

DOI: <https://doi.org/10.3329/rulr.v13i1.92380>

An Exploration of the Laws on Hindu Women's Property Rights in Bangladesh with special reference to the recent verdict of the High Court Division

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Abstract

Hindu women's property rights in Bangladesh are governed by colonial-era laws, such as the Hindu Women's Right to Property Act, 1937. Hindu Women have suffered due to discriminatory property rights that limit their inheritance entitlement and ownership historically under shastric law, as well as century-old, codified laws in Bangladesh. Because no reforms have been brought in this field during the post-independence 54 years of Bangladesh, this study aims to examine and understand the disparities of the legal system governing women's property rights subjugated by the theological and customary practices of the Hindu community. It tries to explore the intricate situation and the room for Hindu women in the existing property laws in Bangladesh. This article makes an esoteric discussion between the Hindu Women's Right to Property Act, 1937 and the verdict delivered by the High Court Division in Bangladesh in September 2020 to identify the obstacles Hindu women have faced in penetrating and owning their property rights obtained by inheritance. By searching this framework, this study's goal is to highlight the positive and historic steps of the High Court Division for ensuring Hindu women's right to agricultural land in Bangladesh under the abovementioned Act of 1937. The mere decision of the High Court Division cannot indemnify the absolute and equitable property rights of Hindu women. The study put some pathways for ascertaining Hindu women's absolute and justified property rights in Bangladesh.

Keywords: *Property right, Inheritance law, Verdict, Absolute right, Limited estate*

1. Introduction

The property laws of Hindu women in Bangladesh require prompt reforms. Old age Hindu customary and statutory laws, which have been enforced in Bangladesh after the partition of the sub-continent in 1947 and the independence of Bangladesh in 1971, are most

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discriminatory to women in the field of property.¹ The key factor of this article is to scrutinise the statutory provisions with respect to the inheritance rights of Hindu women. It makes an analytical review of these laws to examine how far these are interfused with Hindu males and females in combating the rights of inheritance. The main objective of this study is to make a comprehensive discussion about Hindu women's property rights in Bangladesh in light of the verdict recently given by the High Court Division of the Supreme Court in Bangladesh.

This study also examines the position of Hindu women under the Hindu Women's Right to Property Act, 1937. This Act is only applicable to the widow, predeceased son's widow, and predeceased son's son widow *mutatis mutandis* to the extent.² This Act does not bestow any rights or benefits on the daughter, but in the contingencies provided therein, only the widow succeed to the estate of her predeceased husband.³ This Act radically defers the position of a widow by making the widow heir along with the son, grandson, and great-grandson, while she only succeeds in her husband's estate in the absence of male issues.⁴ This Act was intended to give suitable and proper rights to Hindu women, but the rules of devolution set out in the Act are so confusing and ambiguous that Hindu women are being deprived of the benefits of this Act.⁵ Due to this ameliorative character of this Act, the High Court Division in Bangladesh, in the suit of *Jyotindra Nath Mondol and others vs. Gouri Dasi and others* 27 BLC 2022, liberally interpreted

¹ Shah Alam, 'Review of Hindu Personal Law in Bangladesh: Search for Reforms' (2004) 8 (1-2) *Bangladesh Journal of Law* 33.

² The Hindu Women's Right to Property Act 1937, s 3. *Mutatis Mutandis* is a Latin term means the law applies to the widows further down the family line using the same rules adjusting only for the specific family relationship.

³ T P Gopal Krishnan, P V Deolakar, C Unikanta Menon and R B Sethi, *Codified Hindu Laws* (Law Book House 1972) vol 1, 106.

⁴ Gopal Chandra Sarker, *Sastri's Hindu Law* (Sc Sarker & Sons 8th edn, 1940) 468-470.

⁵ D F Mullah, *Principles of Hindu Law* (S T Desai rev, N M Tripathi 16th edn, 1990) vol 1, 184-188.

the Act and gave a landmark decision in this regard, which will be elaborately discussed in this study.

Although the High Court Division's decision regarding the petition case is renowned, the mere decision of the High Court Division is not enough; something more than the decision is insisted upon by the present-day situation. Hence, a complete inheritance law providing better and absolute rights of Hindu women of all classes, such as widows, daughter, etc., is the dire need of the time. This study emphasises the impact of existing property rights on Hindu women from the socio-legal perspectives in Bangladesh, and it also makes a significant discussion about the High Court Division verdict regarding the Act of 1937. Non-doctrinal /empirical research methods and primary and secondary sources have been used here to articulate this study.

1. A Succinct Discussion on Property Rights of Hindu Women Under Customary and Shastric Law

Hindu women possess two types of property rights under *Shastric* law: (i) women's estate and (ii) *stridhana*. Women's estate is the property where Hindu women are the limited owners and obtain through inheritance.⁶ *Stridhana* belonging to a woman is the property that she is an absolute owner and can dispose of at her will.⁷ According to Manu it's means the property or wealth given to a girl before the nuptial fire, at the time of actual ceremony of marriage, just after the marriage, after the marriage by her father, brother, husband and other relation.⁸

1.1 Limited right of the Widow Estate

Hindu women have faced discrimination from time immemorial regarding the women's estate, where they get only limited interest. They are also the worst sufferers in personal life, having no absolute

⁶ S K Routh, *Elements of Hindu Law* (Comilla Law Book House 8th edn, 2025) 67.

