

**INHERITANCE RIGHTS OF ILLEGITIMATE CHILDREN
IN INDIA: A CRITICAL ANALYSIS OF
REVANASIDDAPPA V. MALLIKARJUN JUDGMENT**

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Revanasiddappa and Ors. v. Mallikarjun and Ors. (2023/INSC /783)¹

ABSTRACT

The case of Revanasiddappa and Another v. Mallikarjun and Others² involves the interpretation of Section 16 of the Hindu Marriage Act 1955³ and its impact on the property rights of children born from 'void or voidable' marriages. The court examines the legislative intent, previous decisions, and the constitutional validity of the provisions. It also considers the amendments made in 1976 and 2005 to the Hindu Marriage Act (HMA) and the Hindu Succession Act⁴ (HSA). The case discusses the status of children born of a void marriage and disputes over the entitlement of illegitimate children to a share in coparcenary property. The court analyzes the language used in Section 16(3) of the Act and concludes that it recognizes rights to or in the property only of the parents. The case also mentions the order of succession in the absence of heirs and the concept of coparcenary. The court's decision also clarified the property rights of children born from a void or voidable marriage, distinguishing between ancestral coparcenary property and self-acquired properties. The Hon'ble Court also discussed the joint Hindu family property system under the Mitakshara Law by seeing it through the lens of amended sections of HMA 1955 and HSA 1956.

KEYWORDS: *Hindu Marriage Act, Hindu Succession Act, Mitakshara Law, Hindu Family System*

1. COMMENTS ON THIS LANDMARK JUDGEMENT

“On September 1, 2023, a bench consisting of three judges of the Supreme Court of India, led by Chief Justice Dr. Dhananjaya Y Chandrachud, examined a legal question of the inheritance rights of illegitimate children to the property of parents whose marriage is deemed null and void under Section 11 of the Hindu

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¹ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

² *Id.*

³ Act No. 25 of 1955

⁴ Act No. 30 of 1956

Marriage Act, 1955, or voidable under Section 12 of the same Act.”⁵ In *Revanasiddappa and another v Mallikarjun and others* provided a definitive resolution in this case. The collective decision and directive were issued in a series of lawsuits. The court determined that a child born from an invalid marriage is eligible to receive a portion of the parent's property, including both self-acquired and ancestral assets. This entitlement is established by examining the parent's rights under the provisions outlined in the HSA 1956. However, a child of such nature does not get coparcenary status under the Hindu Mitakshara Joint Family⁶.

The need for the reference arose due to contrasting perspectives adopted by two benches of the Court in the cases of *Jinia Keotin v Kumar Sitaram Manjhi*⁷ (“**Jinia Keotin**”)⁸ and *Revanasiddappa v Mallikarjun*⁹. “‘Jinia Keotin’ argued that the protection provided to a kid born out of a void and illegal marriage¹⁰ under Section 16 of the Hindu Marriage Act¹¹ does not grant them the same status as a legitimate offspring or entitle them to be included in a coparcenary. On the contrary, *Revanasiddappa* argued that if an illegitimate child is granted legal legitimacy under Section 16 of the HMA, they should not face discrimination and should be afforded the same rights as legitimate children in terms of inheritance, including both self-acquired and ancestral property¹². In this ruling, the highly esteemed Supreme Court successfully reconciled the inherent provisions of the Hindu Marriage Act (HMA) and the Hindu Succession Act (HSA), thereby accomplishing the simultaneous goal of safeguarding the interests of a child born out of a “*void or illegal*” marriage, without undermining the established principles of coparcenary or the Joint Hindu Family as per the Mitakshara Law”¹³.

Therefore, although an illegitimate child may be granted legitimacy and inheritance rights in the property of their parents, both ancestral and self-

⁵ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

⁶ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

⁷ (2003) 1 SCC 730

⁸ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

⁹ (2011) 11 SCC 1

¹⁰ <https://www.leadindia.law/legal-services/marriage/hindu-marriage-act-section-16>

¹¹ Act No. 25 of 1955

¹² https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

¹³ <https://www.lexology.com/library/detail.aspx?g=e796836d-8496-43a8-92f3-1445396d075e>

acquired, they do not attain coparcenary status in the Hindu Mitakshara Joint Family and are not entitled to any birthright, as is the case with coparceners¹⁴.

