



FACULTY OF JURIDICAL SCIENCES

COURSE NAME : LLB

SEMESTER : IIIrd

SUBJECT : FAMILY LAW II

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LECTURE : 20

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Succession to the Property of a Male Hindu – Legal heirs and their classification

Succession (though not defined anywhere in the statutory law) is the transmission of rights and obligation in an estate, of a deceased person to his heir or heirs, The Louisiana civil code defines it as the process by which the heirs take the estate of the deceased, in other words, it is the right of a legal heir to step into the shoes of the deceased, with respect of possession control, enjoyment, administration, and settlement of all the latter's property, rights, obligations, charges, etc. Therefore in a nutshell, succession is a process of devolution of interest in a property (movable or immovable) from a deceased to its legal heirs or representative.

It is important to analyse at this juncture the relationship between succession and inheritance, though both of them may seem to be very similar, there is a fundamental difference between the two. Succession, as explained and stated above, is nothing but the devolution of interest in the property of the deceased, whereas inheritance is an automatic process of devolution of property of the deceased to the people related to the deceased by virtue of blood, marriage or adoption. For instance, a person has acquired the interest in the property by the virtue of a will, the devolution of that interest cannot be said to be an inheritance but a succession, on the other hand, X dies leaving behind a son Y the devolution of interest in a property from X to Y is inheritance. Therefore, it will not be incorrect to say that inheritance is a subset of succession./Therefore, it can be safely stated that inheritance is a subset of succession.

Types of Succession

Succession can primarily be divided into two parts based on the existence of a testament or will to that effect:

Testamentary Succession

When the succession is governed by a testament or will, it is called a testamentary succession. Thus, if a person dies leaving behind a will in favour of anyone, the property shall devolve (upon his death) in accordance to the instructions given in the will and not by the rules of inheritance. Provided that the will or testament is valid and capable of taking effect in accordance with the law in force. The person making the will is called a testator and the person or entity in whose favour the will is created is called a legatee.

Intestate Succession

In situations wherein a person dies leaving behind a property but without leaving a will or a testament or any instruction concerning its distribution that is capable of taking effect in accordance with the law in force, the said property will be distributed to its legal heirs by the rules of inheritance. This kind of devolution wherein the property is devolved and distributed by the rules of inheritance is called intestate succession.

MCQ

1. This is testing question option a testing option b testing option c testing
- The Hindu succession Act, 1956, abolishes the doctrine of acquisition of right by birth the doctrine of the right survivorship both [A] and [B]

2.

Hindu Succession
Amendment Act, 2005 came
into effect on

9th June, 2005

9th August, 2005

9th July, 2005

3.

4. Under the Hindu Succession
Act, the property of a male
Hindu dying intestate shall
devolve according to the
provisions of

Section 8

Section 9

Section 6

Any property possessed by a
female hindu whether
acquired before or after
commencement of the Act
shall be held by her as :

Limited owner

Ancestral property

Stridhana property