⁷ Md Azizul Haque, *Hindu Laws in Bangladesh: Theory and Practice* (University Publications 5th edn, 2021) 139

⁸ *Manusmriti*, ch IX, v 194.

interest in their inheritance rights.⁹ Hindu women cannot transfer that estate without legal necessity. They can transfer it only with the consent of the next reversioners and for a religious or charitable purpose.¹⁰ Rights of inheritance of this property do not confer on the woman's own successor; instead, it reverts to the heirs of the person from whom such property was acquired. The widow's position is like that of a legal representative. Thus, the norms and values derived from religious laws affect the lives of Hindu women including their property rights in very tangible way.¹¹

1.2 Absolute Rights of Stridhana Property

Yajnavalkya (Commentator of the *Dayabhaga* school) gives a complete definition of *stridhana* as “What was given to a woman by the father, the mother, the husband or a brother or received by her before and after the nuptial knot or presented to her on her husband's marriage to another wife and the rest are denominated as *stridhana*. It includes what is given by Kindred, her marriage fee (the *sulka*), and anything bestowed after marriage.¹²

In the Bombay High Court, property inherited by women from other women will be considered *stridhana*.¹³ The woman has absolute ownership of her *stridhana* property, and it passes to her heir on her death. *Stridhana* of every description belonging to a woman has the right to dispose of at her will during maidenhood and widowhood, though not in all cases during the coverture. A woman has absolute ownership of her *Saudayika stridhana* (all kinds of gifts except the gift from a stranger and acquired by personal skills) and she can dispose

⁹ Ferdousi Begum, ‘Analysing Hindu Women’s Right to Property in Bangladesh: Absolute Interest vs. Limited Interest’ (2018) 6(1) *Kathmandu School of Law Review*, available at, <https://kslreview.org/index.php/ksir/article/view/952>, accessed on 10 April 2026.

¹⁰ *Phool Kunwar v Rikhi Ram* (1935) 57 All 714.

¹¹ Archana Parashar, *Hindu Women’s Property Rights in India: Uniform Civil Code and Gender Equality* (Sage Publications 1st edn, nd).

¹² *Yajnavalkya Smriti*, bk 1, 320, available at <https://archive.org/details/yajnavalkyasmriti> accessed on 10 April 2026.

¹³ *Sarubhai Balakadas v Narayandas Bairagi* (1943) Bom 314.

of it even if during the coverture.¹⁴ A woman is not the absolute owner of non-*Saudayika stridhana* (gift from strangers and property acquired by mechanical arts). She cannot dispose of it without the consent of the husband during the coverture but not the maidenhood and widowhood¹⁵. From the above discussion, the *stridhana* property or rights cannot be the alternative way to mitigate the miserable condition of Hindu women in case of their property rights through inheritance, while they are the only limited owners.

2. Room for a Hindu woman in the existing Inheritance Laws of Bangladesh

The Dayabhaga school of Hindu law governs the property of a deceased Hindu in Bangladesh.¹⁶ Under this head, an attempt is made to analyse the circumstances of female heirs regarding their property rights under the contemplation of the *Dayabhaga* school with the statutory provision which mostly affects their life and livelihood. The *Dayabhaga* school of Hindu law nominate only five female members who can inherit a deceased person's property. They are the widow, daughter, mother, father's mother, father's father's mother.¹⁷ Existing codified Hindu inheritance laws have been discussed here to examine the stance of Hindu women in Bangladesh.

2.1 Scope and Application of The Hindu Law of Inheritance (Amendment) Act, 1929-

After passing the Hindu Law of Inheritance (Amendment) Act 1929, three more female heirs were added to the abovementioned five heirs: the son's daughter, the daughter's daughter, and the sister.¹⁸ This Act was promulgated before the partition of the subcontinent during the British era. Thus, cautiously, the legislature hesitated to extend woman rights which might inure beyond their lifetimes. The

¹⁴ *Venkata v Venkata* (1880) 2 Mad 333 (PC)

¹⁵ *Bhou v Raghunath* (1906) 30 Bom 229.

¹⁶ Mridul Kanti Rakshit, *The Principles of Hindu Law* (Kamrul Book House 7th edn, 2012) 261.

¹⁷ *Mulla (n X)* 184-188

¹⁸ The Hindu Law of Inheritance (Amendment) Act 1929, s 2.

Government of Bangladesh adopted this Act after Bangladesh's independence in 1971. The Hindu Law of Inheritance (Amendment) Act, 1929, is made applicable to the whole of Bangladesh. However, it applies only to the coparcenary of *Mitakshara*, which was governed by *Mitakshara* and was not disposed of by will. This Act alters the order of intestate succession under the *Mitakshara* to prefer certain new *bondhus* or cognate to distant agnates in the succession to the estate of a male Hindu who dies without male issues.¹⁹ This Act has very few applications in Bangladesh because the Dayabhaga school mostly governs the Hindus in this country.

2.2 Scope and application of The Hindu Inheritance (Removal and Disabilities) Act, 1928-

This Act extends to the whole of Bangladesh, but it is not applicable to any person governed by the *Dayabhaga* school of Hindu law. It is not retrospective, nor does it remove the disqualification of any person in respect of any religious office or of the management of any religious charitable trust. The Hindu Inheritance (Removal of Disabilities) Act, 1928 has laid down that no person other than a person who is and has been from birth a lunatic or an idiot shall be excluded from inheritance. Under this Act, insanity or lunacy should be congenital. Accordingly, a person who becomes of an unsound mind after birth is entitled to inherit and claim partition. So, the Act protects the rights of a lunatic or an idiot who has been deprived of inheritance.²⁰

2.3 Scope and Application of The Hindu Women's Rights to Property Act, 1937-

To give better rights to Hindu women in respect of property and amend the Hindu law of all schools so as materially to confer greater rights on women, the Hindu Women's Rights to Property Act, 1937 was promulgated.²¹ It was further amended by the Hindu Woman Rights to Property (Amendment) Act 1938. The Act revolutionised Hindu law, particularly *Mitakshara* law. It affected the law of

¹⁹ *Ibid* s 3.