2. ISSUES

1. The key subject under consideration in this particular instance is to the entitlement of children born from a marriage that is either invalid or voidable to property rights and inheritance.
2. The question at hand pertains to whether the legislative purpose is to grant legal recognition to a child encompassed by Section 16, so establishing them as a coparcener and thereby enabling them to assert a right to a portion of coparcenary property, whether tangible or hypothetical.
3. The parental rights pertaining to coparcenary property.
4. Section 16(3) does not specify the term 'property' by including the terms 'ancestral' or 'self-acquired' property. The provision explicitly establishes a specific directive that restricts the inheritance rights of these children only to their parent's assets, excluding any entitlement to the property of other relatives.
5. Section 16(3), as modified, does not impose limitations on the property rights of offspring resulting from a marriage deemed unlawful or voidable, except for confining such rights only to the assets owned by their parents. Therefore, these children possess a legal entitlement to any assets that are gained by their parents, regardless of whether they are acquired by personal efforts or inherited from previous generations¹⁵.

3. ARGUMENTS BY THE APPELLANTS/PETITIONERS

- Section 16(3) of the Hindu Marriage Act (HMA) does not impose limitations on the entitlements of a child born from a marriage that is considered invalid or voidable, with the exception of confining such entitlements to the property owned by their parents. The aforementioned law bestows upon the kid all the implications of legitimacy, encompassing coparcenary rights in the father's property. Moreover, it should be noted that Section 16(3) of the HMA does not include any specific distinction between ancestral or self-acquired property when referring to the term 'property'¹⁶.

¹⁴ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

¹⁵ <https://advocatetanwar.com/understanding-the-supreme-courts-landmark-ruling-on-inheritance-rights-of-illegitimate-children-under-hindu-law-revanasiddappa-v-mallikarjun-2023-scc-online-sc-1087/>

¹⁶ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

- The entitlement to the parents' property encompasses the portion of the coparcenary property once the greater coparcenary has been divided, and it is excessively severe to deprive children born out of a null or voidable marriage of their right to the property of the parents, including the coparcenary property¹⁷.
- The purpose of Section 16 is not only to eliminate the stigma experienced by such children but to treat all children, legitimate per se or legitimate, because of Section 16(3)¹⁸ alike [Act 68 of 1976]. The amendments to Section 16 of the HMA aim to treat all legitimate children equally as coparceners. Section 16(3) of the HMA deprives children of void or voidable marriages of inheritance rights in ancestral or coparcenary property.
- A limited reading and not going into the legislative intent of Section 16(3) violates the property rights of the children born out of void or voidable marriage under Article 300A¹⁹ of the Indian Constitution.

4. ARGUMENTS BY THE RESPONDENTS

- “The property of the father, ascertained upon partition from the larger coparcenary, is still coparcenary property and cannot be classified as the parent's property in terms of Section 16(3) of HMA 1955. The distinction becomes apparent through the decision in **Jinia Keotin**²⁰, and thus, a child conferred with legitimacy under Sections 16(3) has rights limited to the parent’s property”²¹.
- The legislative intent was merely to erase the stigma associated with illegitimacy and not to interfere with the structure of a coparcenary. Thus, under Section 16(3) of HMA, the only right is concerning the self-acquired property of the parent²².
- This reasonable classification with intelligible differentia (Article 14²³) safeguards the interest of both legitimate offspring and innocent coparceners, ensuring a balanced approach.

¹⁷ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

¹⁸ Act 68 of 1976

¹⁹ INDIA CONST. Art. 300A.

²⁰ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

²¹ <https://www.lexology.com/library/detail.aspx?g=e796836d-8496-43a8-92f3-1445396d075e>

²² https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

²³ INDIA CONST. Art. 14.

- Parliament has granted these children inheritance rights inside their parents' property through various modifications. This process changed inherited property into the parents' self-acquired property, allowing legitimate offspring to use Section 16 of the HMA advantages. Parliament intervened to reconcile the Mitakshara Law with changing public policy to protect these children and other coparceners. It was exemplified by the decision in *Ashwani Kumar v. Union of India*²⁴, which demonstrated how legislative actions and amendments consistently address these potential legal voids, ensuring no gaps in the law concerning the inheritance rights of all legitimate children (purpose of this amendment)²⁵.

