



FACULTY OF JURIDICAL SCIENCES

COURSE NAME : LLB

SEMESTER : IIIrd

SUBJECT : FAMILY LAW II

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LECTURE : 15

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Reopening of Partition

As per the general rule, once a partition is made it cannot be reopened because a share can be divided only once. However, there are certain exceptions to this general rule. Following are the cases where partition can be reopened:

Re-adjustment of Assets: It may be possible that during partition there has been a bona fide mistake as to the property division which may cause loss to a coparcener. In such a case the coparcener claims to be reimbursed for the loss of the property. All the coparceners have to bear the burden of loss. Readjustment after recognizing the mistakes is not barred by law.

Use of malpractice: A partition effected among the coparceners of the Hindu joint family with their consent and by volition cannot be reopened. If it is proved that the consent of the coparceners is obtained by any malpractice like fraud, coercion, undue influence, misrepresentation etc., the partition is eligible to be reopened. However, the court requires a strict proof of facts in such cases. If the facts clearly shows that the partition was done with proper deliberations, the court doesn't entertain a plea to reopen the partition in such circumstances.

Son in the womb: A son who is in the mother's womb at the time of partition is entitled to a share in the joint family property as if he is in existence at the time of partition, though born after partition. If no such share is reserved for him at the time of partition, the partition can be reopened to allot his share to him.

Disqualified or Absentee Coparcener: A disqualified coparcener who recovers from his disqualification after the partition, can get the partition reopened.

If a coparcener is absent at the time of the partition for a valid reason and no share is allotted to him, he can get the partition reopened.

Injustice to Minor Coparcener: If a partition among the coparceners of the Hindu joint family consisting of minor coparceners is proved to be unfair and unjust and is inimical to the interests of minors, such a partition can be reopened.

MCQ

1. The concept of “Antecedent debt” is first of all well described in case of

- A) Brij Narayan Rai v/s Mangal Prasad
- B) Pannalal v/s Narayan
- C) Sitaram v/s Harihar
- D) Girja Shankar v/s Navin Chandra

2. A Hindu who dies intestate, to whom of the following his property is firstly transferred?

- A) First Line
- B) Second Line
- C) Third Line
- D) Fourth Line

3. Daughter is also eligible to get succession as son?

- A) Yes
- B) No
- C) Partly
- D) None of Above

4. Widow is eligible to get part in her deceased husband property.

- A) Yes
- B) No
- C) Partly
- D) None of Above

5. Whether husband can demand maintenance from her wife ?

- B) Yes
- B) No
- C) Partly
- D) None of Above