²⁰ The Hindu Inheritance (Removal and Disabilities) Act, 1928

²¹ Preamble, The Hindu Women's Rights to Property Act 1937.

coparceny, partition, and alienation. It also affected inheritance and adoption. The Act applies to all Hindus, whether governed by *Mitakshara*, *Dayabhaga*, or any other school of Hindu law or customary law-

- (a) In case of separate property: Under this Act, the widow or widows of a predeceased son together are entitled to get the intestate separate property of the deceased son that her dead husband has left.
- (b) In the case of *Mitakshara* undivided or (joint) family, the widow of the deceased *coparcener* takes his interest, which means the widow shall take her husband's place.²²

In all cases, the widows are entitled to claim partition, but they take only a limited interest in inherited property.²³ Where a *coparcener* leaves a widow, the rule of survivorship no longer takes effect. Before the Act, the widow of a deceased was entitled only to maintenance out of joint family property and not to share in it. But this Act is to confer new succession rights upon the widows, though their right is limited to a life interest only.²⁴ This Act also provides that during her lifetime, a Hindu widow is a complete owner and co-sharer of any property she holds with the right to claim partition and to make her interest definite by making a demand for partition as a male owner may, as well as consequently having the right to claim pre-emption under section 96 of the State Acquisition and Tenancy Act, 1950.²⁵ Naturally, a widow under Hindu law cannot become a *coparcener* in the joint family. Under the Hindu Women's Right to Property Act, she can have the same interest in the property as her husband without being a *coparcener*. Hindu widows' interest in their husband's *coparcenary* estate is liable to be increased or decreased by the death or birth of a *coparcener* in the joint family in the same way as if her husband had been alive.²⁶

²² *Ibid* s 3.

²³ *Patti Lakshmi Perunallu v Patti Krishnavenamma* (1965) 2 SCJ 620, AIR 1965 SC 825, (1965) 2 MIJ(SC) 105, (1965) 2 Andh WR(SC) 105.

²⁴ *Ibid*.

²⁵ *Raj Krishna Saha v Md. Motaleb Ali Pramanik* (1982) 34 DLR 178.

²⁶ *Gangabai v Parmesharbai* PLD 1950 sind 142.

Thus, she acquires the status of a *coparcener* in possession for the purpose of filing a suit for partition, though she may not acquire the full right of a *coparcener* but only a Hindu widow's estate.²⁷

3. To What Extent General Principles of Inheritance Discriminatory to the Hindu Female

In all cases of inheritance, the Hindu women get limited interest whether she inherits from husband or father. Before passing the Hindu Women's Right to Property Act, 1937, Hindu Smriti Kal entirely excludes Hindu wife from inheriting a share from husband's property in the presence of son in the family.²⁸ After the enactment of the said Act, a Hindu widow is entitled to a share of the husband's property along with son.²⁹ In respect of a daughter, in the absence of a lineal descendant and even a widow, only the unmarried daughters and married daughters with her son are entitled to inherit the father's property.³⁰ Sonless widowed daughter and barren daughters are excluded from inheriting their father's property.

3.1 Rules of Last Full Owner

Under the law of Hindu inheritance, it is an established principle that when a female succeeds, she takes a limited interest, but when a male succeeds, he gets absolute interest in the property.³¹ Limited interest empowers the woman to hold the property for her lifetime only with a restriction to alienate it. A woman can alienate the property only for legal necessity. After her death, the property reverts to the next heir of the person from whom she inherited it.³² A Hindu female can never be the last full owner except in the case of *stridhana* property. Under Hindu law, the last full owner should always be a male. The property right is always discriminatory

²⁷ *Rosamma v Chenchaiiah* (1943) 2 MLT 172.

²⁸ Mahua Zahur, 'Hindu Women's Property Right: Bangladesh Perspective' (2016) 11(1) *BRAC University Journal* 82.

²⁹ (n 18) s 3.

³⁰ (n 11) 82.

³¹ S K Routh, *Elements of Hindu Law* (Comilla Law Book House 3rd edn, 2013) 66.

³² Mridul Kanti Rakshit, *The Principles of Hindu Law* (Kamrul Book House 7th edn, 2012) 261.

against Hindu women. The right to property is a human right and one of the basic needs for promoting freedom and human beings.³³

3.2 Rules Regulating the Property Vested Upon Heirs of the deceased

Shastrik Hindu law has often ignored this right by giving the woman a limited interest in the property. The general rule of inheritance is that once a property is vested in anyone, it will not be divested.³⁴ In the case of a Hindu woman, getting a share of the property through inheritance contradicts this general rule as the property will revert to the owner's heirs due to her limited interest.³⁵ Only in the case of *stridhana* property does it revert to the nearest heir of the female who will be the property owner. Under Hindu law, the adoption of a son by a widow could sometimes divest the estate already vested in her.³⁶

The abovementioned principles also create controversy regarding a widow's remarriage. Although the remarriage of a widow is legalised by the Hindu Widows Remarriage Act 1856, it will divest her of the deceased's husband's property, whether she marries according to Hindu rites or not.³⁷ The High Courts of Bengal, Bombay, Madras, and Allahabad pronounced diverse judgments regarding the divestment of the deceased's husband's property after the remarriage of a widow.³⁸

3.3 Rules Regarding Chastity of a Widow

There are some principles upon which an heir can be excluded from inheritance, which also applies to Hindu women. Unchastity of the

³³ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 16.