The Effects of the 2005 Hindu Succession (Amendment) Act, 2005²⁶:

The court noted that after enacting the Hindu Succession (Amendment) Act in 2005²⁷, a deceased person's share in a joint Hindu family governed by Mitakshara law can be inherited by testamentary or intestate succession. This amendment expanded the scope of inheritance beyond survivorship and granted equal succession rights to women and men²⁸.

However, The Hon'ble Court clarified that the observations are limited only to Joint Hindu families governed by Mitakshara law²⁹.

5. JUDGMENT

The Supreme Court delivered its judgement in *Revanasiddappa v. Mallikarjun*, holding that Section 16(3) of the "HMA" 1955 – which confines illegitimate children's succession rights to "property of...the parents" – applies not only to "self-acquired property", but also to separate property having its origin in "coparcenary property". In 2011³⁰, a Division Bench had doubted the view suggesting that succession rights be confined only to "self-acquired property" that had been affirmed in a line of cases, holding instead that the "legislature has advisedly used the word "property" and...not qualified it with either self-

²⁴ (2020) 13 SCC 585

²⁵ <https://www.lexology.com/library/detail.aspx?g=e796836d-8496-43a8-92f3-1445396d075e>

²⁶ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/supreme-court-judgment-on-inheritance#:~:text=What%20is%20the%20Background%3F,whether%20self%2Dacquired%20or%20ancestral.>

²⁷ No. 35 of 2005.

²⁸ Singh, Sushma & Deeksha,. (2024). RIGHT TO PROPERTY AND MAINTENANCE OF ILLEGITIMATE CHILDREN IN INDIA.

²⁹ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/supreme-court-judgment-on-inheritance#:~:text=What%20is%20the%20Background%3F,whether%20self%2Dacquired%20or%20ancestral.>

³⁰ *Revanasiddappa v. Mallikarjun*, (2011) 11 SCC 1

acquired property or ancestral property” u/s 16(3). Following judicial propriety, it chose to refer the case to a larger bench, which has decided the issue in the instant case³¹.

The court ruled that progeny born out of a marriage considered void or voidable do not possess the right to assert a claim on ancestral coparcenary property. However, they are still entitled to claim a portion of self-acquired possessions³². The court additionally determined that offspring resulting from a marriage deemed null or voidable are solely eligible to receive a portion of their parents' assets rather than possessing an inherent entitlement.

The court relied on several decisions and provisions of the law to reach its conclusion. It noted that Section 12 of the legislation delineates the specific conditions under which a marriage is deemed voidable and can be legally dissolved by the issuance of a judgment of nullity. The court also considered the amendments to Section 16, which now provides legitimacy to children of void and void marriages. The court harmonized the provisions of the Hindu Marriage Act and the Hindu Succession Act to determine the scope of property rights for children born from a void or voidable marriage³³.

The court held that children born from a void or voidable marriage are entitled to property rights in their parents' self-acquired properties but not in ancestral coparcenary property³⁴. The court also held that the amendments to Section 16 of the law provide legitimacy to children of void and voidable marriages, granting them equal rights as other legitimate children³⁵.

“The Hon'ble Supreme Court has ruled that children born of void or voidable marriages can inherit their parent's share in a joint Hindu family property under the Mitakshara Law. However, it emphasized that these children would not be entitled to rights in or to the property of any other person in the family. The verdict was given in reference to a two-judge bench judgment in *Revanasiddappa vs Mallikarjun* of 2011³⁶, which held that children born out of *void* and voidable marriages are entitled to inherit their parents' property, whether self-acquired or

³¹ <https://indconlawphil.wordpress.com/2023/10/19/guest-post-illegitimacy-based-inequality-in-post-coparcenary-hindu-law-revanasiddappa-and-succession-rights-of-illegitimate-children/>

³² <https://advocatetanwar.com/understanding-the-supreme-courts-landmark-ruling-on-inheritance-rights-of-illegitimate-children-under-hindu-law-revanasiddappa-v-mallikarjun-2023-scc-online-sc-1087/>

³³ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

³⁴ <https://www.lexology.com/library/detail.aspx?g=e796836d-8496-43a8-92f3-1445396d075e>

³⁵ <https://www.lexology.com/library/detail.aspx?g=e796836d-8496-43a8-92f3-1445396d075e>

³⁶ *Revanasiddappa v. Mallikarjun*, (2011) 11 SCC 1

ancestral”³⁷. The case was related to an amended provision in the Hindu Marriage Act, 1955, in Section 16(3)³⁸.

