were annulled or declared null and void. This provision applies regardless of whether the marriage occurred before or after the introduction of the Amending Act of 1976, ensuring a retrospective application that offers protection to children born from such unions over the years.

However, the judgment also brought to light a significant gap in the legal framework concerning the rights of children born from live-in relationships. While the case in question dealt with marriages that were invalid due to legal technicalities, the broader issue of inheritance rights for children born out of live-in relationships remains a contentious and debated issue in India. The court's decision, though not directly addressing this scenario, sets an important precedent that could influence future deliberations and legal reforms in recognizing and safeguarding the rights of all children, irrespective of the nature of their parents' union.

4. OBSERVATIONS

In a groundbreaking decision, the Supreme Court of India has demonstrated its foresight and progressive outlook by delivering a ruling that shines a light on a previously ambiguous and highly debated aspect of Hindu law. This pivotal judgment articulates that every child, irrespective of the nature of their birth, possesses an unequivocal right to claim their share in parental property. This legal interpretation significantly extends the scope of the fundamental rights of children within the ambit of Hindu Succession Law, marking a monumental shift from erstwhile conventional perspectives.

At the heart of this judgment lies the reaffirmation of the core values of equality and non-discrimination, principles that are deeply embedded in the Indian Constitution. By ensuring that all children have equitable rights to inheritance, regardless of their birth circumstances, the Supreme Court has championed the cause of social justice. This landmark decision is not merely a reflection on property rights; it is a powerful statement against the historical injustices and societal biases that have been perpetuated under the guise of traditional legal interpretations.

The implications of this ruling are profound and multifaceted. It promises to usher in a new era of legal and social reform, where the archaic notions of family and kinship are reevaluated in light of contemporary values. By extending property rights to all children, the judgment acts as a catalyst for change, challenging ingrained prejudices and promoting a more inclusive understanding of family structures. This is particularly significant in a country where ancestral property and heritage play pivotal roles in social and economic status.

Moreover, this decision is a testament to the dynamic nature of law; it underscores the necessity for legal doctrines to evolve in tandem with societal changes and moral

progress. The Supreme Court's ruling acknowledges that legal frameworks must be responsive to shifts in social attitudes and the complexities of modern life. It sends a clear message that the law should be an instrument of justice and equality, capable of adapting to the realities of the times.

The path ahead calls for concerted efforts in legal education and awareness to ensure that the principles laid down by the Supreme Court are effectively implemented and upheld. It highlights the need for ongoing advocacy to safeguard the rights of all children to their ancestral properties, ensuring that this landmark judgment translates into tangible benefits for those it aims to protect.

REFERENCES

Websites

- <https://primelegal.in/2023/09/02/right-of-a-child-of-an-invalid-marriage-in-hindu-joint-family-property-a-glimpse-into-the-recent-supreme-court-judgment>
- <https://primelegal.in/2024/02/09/legitimacy-of-illegitimate-child-supreme-courts-bold-move-grants-recognition-yet-curbs-property-rights-for-children-of-null-marriages>
- <https://theamikusqraie.com/revanasiddappa-anr-v-mallikarjun-ors>
- <https://ijcrt.org/papers/IJCRT2311547.pdf>
- <https://www.thehindu.com/news/national/children-from-void-voidable-marriages-are-legitimate-can-claim-rights-in-parents-properties-sc/article67259229.ece>
- https://www.researchgate.net/publication/378372887_RIGHT_TO_PROPERTY_AND_MAINTENANCE_OF_ILLEGITIMATE_CHILDREN_IN_INDIA