³⁴ *Tagore v Tagore* (1872) 9 Beng LR 377.

³⁵ R K Agarwala, *Hindu Law* (Central Law Agency 21st edn, 2003) 210.

³⁶ *Amerendra v Santan* 38 LW 1

³⁷ *Matungini v Ram* 19 Cal 289

³⁸ *Matungini Gupta v. Ram Rutton Roy* (1892) I.L.R. 19 Cal. 289, *Abdul Aziz vs Nirma* (1913) 35 All 466

widow is a ground for disentitling her to succeed to her husband's property.³⁹

Consequently, whenever the husband of a Hindu female dies, the heirs of the deceased husband try to exclude her from property, rendering her incapable as an unchaste. The principle of unchastity is played as a weapon against the Hindu widow. For the fear of being framed as an unchaste, Hindu female, she never wants to get her proper share in her husband's property.

In Bangladesh, the Higher judiciary interpreted the application of the Widows Remarriage Act 1856 and held that,⁴⁰

“Both under the Hindu Widows Remarriage Act and the principle of Hindu law, a widow by her remarriage forfeits her right to her deceased husband’s property. Even if remarriage is allowed by the custom of her caste.”

The rights of inheritance and general principles relating to them have been discriminatory to the Hindu female to some extent from the very beginning of Hindu culture. Earlier *Smritikars* did not admit the women's right to inheritance.⁴¹ Amongst earlier *Smritikars*, *Baudhayana*, in a text of the revelation, says⁴²-

“Females are devoid of powers and incompetent to inherit”-meaning a woman is not entitled to heritage.

Many of them recognised a woman's property rights as a form of *stridhana*, which is limited to receiving gifts and acquiring property in various other ways.⁴³ Later, *Yajnavalkya's Smriti* admitted the women's right to inherit and to hold property.⁴⁴ Women's inheritance rights were limited to their lifetime and enjoyment of the income from property without any power to dispose of it except

³⁹ (n 21) 77.

⁴⁰ *Soudamini Ray Malaker v Narendra Chandra Barman and Another* (1952) 4 DLR 493.

⁴¹ M Shah Alam, ‘Review of Hindu Personal Law in Bangladesh: Search for Reforms’ (2004) 8(1-2) *Bangladesh Journal of Law*

⁴² (n 21) 117.

⁴³ Archana Parashar, *Women and Family Law Reform in India: Uniform Family Code and Gender Equality* (Sage Publications 1992) 92.

⁴⁴ (n 31) 23.

legal necessity. Property rights were recognised as only men's monopolies.⁴⁵ The reasons given behind it were that women were less capable of controlling and managing property in comparison with males.⁴⁶ Although a Hindu woman has absolute interest in *stridhana* property, and she can dispose of it at her will, after her death, that property devolves to her own heirs.⁴⁷

Traditional Hindu law did not consider women equal to men; thus, their property rights were also not equal to men's.⁴⁸

3.4 Spiritual Benefit Rules under the *Dayabhaga* Law

Shastric Hindu law does not admit absolute property rights of a Hindu women due to the guiding principle of religious efficacy under the *Dayabhaga* school of Hindu law.⁴⁹

According to this principle, a female under Hindu law is not eligible to participate in sacrificial rituals. For example, they are not allowed to offer a funeral cake during the *Parvana Shradha* ceremony to the common ancestor.⁵⁰ So it can be inferred that the refusal of property rights for women has its roots in religious efficacy, which is an established principle in the *Dayabhaga* school.⁵¹ Because of these views, Hindu women have limited rights to the property obtained by inheritance. She has an absolute right over her *stridhana*, which she received at the time of marriage, before or after marriage, and mostly includes movable property such as jewellery, clothes, utensils, etc.⁵²

After the partition of the subcontinent, India promulgated the Hindu Succession Act, 1956, by abolishing the restriction imposed

⁴⁵ *Ibid* 23.

⁴⁶ Paras Diwan, *Modern Hindu Law* (Allahabad Law Agency 26th edn, nd) 312.

⁴⁷ *Mulla* (n 5) 184-188.

⁴⁸ 'Hindu Women's Right to Property: The Fight for Equal Rights from Past to Present' *Legal Service India E-Journal*, available at; <https://www.legalserviceindia.com/legal/article-6120-hindu-women's-right-to-property-from-past-to-present.html> accessed on 10 April 2026.

⁴⁹ (n 21) 91.

⁵⁰ *Ibid*.

⁵¹ (n 38).

⁵² (n 25) 210.

by ancient Hindu law. This Act terminated the concept of limited interest of women, sustained and associated with enlarging the notion of *stridhana*.⁵³ In Bangladesh, no changes and reforms have been brought in the case of the property rights of Hindu women due to the obstruction of the Hindu community leaders. Only the Hindu Women's Right to Property Act, 1937, is prevalent for the betterment and improvement of the property rights of a Hindu widow. But this Act has made the right to property of a woman more questionable than promoting it. A clerical review has cleared up ambiguity and shortcomings in this Act.