This judgment laid the foundation for recognizing the inheritance rights of such children. This case brief examines the interpretation and applicability of Section 16(3) of the Hindu Marriage Act, 1955 (HMA) regarding the legitimacy and inheritance rights of children born from void or voidable marriages. It explores the legislative intent, amendments, and relevant provisions of the HMA and the Hindu Succession Act, 1956 (HSA). *Revanasiddappa vs. Mallikarjun*³⁹ case held that the child conceived out of a live-in relationship is innocent and is qualified for every freedom and advantage accessible to children conceived illegitimately⁴⁰.

“The first step in inheritance for a child from a void or voidable marriage is to ascertain the exact share of their parent in the ancestral property. This determination involves conducting a “notional partition” of the ancestral property to calculate the portion the parent would have received immediately before their death. Section 16 of the Hindu Marriage Act, 1955 plays a crucial role in conferring legitimacy to children born out of void or voidable marriages, stipulating that such children have a right to their parent’s property”⁴¹. Children from void or voidable marriages are considered ‘legitimate kin’ under the HAS 1956, which governs inheritance. They cannot be deemed illegitimate when it comes to inheriting family property⁴².

6. RELEVANT PROVISIONS AND PRECEDENTS ANALYZED BY SUPREME COURT⁴³:

- “Section 11 of Hindu Marriage Act, 1955
- Section 16(1) of HMA

³⁷ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/supreme-court-judgment-on-inheritance#:~:text=What%20is%20the%20Background%3F,whether%20self%2Dacquired%20or%20ancestral.>

³⁸ Singh, Sushma & Deeksha,. (2024). RIGHT TO PROPERTY AND MAINTENANCE OF ILLEGITIMATE CHILDREN IN INDIA.

³⁹ (2011) 11 SCC 1

⁴⁰ <https://indconlawphil.wordpress.com/2023/10/19/guest-post-illegitimacy-based-inequality-in-post-coparcenary-hindu-law-revanasiddappa-and-succession-rights-of-illegitimate-children/>

⁴¹ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/supreme-court-judgment-on-inheritance#:~:text=What%20is%20the%20Background%3F,whether%20self%2Dacquired%20or%20ancestral.>

⁴² <https://www.sconline.com/blog/post/2023/09/05/legitimacy-coparcenary-supreme-court-decides-rights-of-children-from-null-and-void-marriages/>

⁴³ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

[The former is declared to “be legitimate” by the latter if a child “of such marriage would have been legitimate if the marriage had been valid.”]

- Section 16(3) enunciates that a child of a marriage that is *null or void* or annulled by a nullity decree shall not have “any rights in or to the property of any person, other than the parents.”
- **Jinia Keotin v Kumar Sitaram Manjhi**⁴⁴: The child born out of *void and illegal* marriage has been specifically safeguarded under Section 16, but they ought not to be held at par with the children born out of a lawful marriage for the purpose of inheritance of the ancestral property of the parents⁴⁵.

[The same ‘*Narrow View*’ was followed in **Neelamma v Sarojamma**⁴⁶, **Bharatha Matha v R Vijaya Renganathan**⁴⁷]

- **Kalliani Amma And Others v. K. Devi & Others**⁴⁸, 1989: It was discriminated between two groups of illegitimate children in conferment of the status of legitimacy and was hence violative of Article 14. The Court noted that Section 16 was linked with Sections 11 and 12 in its earlier form. While holding that the substituted Section 16 is constitutional, the Court analyzed the impact of the non-obstante provision in Sub-section 1⁴⁹.

Kalliani Amma observed that “illegitimate children, for all practical purposes, including succession to the property of their parents, has to be treated as legitimate.” However, “they cannot ...succeed to the properties of any other relation based on this rule, which in its operation, is limited to the properties of the parents.”

