How the Supreme Court has interpreted inheritance of daughters

What is the issue?

The Supreme Court has ruled that the property of a man who has died without executing a will and is survived only by a daughter will devolve upon the daughter and not others.

What was the case?

- A man A dies in 1949 leaving behind a daughter A1.
- Daughter A1 dies issueless in 1967 (without any son or daughter).
- Man A has a brother (Man B)
- B was survived by a son B1 and four daughters. One of the four daughters had instituted a suit seeking 1/5th share in the property of Man A.
- **The rival claims -** Children of B1 opposes this saying that
    - Man A died in 1949
    - The daughter A1 does not have any right to inherit his property because Man A had died prior to the enforcement of Hindu Succession Act, 1956.
    - The only heir available then was B1 and from him, the property had come to them.
- **Ruling -** Court ruled that the succession of the suit properties opened in 1967 upon death of daughter A1.
- Therefore, the 1956 Act shall apply. Thereby daughters of Man B being Class-I heirs of their father is entitled to 1/5th Share in each of the suit properties.

Can a sole daughter inherit her father's property dying intestate?

- Intestate is when a person dies without leaving instructions about who should be given your property.
- Supreme Court ruled that a daughter was capable of inheriting the father's property (separate estate).
- While pronouncing the judgement Supreme Court made a reference to ancient Hindu texts, ancient Hindu commentaries as well as previous decisions by courts.
- Such texts includes
    - Smritis
    - Mitakshara law
    - 'Vyavastha Chandrika' a digest of Hindu Law by Shyama Charan Sarkar Vidya Bhushan
    - Manu
- The term 'Vrihaspati' quoted in Vyavastha Chandrika says
    - As a son, so does the daughter of a man proceed from his several limbs.
    - The wife is pronounced successor to the wealth of her husband. In her absence it is the daughter and the son.
- Quoting this the apex court said "right of a widow or daughter to inherit the self-acquired property or share received in partition of a coparcenary property of a Hindu male dying intestate is well recognised under the old customary Hindu Laws
- So, the property would devolve by inheritance and not by survivorship.

- Court also ruled that the daughter of such a male Hindu would be entitled to inherit such property in preference to other heirs.

How the property would devolve after the death of a daughter?

Daughter dies issueless -

- The court said that if a female Hindu dies intestate without leaving any issue, then
    - the property inherited by her from her father or mother would go to the heirs of her father.
    - the property inherited from her husband or father-in-law would go to the heirs of the husband.

Daughter dies leaving behind her husband or any issue -

- In such a case Section 15(1)(a) of the Hindu Succession Act will come into operation.
- The properties left behind including the properties which she inherited from her parents would devolve simultaneously upon her husband and her issues.

Reference

1. https://indianexpress.com/article/explained/explained-how-supreme-court-has-interpreted-inheritance-of-daughters-7735804/

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