4. An Analytical Deliberation over the Hindu Women's Right to Property Act 1937

The general effects and application of this Act were discussed earlier in this study. Reformers of the British period who enacted this Act intended to remedy this by introducing a better right of inheritance to women.⁵⁴ The Act place three female heirs on the same level as the male issue of the last owner, along with the male issue, or in default of them.⁵⁵ The legislature thought that by this Act, women should obtain general responsibility and be able to control property management.⁵⁶ It was argued regarding this Act of 1937 that males' mindsets would change if they shared the family's property and management with women.⁵⁷ The Act of 1937 obliged them to do so.

This Act is enacted to sustain necessary social reforms.⁵⁸ Unfortunately, this Act raises some anomalies and a numerical conundrum because of its so-called devolutionary rules.⁵⁹ As though widows come higher on the list than previously, when in competition with sons (whether their own or their stepson), mother and daughter/s are liable to be prejudiced because the responsibility for looking after them was legally divided between the son and the

⁵³ The Hindu Succession Act 1956, s 6.

⁵⁴ (n 5) 88.

⁵⁵ (n 21) 66.

⁵⁶ J Duncan M Derrett, *A Critique of Modern Hindu Law* (N M Tripathi 1970) 196.

⁵⁷ *Ibid*

⁵⁸ *Dagau v Namdeo* (1954) (1954) 56 Bom LR 513, (1954) Bom 106, AIR 1955 AB 152

⁵⁹ *Shivapp vs. Yellawa* (1953) Bom 958, 54 AB 47

widow, who can demand partition at her option and so be difficult to consult thereafter.⁶⁰ The Act of 1937 brought great change in Hindu law, especially in the laws of partition and alienation, as well as inheritance and adoption.⁶¹ A Hindu widow under the provisions of this Act takes a limited interest known as the woman's estate.⁶² The Act is silent about the devolution of property after the widow's death. The separate property that the widow inherited from her husband would revert to the husband's next heir.⁶³ It is questionable here, during succession, whether the female heirs could inherit the estate in the absence of male issues or in their presence.

This Act does not affect Bangladeshi Hindu women, who follow *Dayabhaga* school.

4.1 An Examination over Property Rights of Hindu Widow under Hindu Women's Right to Property Act, 1937 in case of *Mitakshara* school of Hindu law

Since the widow gets only life interest, in case of joint family property under *Mitakshara* law, if she dies without any partition, the interest of the property would go to the *coparcener* by survivorship.⁶⁴ It is an established rule under *Mitakshara* law that no female can be a coparcener under the Hindu law.⁶⁵

This Act entitled a Hindu widow to claim a partition like a male.⁶⁶ In case she claims partition of the joint family property, the property will be deemed to be separate property, and on her death, the property will devolve to the heirs of her husband by succession other than her own heirs. If there is no severance, it would go to the other members of the joint family through survivorship.⁶⁷ All the High Courts and the Supreme Court of India agreed on a point that

⁶⁰ Derrett (n 56) 196.

⁶¹ John D Maynee, *A Treatise on Hindu Law and Usage* (Higginbotham 1st edn, 1954) 361.

⁶² Ibid 196.

⁶³ (n 21) 67.

⁶⁴ (n 6) 427

⁶⁵ Mulla (n X) 184-188.

⁶⁶ The Hindu Women's Right to Property Act 1937, s 3(3).

⁶⁷ *Parappa v Nagamma* (1954) Mad 183, 54 AM 576 (FB)

though the widow's position in the joint family in many cases resembles that of a male *coparcener*, it would be mistaken to call her a *coparcener*.⁶⁸

The Act's effect is not to confer larger rights on the widow than those enjoyed by her deceased husband as a coparcener.⁶⁹ In India, the Madras and Bombay High Courts have held that the widow, not being a coparcener, is not entitled to become the *karta* of the joint family. The problem arises where the property is ancestral property and the husband died, leaving the widow and son, who had separated from their deceased father before opening the succession. Here the question evolves whether the widow is entitled to hold the entire property left by the deceased husband or should share it equally with his separated son or sons.⁷⁰ The High Court of Orissa⁷¹ and Madras⁷² have given the same decision in such a case, that the widow is designated to inherit the whole interest of the property to the exclusion of the abovementioned son or sons. The Bombay High Court did not give any opinion in this regard.⁷³

Difficulty arises when the widow has the same right of partition as a male coparcener. The widow does not have any right to alienate the partitioned property, while the male coparcener has unlimited power to alienate. The Act of 1937 limited the interest devolving on a Hindu widow, known as the widows' estate.⁷⁴ In addition to this, if the widow separated herself from the joint family property on her death, the property would go to the reversioner of her husband instead of devolving upon her heir.⁷⁵ Madhya Pradesh High Court dissented from the view that the demise of a widow who has divided herself by partitioning her husband's share, the property will revert to the coparcenary, not to the reversioner of her

⁶⁸ *Ibid*

⁶⁹ (n 48)

⁷⁰ (n 5) 93.

⁷¹ *Visalamma v Jagannidha Rao* (1955) A Orissa 160.

⁷² *Onnamalai Annal v Seethapathi* (1961) AM 90; *Commissioner of Income Tax v Thirgarjan* (1964) AM 54.

⁷³ (n 5) 94.

⁷⁴ The Hindu Women's Rights to Property Act 1937, s 3(2)(3).