- In the case of **Vineeta Sharma v. Rakesh Sharma**⁵⁰, it was propounded that a Hindu coparcenary comprises a propositus and three lineal descendants. A Hindu coparcenary is a narrower body than a Hindu Undivided Family. Before 2005, it included only sons, grandsons, and great-grandsons who were joint property holders.
- In **State Bank of India v. Ghamandi Ram**⁵¹, the Hon'ble Supreme Court observed that under the Mitakshara school of Hindu law, all the property

⁴⁴ Jinia Keotin v Kumar Sitaram Manjhi (2003) 1 SCC 730

⁴⁵ At page 732, para 2

⁴⁶ (2006) 9 SCC 612

⁴⁷ (2010) 11 SCC 483

⁴⁸ 1989 SCC ONLINE KER 155

⁴⁹ <https://lawandotherthings.com/%EF%BF%BCequality-at-crossroads-constitutional-oversight-in-revanasiddappa-v-mallikarjun/#:~:text=In%20a%20case%20primarily%20dealing,the%20Hindu%20Joint%20Family%20Property.>

⁵⁰ (2020) 9 SCC 1

⁵¹ (1969) 2 SCC 33

of a Hindu Joint Family is held in collective ownership by all the coparceners in a “quasi-corporate capacity.”

- In the **State of Maharashtra v. Narayan Rao Sham Rao Deshmukh**⁵², the Hon'ble Supreme Court reiterated that a Hindu coparcenary is a narrower body than a joint family.
- Section 6 of the HAS 1956 was substituted by the Act 39 of 2005⁵³. The impact of the substitution is that the daughter of a coparcener shall:
 - i. become a coparcener in her own right by birth in the same manner as a son;
 - ii. have the same rights in the coparcenary property as she would have if she had been a son and
 - iii. be subject to the same liabilities regarding the coparcenary property as a son.
- In **Vineeta Sharma** (supra), this Court held:

“60...The conferral of rights is by birth, and the rights are given in the same manner with incidents of coparcenary as that of a son, and she is treated as a coparcener in the same manner with the same rights as if she had been a son at the time of birth. However, the rights can be claimed, w.e.f. 9-9-2005, the provisions are of retroactive application; they confer benefits based on the antecedent event, and the Mitakshara coparcenary law shall be deemed to include a reference to a daughter as a coparcener.”
- The crucial words of Section 6(3), for the present purposes, are “shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.”
- Section 8 provides for the general Rules of succession applicable to the devolution of the property of a male Hindu dying intestate
- When a Hindu dies after the commencement of the Amending Act of 2005, his interest in the property of a Joint Hindu family governed by Mitakshara law⁵⁴ has to devolve by testamentary or intestate succession and not by survivorship, as stipulated in Section 6(3). The share in the property that would have been allotted to the intestate based on such a notional partition is governed by the General Rules of Succession specified in Section 8, HSA 1956. The distribution of the Property among the Class-I heirs is governed by the Rules set in Section 10⁵⁵.

⁵² (1985) 2 SCC 321

⁵³ The Hindu Succession (Amendment) Act, 2005

⁵⁴ Singh, Sushma & Deeksha,. (2024). RIGHT TO PROPERTY AND MAINTENANCE OF ILLEGITIMATE CHILDREN IN INDIA.

⁵⁵ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

- In *Vivek Narayan Sharma v. Union of India*, the Court has mandated the proportionality standard to assess violations of Article 300A. This means that the limitation on an illegitimate child's right to property must possess a proper purpose, have a rational relationship therewith, and be the least rights-restrictive mode of achieving this purpose. While I do not propose Section 16(3)'s incompatibility with Article 300A based on principles of proportionality in this piece, my limited point is that this alternative exists and could have been one consideration before the Court⁵⁶.

7. IMPACT OF THIS JUDGEMENT (in general parlance):

- This judgement of *Revanasiddappa*⁵⁷ asserted that children born out of a marriage that is considered unlawful or can be invalidated when one of the spouses is a member of the Hindu Joint Family should also have the right to receive a portion of the property in this potential division. This is in direct contrast to the conventional Hindu customs you can, where children born out of wedlock may be considered part of their father's HJF (Hindu Joint Family) but do not have any rights to inherit coparcenary property.
- The granting of inheritance rights to children from marriages that are considered void or voidable is a progressive step that represents an important leap towards equity. The judgement acknowledges a child's right to receive a portion of the potential division of property but does not provide them with participation in the ancestral property; thus, this decision represents a sceptical and imperfect move towards achieving equality. However, the aspect of this case that is worrisome is the manner in which the judiciary has dealt with the appeal in the *Revanasiddappa* case, specifically by referring it to a three-judge constitutional panel. The verdict demonstrates a clear divergence from the standards of fairness and equal treatment. The choice to limit the attention solely to Hindu Mitakshara law while disregarding the wider constitutional obligation outlined in Article 14 i.e., the right to equality, highlights a fundamental weakness in the legal framework⁵⁸.
- By resorting to a constitutional bench, it is evident that there is an acknowledgement of the significant constitutional consequences involved.

