

CORE COURSE 209 : FAMILY LAW - II

OBJECTIVE OF THE COURSE:

The course structure is designed mainly with future objectives in view. One is to provide adequate sociological perspectives so that the basic concepts relating to family are expounded in their social setting. The next objective is to give an overview of some of the current problems arising out of the foundational inequalities writ large in the various family concepts. The third objective is to view family law not merely as a separate system of personal laws based upon religions but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restructuring would make the study of familial relations more meaningful.

SYLLABUS

1. JOINT FAMILY:

- 1.1 Mitakshara joint family
- 1.2 Mitakshara coparcenary –
 - 1.2.1 formation and incidents
 - 1.2.2 Property under Mitakshara law- separate property and coparcener/property, Share of women in coparcenary property : Judicial Approach
- 1.3 Dayabhaga coparcenary –
 - 1.3.1 formation and incidents
 - 1.3.2 Property under Dayabhaga law
- 1.4 Karta of the joint family - his position, powers privileges and obligations
- 1.5 Alienation of property - separate and coparcenary.
- 1.6 Partition and re-union.
- 1.7 Joint Hindu family as a social security institution and impact of Hindu Gains of Learning Act and various tax laws on it.

2. INHERITANCE:

- 2.1 Hindus
 - 2.1.1 Historical perspective of traditional Hindu Law as a background to the study of the Hindu Succession Act., 1956
 - 2.2.2 Succession to property of a Hindu male dying intestate under the provisions of the Hindu Succession Act, 1956.
 - 2.2.3 Devolution of interest in Mitakshara coparcenary with reference to the provision.: of Hindu Succession Act, 1956

- 2.2.4 Succession to property of Hindu female dying intestate under the Hindu Succession Act, 1956
- 2.2.5 Disqualification relating to succession, General rules of succession,
- 2.2 Muslims
 - 2.2.1 General rules of succession and exclusion from succession.
 - 2.2.2 Classification of heirs under Hanafi and Ithana Ashria school and their share and distribution of property
- 2.3 Christians, Parsis and Jews
 - 2.3.1 Heirs and theirs shares and distribution of property under Indian Succession Act of 1925
 - 2.3.2 Testamentary Succession under the Indian Succession Act: Rules for Distribution of property of Christians, Parsis and Jews
 - 2.3.3 Distribution of property of Christians, Parsis and Jews dying intestate

3. Gifts:

- 3.1 Essentials of valid gift under different family laws:
- 3.2 kinds of Gift: Competency of donor and donee, Subject matter of gift, properties which can be and cannot be the subject matter of gift, void gifts
- 3.3 Essentials of valid Hiba (Gift) under Muslim Law, kinds of Hiba, Sadquah, Marz-ul-maut, Revocation of gift

4. Family Court Act and Miscellaneous Provisions:

- 4.1 Family Courts: Concept, need, Law Commission Reports
- 4.2 Powers and jurisdiction of the Family Court
- 4.3 Issues to be decided by the Family Court, Qualifications of Family Court Judge
- 4.4 provisions regarding appearance of advocates in family courts Exemption from court fees etc.
- 4.5 Provisions of Appeal under the Family Courts Act
- 4.6 Salient Features of the Protection against the Domestic Violence Act, 2005

Suggested Reading :

1. Paras Diwan, Family Law
2. Paras Diwan, Law of Intestate and Testamentary Succession (1PPS), Universal
3. Basu, N.D. Law of Succession, Universal
4. Kusem, Marriage and Divorce Law Manual, Universal
5. Machanda S.C. Law and Practice of Divorce in India, Universal
6. P.V. Kane, History of Dharmasastras Vol.2 Pt1 at 624-632

- A. Kuppuswami (ed.) Mayne's Hindu Law and Usage Ch.4
- B. Sivaramayya, Inequalities and the Law
- 7. K. C. Datta, "Population control through family planning in India," Indian Journal of Legal Studies,
- 8. J.D.M. Derrett, Hindu Law past and present
- 9. J.D.M. Derrett, Death of marriage Law
- 10.A.A.A Fyzee outline of Muhammadan Law
- 11.Alladi Kappaswami (ed) Mayne's Hindu Law and Used J.D.M. Derrett a Critique of Modern Hindu Law
- 12.Paras Diwan Hindu Law