⁷⁵ *Bepin Behary vs. Lakshona* (1959) AIR Cal 27, 30

husband.⁷⁶ Under this Act of 1937, the right to demand partition is a personal right of the widow.⁷⁷ That's why, on her death, the right comes to an end. If she died pending suit for partition, her undivided interest devolves by survivorship and would not go to the next heir of her husband.⁷⁸ The provision of the Act also creates a peculiar situation in case of disposing of the entire property as a gift. It is an established rule under traditional Hindu law that after the death of the last full owner, the sole surviving coparcener can make a gift of the entire property.⁷⁹ In this case though the widow cannot get the status of coparcener she is entitled to protest any unreasonable alienation if her interest is sought to be ruined.⁸⁰ Under the said Act widow is entitled to take the same interest as her husband had by inheritance.⁸¹ When a widow inherits her deceased husband's interest, she has no right by birth, and she is not a co-owner at his death.⁸² The rule of devolution set out in the Act does not devolve on her survivorship under *Mitakshara* law.⁸³ Consequently, the widow, being entitled to get a limited interest, must face difficulty in enjoying the interest in the property. Because she cannot presume the exact fraction of her portion for it is likely to increase or decrease by birth or death of the *coparcener*.⁸⁴

For these reasons, the Supreme Court in India held that such interest is neither an acquisition by inheritance nor by survivorship.⁸⁵ The interest which the widow gets under this statute is a special interest created for her benefit.⁸⁶

⁷⁶ *Bhagubai v Bhayalal* (1957) AM Pra 29

⁷⁷ *Alamelu Ammal v Chellammal* (1955) AM 100 (FB), (1959) Mad 106.

⁷⁸ *Shyamu v Viswanath; Shuva Rao v Krishna Prasad* (1954) Mad 227, 54 AM 227.

⁷⁹ T P Gopal Krishnan, P V Deolalkar, C Unikanta Menon and R B Sethi, *Codified Hindu Laws* (Law Book Co 1970) vol I-II, 102.

⁸⁰ *Lakshmi Ammal v Ramachandra* (1960) AM 568, (1960) Mad 991

⁸¹ Hindu Women's Right to Property Act 1937, s 3(1)(2)

⁸² (n 6) 424.

⁸³ (n 71) 424.

⁸⁴ Mulla (n 5) 184-188.

⁸⁵ *Lakshmi Perunalla v Krishna Venamma* (1965) ASC 825.

⁸⁶ *Jai Ragi v Deputy Director of Consolidation* (1973) All LJ 670.

The validity of the Act is questioned with respect to a widow's inheritance rights to her agricultural lands. A conflicting question arises in this regard: whether a widow inherits her deceased husband's agricultural land under the statute.⁸⁷ Different Federal Courts in India upheld the validity of the Act on this point. They held that suitable legislation can extend a widow's inheritance rights on agricultural land under this Act.⁸⁸ The High Court Division in Bangladesh has made an interpretation on this point in different cases.⁸⁹

Recently, the High Court Division in Bangladesh resolved the confusion on this point by revealing a landmark decision.

5. A Review on Landmark Decision of the High Court Division in Bangladesh regarding the Property Rights of Hindu Women

Hindu women in Bangladesh have long faced discrimination and inequality in terms of their property rights under the personal laws of the country. The Hindu Women's Right to Property Act, 1937, which was enacted during the British colonial period, gave Hindu widows only a limited right to inherit their husband's homestead, but not other types of properties such as agricultural land, movable assets or cash.⁹⁰ This law was based on an ancient Hindu text that considered women dependent and subordinate to men and did not recognise their independent legal personality or agency.⁹¹ In a landmark judgement delivered on 2nd September 2020 the High Court Division of the Supreme Court of Bangladesh ruled that Hindu widows are entitled to shares in all properties owned by their late husband, not just their homestead.⁹²

⁸⁷ Mulla (n 5) 184-188.

⁸⁸ *Soniram v Bwarkabri* (1951) 53 Bom LR 325.

⁸⁹ 36 DLR 153 H; 34 DLR 78 H; 15 DLR 330; 22 DLR 369

⁹⁰ Ummay Marzan Jui, 'The Law Protects Hindu Widow: But There Are Many Other Factors At Play' *The Business Standard* (6 July 2023), available at <https://www.tbnews.net/features/panorama/law-protects-hindu-widow-there-are-many-other-factors-play-315613>, accessed 10 April 2026.

⁹¹ Archana Parashar, *Women and Family Law Reform in India* (Sage Publications 1992) 92-93.

⁹² *Heirs of Jatindranath Mondol, Shibapa Mondol and Others v Gouri Dasi and others* (2022) 27 BLC 10.

The Court interpreted the word “property” in the Hindu Women's Rights to Property Act, 1937, to mean all kinds of properties, including movable and immovable, real estate, agricultural and non-agricultural land, and cash. The Court also said that there is no scope for differentiating between farmland and non-farmland, as such properties are necessary for the widow's survival after the husband's demise.⁹³ In this case, petitioner Jatindranath Mondol and his brother Avimanny, who died on 12.08.1958 during his father's lifetime, were two sons of Raj Bihari Mondol, who died later in March 1972.⁹⁴ Predeceased Avimanny had a widow, Gouri Dasi, and two daughters but no son. After the death of Raj Bihari Mondol, owner of the Suitland, petitioner Jatindranath, as a sole successor under the *Dayabhaga* school, has been enjoying and possessing the entire property left by his father. Jatindranath first moved through the lower court challenging the legality of property sold by his brother's widow, Gouri Dasi, after recording them in the name of Gouri Dasi. Assistant judge, Batiaghata, Khulna, pronounced in his judgment and decree that Gouri Dasi is not entitled to get the agricultural land left by her father-in-law.⁹⁵ Defendant no. 1, Gouri Dasi, preferred an appeal against the said judgment and decree.⁹⁶ The Joint District Judge, Fourth Court, Khulna, by the impugned judgment and decree, dismissed the judgment of the Assistant Judge's Court and declared that Gouri Dasi is entitled to inherit said land left by her father-in-law, Raj Bihari Mondol, on 07.03.2004.