⁵⁶ <https://indconlawphil.wordpress.com/2023/10/19/guest-post-illegitimacy-based-inequality-in-post-coparcenary-hindu-law-revanasiddappa-and-succession-rights-of-illegitimate-children/>

⁵⁷ 2023 SCC OnLine SC 1087

⁵⁸ <https://advocatetanwar.com/understanding-the-supreme-courts-landmark-ruling-on-inheritance-rights-of-illegitimate-children-under-hindu-law-revanasiddappa-v-mallikarjun-2023-scc-online-sc-1087/>

Nevertheless, the bench's narrow focus on Mitakshara law not only ignores the changing legal environment, as influenced by the legislature through revisions to the Hindu Code Bill, but also fails to effectively tackle the constitutional principle of equality.

8. CITED RECENTLY IN COURTS:

1. In the latest three-judge bench decision of this court, in *Revanasiddappa v. Mallikarjuna*⁵⁹, the Supreme Court clarified that with the enactment of Section 16 of the HMA, the legitimacy conferred upon children born of void or voidable marriages would be that they are “entitled only to a share in their parent's property but cannot claim it of their right as a consequence of which they cannot seek partition during the lifetime of their parents”⁶⁰. The court also held they cannot claim rights other than what was expressly provided for. Thus, uncodified laws and customs were upheld.

Cited in: *Supriya @ Supriya Chakraborty v. Union of India*⁶¹; Supreme Court of India (17th Oct 2023)

2. The Constitution Bench of the Hon'ble Supreme Court in *Revanasiddappa Case*⁶², while answering a reference made by three Judge Bench about the rights of the child under Section 16(3) of the Act, who are born to parents whose marriage is null and void under Section 11 of the Hindu Marriage Act, 1955 or a decree of nullity has been granted under Section 12 in respect of a voidable marriage; has held that a child who is conferred with legitimacy under Section 16(1) and (2) will be on par with other legitimate children⁶³ in the context of recognizing the entitlements of such a child in the property of their parents and not qua the property of a third person⁶⁴. The court also determined that even though the parents' relationship may not be legally recognized, the birth of a child within this relationship should be considered separately. The provisions outlined in Section 16(3) of the Act do not place any constraints on the property rights of these children, apart from restricting it to the property owned by their parents. Therefore, it may be argued that these children possess a legal entitlement

⁵⁹ 2023 SCC Online SC 1087

⁶⁰ <https://www.thehindu.com/news/national/67430514-Same-sex-marriage-case-judgment-October-17-2023>

⁶¹ https://main.sci.gov.in/supremecourt/2022/36593/36593_2022_1_1501_47792_Judgement_17-Oct-2023.pdf

⁶² *Id.*

⁶³ <https://blog.ipleaders.in/illegitimate-children-muslim-law/>

⁶⁴ https://main.sci.gov.in/supremecourt/2009/7553/7553_2009_1_1501_46739_Judgement_01-Sep-2023.pdf

to any assets that are gained by their parents, regardless of whether they were obtained by personal efforts or inherited from previous generations.

Cited in: Neetu Grover v. Gagan Grover; Delhi High Court (09th Oct 2023)

3. Arunachala Gounder v. Ponnusamy, 2022⁶⁵:

The SC held that the self-acquired property of a Hindu male dying intestate, i.e., without writing a will, would devolve by inheritance and not by succession. Further, the Court said that such property should be inherited by the daughter, in addition to the property of the coparcenary, which was obtained through the partition⁶⁶.

⁶⁵ <https://www.foxmandal.in/tag/arunachala-gounder-dead-v-ponnuswamy/>

⁶⁶ <https://www.sconline.com/blog/post/2023/10/11/delhi-high-court-child-from-sapinda-marriage-legal-legitimate-marriage-null-void-legal-news/>