

Quadrant I – Notes

Programme : B.A.LL.B

Unit I : Joint Family

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Module Name : Mitakshara Joint Family, Mitakshara Coparcenary, formation and incidents, property under Mitakshara Law, Separate property and coparcenary property

Module No : 01

JOINT FAMILY

Hindu Family is ancient and patriarchal system. The patriarch or the Head of the family was the ruler laying down norms for the family to follow. Obeyed by everyone in the family and having control over their lives and properties. With transformation of society recognition of members of family as independent members was recognized and concept of separate property of inheritance was developed

Joint Family its nature and Constitution

Hindu Joint Family is joint in estate, food and worship. Under Mitakshara law possession of property is not necessary for a joint family.

Members of Joint Family

1. Those that are lineally connected in the male line
2. Collaterals
3. Relatives by adoption
4. Poor dependents
5. Son born out of a marriage between a Hindu man and a Christian woman under Special Marriage Act.

Females

1. Wife or the widowed wife of a male member.
2. Daughters

Composition of Joint Family

A common ancestor and all his lineal male descendants up to any generation together with his wife or wives (or widows) unmarried daughters of the common ancestor and of lineal male descendants. Existence of a common ancestor is necessary for bringing joint family into existence. For its continuance common ancestor is not necessary. The death of the common ancestor does not bring the joint family to an end. Illegitimate son is a member of the Father's joint family. Sometimes even widowed daughters may return to their fathers' joint family. Hindu Law recognized their right of maintenance.

Hindu Coparcenary

A Hindu Coparcenary is a narrow body than a joint family. It includes only those people who acquire a right by birth an interest in the joint family coparcenary property. These are sons, grandsons and great grandsons. Three generations rule to the last holder. According to the Hindu Succession Act, 1956 No female could be a coparcener. In Hindu Succession (Amendment) Act 2005 daughter can now be a coparcener.

Coparcenary comes to an end

- 1.Partition
- 2.Death of the last surviving coparcener

Classification of Property:

- 1.Unobstructed heritage
- 2.Obstructed heritage