

CASELINE: THE LEGAL BRIEF

THE PRINCIPLE OF 'INTERLOCUTORY RES JUDICATA' IS APPLICABLE BETWEEN TWO STAGES OF SAME LITIGATION

The Supreme Court has clarified that once a legal issue is decided, the same issue cannot be raised again in the same proceedings through a fresh application. The Court further held that a daughter's right to inherit from her father's estate automatically arises if her father dies without a will. The background facts which gave rise to the dispute are outlined hereunder:

Sri B.M. Seenappa (**Deceased**) passed away intestate in 1985, survived by three daughters ("**Appellants**"), his widow and four sons (**Defendants**). In 2000, a registered partition deed (**Partition Deed**) was executed among the Defendants, without knowledge of the Appellants and without allotting any share to them.

The Hindu Succession (Amendment) Act, 2005 ("**2005 Amendment**") amended Section 6 of the Hindu Succession Act, 1956 ("**HSA**") to grant daughters the status of coparceners in a Hindu Undivided Family, a right previously available only to sons. This signifies that the daughters became entitled to an equal share in ancestral property by birth, just like sons.



The Appellants filed a suit seeking allotment of equal share to each of the legal heirs. On the other hand the Defendants sought rejection of the plaint under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 ("**CPC**"), on the ground that the suit was barred by Section 6(5) of the **HSA**, which protects partitions finalized before 20.12.2004 from being reopened. The Trial Court allowed the application and rejected the plaint.

Challenging the Trial Court's order, the Appellants approached the High Court of Karnataka, wherein the High Court allowed the appeal and remanded the matter to the Trial Court, holding that the daughters still had a right in the Deceased's property share under Section 8 of the HSA, as a Class I legal heir.

The order of the High Court was not challenged. However, another application was filed in the Trial Court by legal representatives of the Defendant No.4 (who were not a part of earlier proceedings) under Order VII Rule 11 of CPC seeking rejection of the plaint. In the said application, reliance was placed upon the Supreme Court's decision in ***Vineeta Sharma v. Rakesh Sharma***, which constituted 'change in law', wherein it was held that Section 6(5) of the HSA restricts reopening of partitions effected before 20.12.2004 by a registered deed or court decree. The Trial Court dismissed the application holding that the previous order of the High Court operated as res judicata. Upon appeal by the Defendants, the High Court reversed the Trial Court's order and rejected the plaint stating that the second application is filed by some other party and not by the Defendants directly and that the Vineeta Sharma Case constituted 'change in law'. Aggrieved by the decision of the High Court, the Appellants approached the Supreme Court.





I. ISSUE BEFORE THE COURT

The principal issues to be adjudicated before the Supreme Court were:

- i. Whether the second application under Order VII Rule 11 (I.A. No. IV) filed in 2021, is barred by the principle of res judicata.
- ii. Whether Section 6(5) of the HSA operates as a bar to the institution of a suit, warranting rejection of the plaint under Order VII Rule 11(d).
- iii. Whether the Appellants have a right under Section 8 of the HSA that is independent of the 2005 Amendment and unaffected by Section 6(5) of HSA.

II. JUDICIAL ANALYSIS

A. Res Judicata is also applicable on two stages of a same proceeding

Res judicata is codified under Section 11 of the CPC, which provides that once a court has finally decided an issue, the same cannot be raised again in further proceedings. The Supreme Court in this case held that the second application by one of the Defendants was barred by res judicata, as the identical issue has already been raised, heard, and decided.





It is irrelevant if the second application is filed by another defendant as all the Defendants share a common interest and litigate under the same title.

B. Right of women to claim father's property is independent under Section 8 of HSA

It was held that the Appellants had an independent right under Section 8 of the HSA as Class I heirs of the Deceased who died intestate. The property share of the Deceased devolved under Section 8 of the HSA to all his legal heirs including three daughters.

The Court further clarified that the right of the daughters to claim their father's property upon his intestate death, had already arisen in 1985 under the unamended law itself. Therefore, their entitlement did not depend upon the 2005 Amendment.

C. Section 6(5) of HSA is a saving clause, not a bar on filing of a plaint

Order VII Rule 11(d) of the CPC allows a court to dismiss a case at the outset, without a full trial, if the suit is barred by law on its face. It was observed that Section 6(5) of the HSA only protects certain past partitions and does not stop a person from filing a suit altogether. It was also explained that Section 6(5) of HSA only protects partitions completed before 20.12.2004 from being reopened because of the new coparcenary rights introduced by the 2005 Amendment. It does not take away or defeat the rights already vested in Class I heirs under Section 8.



Further, a question related to validity of a document cannot be decided at the initial stage by rejecting the suit under Order VII Rule 11 of CPC. For verifying the validity of a document, proper evidencing and a trial is required.

D. Any precedent that does not affect the basis of any law, is not considered as 'change in law'.

It was observed that the previous High Court order rested on an independent right of daughters under Section 8 of the HSA, which is entirely unaffected by Vineeta Sharma Case, hence, did not constitute 'change in law'. An order passed by the court cannot be challenged by invoking a subsequent decision that does not affect the basis of the earlier order.

E. The Revisional Jurisdiction of the High Court is limited

The High Court's revisional jurisdiction under Section 115 of the CPC, which grants High Courts a supervisory power to correct jurisdictional errors by subordinate courts, but not to re-examine the merits of a case, is supervisory and limited to examining whether the subordinate court committed a jurisdictional error.

The High Court, instead of examining the jurisdictional error, independently examined the merits of the dispute at the threshold stage, which falls entirely outside the permissible scope of revisional jurisdiction.



III. CORE LEGAL PRINCIPLES

The Supreme Court laid down the following principles:

- The principle of res judicata applies not only between separate suits but also between two stages of the same litigation, which is referred to as 'interlocutory res judicata'. Co-defendants litigating under the same title are bound by earlier decisions, even if not all of them were parties to the application that led to that decision.
- A settled issue can be reopened only if a subsequent judgment directly overturns its legal basis. A decision on a different aspect of law cannot be used to bypass finality.
- Section 6(5) of the HSA protects partitions completed before 20.12.2004 from being reopened by the 2005 Amendment. It does not prevent a party from filing a suit for partition altogether.
- A daughter's right to inherit after her father's intestate death under Section 8 of HSA is independent of the 2005 Amendment and unaffected by Section 6(5) of HSA.
- Under Order VII Rule 11 of CPC, the Court can only look at the averments in the plaint to see if it is barred by any law. Disputed questions of fact cannot be decided at this stage.



- Revisional jurisdiction under Section 115 of the CPC is supervisory. The High Court cannot re-examine the merits of a dispute as if hearing it fresh.

IV. DECISION

Applying the above principles, the Supreme Court allowed the appeal and stated that the second application filed by the legal representatives of one of the Defendants seeking rejection of the plaint was itself barred by res judicata, since the identical issue had already been decided by the High Court in the 2013 Order and that decision had attained finality.

Accordingly, the Supreme Court set aside the High Court's order dated 29.08.2024, restored the Trial Court's order passed dismissing the second application, and directed that the plaint to be restored.

