Rethinking Tribal Women's Inheritance Rights

Mains: *GS-II – Polity & Governance*

Why in News?

The question of women's inheritance rights in tribal communities remains unresolved - Customary laws of most tribal communities deny absolute property rights to their women, and the Hindu Succession Act, 1956 keeps tribal women out of its purview.

What are the key Supreme Court Judgements?

- **Ram Charan v. Sukhram (July 2025)**
- The SC ruled that tribal women are entitled to equal inheritance rights as men, declaring that excluding them is discriminatory and unconstitutional, violates their fundamental right to equality (Article 14).
- The Court held that *customary practices cannot override constitutional rights to equality*, placing the burden on parties to prove if custom forbids female inheritance.
- **Nawang v. Bahadur (October 2025)**
- The SC ruled that the Hindu Succession Act *cannot apply to Scheduled Tribes under any circumstances*, reaffirming the validity of Section 2(2) of the Hindu Succession Act, 1956.
- **Background –** It overturned a Himachal Pradesh High Court's order that had extended inheritance rights to "Hinduised" tribal daughters under the Hindu Succession Act, 1956.
- It reaffirmed that *only Parliament has the authority to extend* the Act to tribal communities.
- The High Court had overstepped its jurisdiction by directing legislative changes.
- It affirmed that tribal inheritance remains governed by customary practices, unless the Central government officially intervenes.

What about the SC's view on defining the term 'Hindu'?

- **Sastri Yagnapurushadji v. Muldas Brudardas Vaishya (1966)** – The SC said that Hinduism is not a religion in the narrow sense but "a way of life."
- Hinduism doesn't have one founder, one god, one fixed belief system, or one set of rituals.
- It's not a religion in the narrow sense of having a single prophet or dogma.
- Instead, it's best understood as a broad, flexible way of life that can include many different practices, philosophies, and traditions.
- **Conversion –** A person can be a Hindu either by birth or by conversion.

- Conversion means a bonafide intention to follow a particular faith with an unequivocal conduct expressing sufficient evidence of conversion.
- **Tribal link –** A converted person continues to be a member of the tribe unless his ancestors had converted long time ago and abandoned tribal customs long ago.
- **The Problem with "Hinduisation"**
- **Earlier practice –** The Courts used to broadened Section 2(1) of the Hindu Succession Act to include Scheduled Tribes, reasoning they fell under the definition of "Hindu."
- **Contradiction –** But this went against Section 2(2), which clearly says the Act does not apply to them.
- This practice pressured tribal women to choose between their tribal identity and becoming followers of Hinduism.
- **Constitutional concern –** This undermined the guarantee to protect the unique identity of tribal people while also perpetuating gender discrimination.

What is the Hindu Succession Act?

- **Hindu Succession Act, 1956** – It deals with the succession and inheritance of property of Hindus in India.
- The act also includes intestate or unwilled (testamentary) succession.
- It guarantees equal shares for male and female heirs.

What does the law say on female inheritance?

- **Intestate Succession** – If a man dies without leaving a will, and he has a female heir, the property will pass according to the provisions of the Hindu Succession Act rather than by the old rule of survivorship.
- **Section 6 of the act** – Under the 2005 amendment, daughters are recognized as coparceners by birth.
- This means they hold the same position as sons in the family property, regardless of their marital status or financial condition.
- **Equal Rights & Liabilities** – A daughter has full rights to inherit coparcenary property just like a son.
- Alongside these rights, she also shares the same responsibilities and liabilities attached to the property.

What are the inheritance rights of tribal women?

- **Customary laws governing tribes** – The Scheduled Tribes of India follow customary laws in matters of inheritance, marriage, and succession, these practices are distinct from mainstream statutory frameworks.
- **Exclusion from Succession Acts** – Inheritance rights of tribal women are not covered under either the Hindu Succession Act, 1956 or the Indian Succession Act, 1925.
- **Constitutional safeguards** – Tribal customary laws are protected under several provisions of the Indian Constitution, which recognizes the need to preserve indigenous identity and autonomy.
- **Persistent discrimination** – Despite these safeguards, customary tribal laws continue to discriminate against women, especially in succession matters, leaving

them without equal property rights.

Why tribal women are denied rights on inheritance of property?

- There are two laws in India namely, the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 which deal with intestate succession of Christians and Hindus, respectively.
- **Indian Succession Act, 1925** – Not explicitly exempts tribes; but state government has the power to exclude any tribal community or groups from its application.
- **Hindu Succession Act, 1956** – Explicitly exempts tribes under section 2(2) of the act.

What lies ahead?

- **Special tribal inheritance law** – Introduce a special enactment governing inheritance rights among the indigenous population, ensuring gender parity while respecting cultural identity.
- **Codifying customary laws** – The law of succession in other States with significant tribal populations on the lines of Mizoram (codified its customary succession laws) could provide a solution to ensure gender parity while preserving tribal identity.
- **Statutory expansion** – Parliament could expand another statute (outside the Hindu Succession Act) to cover tribal inheritance rights to avoid assimilation pressures while ensuring equal rights.

Reference

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