Afterwards, the petitioner preferred a revision petition before the High Court Division. ⁹⁷ Learned Advocate appearing for the petitioner submits, reported case of the Federal Court of British India and different reported decisions of the court of Bangladesh.⁹⁸ Where he held that as per the provision of the Hindu Women's

⁹³ *Ibid* 10

⁹⁴ *Ibid* 3

⁹⁵ Fourth Court, Batiaghata, Khulna, ‘Title Suit No 24 of 1996’ (unreported, 1996).

⁹⁶ Joint District Judge, Fourth Court, Khulna, ‘Title Appeal No 121 of 1996’ (unreported, 1996).

⁹⁷ *Civil Revision No 2477 of 2004*

⁹⁸ (1941) 45 CWN 81; AIR 1941 FC 72; *Sheikh Md Siddique v Hari Lal Nath* and others (1970) 22 DLR 359; (1970) 36 DLR 155.

Right to Property Act, no widow of any predeceased son will inherit any agricultural land, and by that decision, this provision of the said Act had been nullified and it has no effect in Bangladesh or India. Learned Advocate appearing for the defendant submits that in the original Act, the word agricultural land was not included, but subsequently, finding the necessity, the said Act was amended, and further new Acts were made in different states/ provinces of India and Pakistan extending such right even to agricultural land.⁹⁹

Later, the High Court Division appointed a learned Advocate as amicus Curiae with a view to scrutinising the whole phenomenon. Amicus Curie Uzzal Bhowmick cited the decision in the case of *Sheikh Mohammad Siddique vs. Hari Lal Nath and others reported in the 22 DLR 359, Rai Kishore Shaha vs. Motaleb Ali and others reported in 1983 BLD, and 34 DLR 178*, along with an unreported judgment of the Supreme Court of India deciding some question about agricultural land. Then learned Amicus Curie submits that the defendant Gouri Dasi is entitled to inherit 50% of all properties by her father-in-law as a widow of a predeceased son Avimannay.¹⁰⁰ On perusal of the materials on record, arguments of learned Advocates, Amicus Curie, citation of different reported and unreported cases, it appears to the Court that a restricted interpretation was given to the original Hindu Women's Rights to Property Act, 1937.¹⁰¹ The Court also noted that on reading a preamble of the said Assam Act no X11 1 of 1943, it appears that the Hindu Women's Right to Property Act 1937 and the Hindu Women's Right to Property (Amendment) Act, 1938, purport to give better rights to the Hindu women in respect of "property in general" including the agricultural land.¹⁰²

⁹⁹ The Hindu Women's Right to Property (Extension to Agricultural Land) Act 1943 (Assam Act No XIII of 1943) was extended in the Sylhet District

¹⁰⁰ *Vaijanath and others v Guramma and others* (Hyderabad High Court, 18 November 1998).

¹⁰¹ (n BLC) 6.

¹⁰² Hindu Women's Right to Property Act 1937; Hindu Women's Right to Property (Amendment) Act 1938; The Hindu Women's Right to Property (Extension to Agricultural Land) Act 1943 (Assam Act No XIII of 1943). After the liberation war, it was extended to the Sylhet District.

To make clear this phenomenon “property” similar laws had also been made extending such rights in other provinces of the then India.¹⁰³

Unreported decision of the Supreme Court of India, mentioned the learned Amicus Curie in *Jatindra Nath Mondol and others vs. Gouri Dasi and others*, their lordship found that the language of the Hindu Women’s Right to Property Act, 1937 is wide enough to cover agricultural land, in the entire Hindu Women's Right to Property Act, 1937, there is nothing which would indicate that the Act does not apply to Agricultural land.¹⁰⁴ In Bangladesh, reported cases in the 3 BLD and also in 34 DLR, it was held that the Hindu widow during her lifetime is the complete owner and co-sharer of any property.¹⁰⁵ In this manner the Court cited several examples of reforms and amendments made in Hindu law in India and other provinces of India, decision of reported cases in Bangladesh to enhance the property rights of Hindu women. In this way, the High Court Division of the Supreme Court of Bangladesh pronounced the verdict upholding the Judgement of Joint District Judge, Batiaghata, Khulna, passed on 7th March 2004 and apprehended the aforesaid milestone rule.¹⁰⁶

The Court based its judgment on the constitutional mandates of non-discrimination on the grounds of sex and religion, as well as Bangladesh's international obligation as a signatory to various human rights conventions that guaranteed equal rights for women.¹⁰⁷ The Court also noted that Hindu law is not static or immutable, but dynamic and adaptable to changing times and

¹⁰³ Northwest Frontier Province Hindu Women’s Right to Property (Extension to Agricultural Land) Act 1942 (Governor’s Act No VI of 1942).

¹⁰⁴ *Vaijanath and others v Guramma and others* (Hyderabad High Court, 18 November 1998).

¹⁰⁵ *Rai Krishna vs.. Motaleb Ali Pramanic and others* 3 BLD (1983) 62 (AD) and 34 DLR 178

¹⁰⁶ ‘Title Appeal No 121 of 1996’ (Joint District Judge, Fourth Court, Batiaghata, Khulna, 1996); ‘Civil Revision No 2471 of 2004’ (unreported); (2022) 27 BLC 10.

¹⁰⁷ *Constitution of the People’s Republic of Bangladesh*, art 28(1); Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 16.

circumstances.¹⁰⁸ The Judgement is a historic and positive step towards ensuring justice and dignity for Hindu women in Bangladesh, who have been suffering from social and economic marginalisation for decades. The Judgement will also pave the way for Hindu women's empowerment and participation in the development of the country although the Judgement is not enough to end the discrimination and oppression faced by the Hindu women in Bangladesh.

6. Findings

The property rights of Hindu women have long been a contentious issue in Bangladesh. Women in the Hindu community have faced significant challenges in asserting their property rights due to social, cultural and legal barriers.¹⁰⁹ Codified laws in Bangladesh are immensely discriminatory for Hindu woman. The Hindu Inheritance (Removal of Disabilities) Act, 1928 is relating to exclusion from inheritance of certain disqualified heirs. This Act is not applicable to any person governed by the *Dayabhaga* school of Hindu law. There is nothing about the property right to Hindu women.¹¹⁰ The Hindu Law of Inheritance (Amendment) Act, 1929, entitled a son's daughter, daughter's sister, and sister's son to rank in the order of succession.¹¹¹

The Hindu Women's Right to Property Act 1937, a piece of legislation promulgated during the British reign is to provide better rights to Hindu women in respect of their husbands' property. This Act is controversial from different points of view due to its ambiguity, which hinders it. There is no definition of "property" in the interpretation clause of this Act. That's why the judges of

¹⁰⁸ Manish Kumar, 'Equal Inheritance Rights for Women' (2021) 10(7) *International Journal of Multidisciplinary Educational Research* 106, available at <http://ijmer.in/pdf/e-certificate%20of%20publication-IJMER.pdf>, accessed on 10 April 2026.

¹⁰⁹ Anupoma Joyeeta Joyee, 'We Must Protect Hindu Women's Right to Inherit Property' *The Daily Star* (10 September 2020), available at <https://www.thedailystar.net/opinion/news/we-must-protect-hindu-women-s-right-to-property-1958665>, accessed on 10 April 2026

¹¹⁰ The Hindu Inheritance (Removal of Disabilities) Act, 1928, S 1(3)

¹¹¹ The Hindu Law of Inheritance (Amendment) Act, 1929, S 2

different courts have restricted the interpretation of property to provide the Hindu widow with only the right to non-agricultural land and homestead. This Act also prejudices daughters and mothers.¹¹²

A landmark verdict by the High Court Division has brought about a transformative change in extending property rights to all property, including agricultural land, for Hindu women in Bangladesh.¹¹³ Besides this, the said verdict addressing the property rights of Hindu women represents a monumental milestone in promoting gender equality and justice. By recognising the systematic discrimination faced by Hindu women and rectifying their existing legal framework, the Court's decision has not only transformed the lives of countless individuals but also paved the way for further legal reforms. This ruling alone may not conclusively dispel the position of Hindu women in the country. Change to a tangible and potential form is needed. That's why the Courts, local administrative officials, and social reformers need to involve in the proper implementation of the law. Awareness campaigns by different human rights organisations and NGOs will play a pivotal role in the change.

7. Conclusion

Bangladesh, a pre-eminently Muslim majority country, is home to a wide range of religious communities, including Hindus. Throughout history, Hindus, even in Bangladesh, have envisaged dual disadvantages due to their gender and religious affiliation. Discriminatory personal laws, patriarchal norms, and social customs have marginalised them and hindered their access to property rights and inheritance. The landmark verdict serves as a significant legal precedent for future cases involving the property rights of Hindu women. It underscores the judiciary's commitment to gender equality and women's rights, encouraging a more inclusive interpretation and application of the law. It is essential to continue advocating for the implementation of the High Court's verdict,

¹¹² Mahua Zahur, 'Hindu Women's Property Rights: Bangladesh Perspective' (2016) 11(1) *BRAC University Journal* 79-87

¹¹³ (2022) 27 BLC 10.

raising awareness about property rights and ensuring equal access to justice for Hindu women. By doing so, Bangladesh can take significant strides towards building a more inclusive and equitable society, where all women, regardless of their religious affiliation, have equal opportunities to assert their property rights and live with dignity and empowerment. The Judgment is not enough to end the discrimination and oppression faced by Hindu women. There is a need for more legal and social reforms to address the root cause of gender equality and violence against women in Bangladesh. There is also a need for raising awareness and sensitisation among the Hindu community and society at large about the rights and entitlements of Hindu women. Moreover, there is a need for effective implementation and enforcement of the judgment by the Government and the judiciary to ensure that Hindu widows can enjoy their property rights without any harassment or obstruction. The Hindu Women's Right to Property Act, 1937 is the main legislation that governs the property rights of Hindu women in Bangladesh. According to this Act, a Hindu widow is entitled to inherit a share in all properties of her deceased husband, not just his homestead. This means that she can claim her right to agricultural land, movable, immovable assets, cash and other types of property that belong to her husband.

This Act has not been fully implemented in Bangladesh due to various social and legal barriers. Many Hindu widows face discrimination and harassment from their in-laws and relatives who try to deprive them of their rightful inheritance. Moreover, the Act does not specify the extent and duration of the widow's shared living room which leads to ambiguity and dispute. The Judgment was hailed as a historic and positive step towards ensuring the property rights of Hindu women in Bangladesh. It was expected to end the long-standing injustice and inequality faced by Hindu widows in inheriting their husbands' property. Some challenges remain in enforcing the Judgement and raising awareness among the Hindu community about the legal rights of widows remains vital. The Government of Bangladesh also needs to enact comprehensive legislation to reform the traditional laws that limit the property rights of Hindu women.