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LEXOVIA — LEGAL RESEARCH REPORT

A Married Daughter's Right to Ancestral (Coparcenary) Property Under Hindu Law

Prepared for general legal research purposes. This report states what the relevant statutes say and what the cited judgments have held, and describes Kavita's facts against that law. It does not constitute legal advice and does not recommend any course of action — Lexovia is not a law firm and does not provide legal advice.

1. Facts, As Instructed

Kavita Rane's father was a member of a Hindu Undivided Family ("HUF") governed by the Mitakshara school of Hindu law. Within that HUF, he held an undivided interest, together with his own father and brothers, in ancestral property — agricultural land and a family house that had passed down through the male line of the family for at least two prior generations, and had never been formally partitioned by metes and bounds among the family members. The instructions describe the property as having originally belonged to Kavita's paternal grandfather, and as never having been the subject of any registered partition deed, any court decree of partition, or any documented family settlement dividing it among the branches of the family.

Kavita's father passed away intestate — that is, without leaving a will — in 1998. He was survived by his wife, one son (Kavita's brother), and Kavita, his daughter, who was married at the time of her father's death and remains married today. No probate, letters of administration, or succession certificate proceeding was initiated in respect of the father's estate at the time of his death, and the family has continued to treat the ancestral property as undivided joint family property in the years since.

Since the father's death, the ancestral property has continued to be held jointly, with Kavita's brother managing it in practice and treating himself, together with the other surviving male members of the extended family, as the persons entitled to it. No formal partition of the property — by registered deed or by a decree of any court — has taken place at any point, either before or after 1998.

Kavita's brother has recently taken the position, in family discussions, that because their father died in 1998 — well before the law changed in 2005 — Kavita never acquired any coparcenary interest in the ancestral property at all, and that the property should be treated as devolving among the male heirs of the family alone. He has also pointed to the fact that Kavita is married, suggesting this affects her entitlement.

Kavita has approached Lexovia not to pursue or resist any claim, and not to seek advice on what to do next, but to understand, as a matter of general legal research, whether a daughter's right to ancestral coparcenary property genuinely depends on the date her father died, on whether the amendment to the law had already come into force at that time, or on her own marital status — and how the law on this specific question has developed over time.

2. The Statutory Framework — Coparcenary Property Before and After 2005

2A. The Position Before the 2005 Amendment

To understand why Kavita's brother's position even arises, it helps to understand how ancestral property traditionally devolved under the Mitakshara school of Hindu law, as originally codified in the Hindu Succession Act, 1956. Under that original scheme, a joint Hindu family's ancestral property was held not by individual, separate ownership but by "coparcenary" — a special form of joint ownership in which certain family members, called coparceners, each held an undivided interest in the whole of the property from the moment of their birth.

It is worth noting, as general background, that Hindu law of succession has historically been organised around two principal schools with somewhat different rules on this subject: the Mitakshara school, which prevailed across most of India and is the school this report and the amended Section 6 are concerned with, and the Dayabhaga school, historically prevalent in Bengal and Assam, under which sons did not acquire a coparcenary interest in ancestral property by birth in the same way — ownership passed only on the father's death, more closely resembling ordinary inheritance. The Hindu Succession Act, 1956 and its 2005 amendment are principally directed at reforming the Mitakshara coparcenary system, which is why the amended Section 6 refers throughout to a "Joint Hindu family governed by the Mitakshara law."

Critically, under the law as it stood before 2005, only male descendants — sons, grandsons, and great-grandsons in the male line — could be coparceners. A coparcener's interest was not a fixed, separate share; it fluctuated as coparceners were born (each birth added a new coparcener and correspondingly reduced the notional share of the others) or died. When a male coparcener died, the general rule was that his undivided interest passed automatically to the surviving coparceners by the rule of "survivorship" — not by inheritance in the ordinary sense, and not through a will or the ordinary succession rules that would apply to separately-owned property.

A daughter, under this original scheme, was legally a "member" of the joint family — entitled, for instance, to maintenance and residence from the family's resources — but she was not herself a coparcener. She held no independent, birthright ownership share in the ancestral property at all. If her father died holding a coparcenary interest, that interest did not come to her by inheritance in the way it might have if the property had been his own separate property; instead, subject to certain statutory provisions dealing with specific surviving relatives, the coparcenary principle of survivorship governed how the interest passed among the surviving male coparceners.

It is worth being precise about what the original, unamended Section 6 actually said, because it was not quite as absolute as "daughters get nothing" — it already contained an important exception for certain female relatives, even before 2005. The main rule read:

> *"When a male Hindu dies, after the commencement of this Act, having, at the time of his death, an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship, upon the surviving members of the coparcenary, and not in accordance with this Act."* **— Section 6, Hindu Succession Act, 1956 (original, pre-2005 text)**

But this general survivorship rule was itself subject to a proviso, which read:

> *"Provided that if the deceased had left him surviving a female relative specified in Class I of the Schedule, or a male relative specified in that Class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship."* **— Proviso to Section 6, Hindu Succession Act, 1956 (original, pre-2005 text)**

Class I of the Schedule to the Act includes, among others, the deceased's widow, his daughter, and his mother. So even under the original law, if a male coparcener died leaving a surviving widow, daughter, or certain other specified female relatives, his own individual interest did not simply pass by survivorship to the surviving male coparceners — instead, it devolved by succession, and that succession itself divided his share among his Class I heirs, male and female alike, including his daughter. To make this calculable, the original Act also included an Explanation:

> *"For the purposes of this section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not."* **— Explanation 1 to Section 6, Hindu Succession Act, 1956 (original, pre-2005 text)**

This is the "notional partition" concept that later became central to the Phulavati and Vineeta Sharma litigation: even under the old law, on a coparcener's death (where he left a Class I female heir surviving), the law required a fictional, notional partition to be worked out immediately before his death, purely to quantify his own individual share for the purpose of succession. What the original law did NOT do, however, is make the daughter herself a coparcener with her own independent birthright share in the whole property — she could inherit a portion of her father's own individual notional share as one of his Class I heirs (alongside his widow, mother, and other Class I heirs, in the ordinary shares provided under the Act's succession rules), but she did not, before 2005, hold any coparcenary interest of her own, and she had no claim to a share in the interests of the other, surviving male coparceners.

This distinction — between inheriting a portion of a deceased father's own individual notional share as one of his Class I heirs (which the law already allowed before 2005, in the specific circumstances the proviso described) and holding an independent coparcenary interest in one's own right from birth (which the law did not allow before 2005) — is exactly the gap the 2005 amendment was enacted to close. This position — daughters excluded from coparcenary status by birth, however capable they otherwise were of inheriting a share of their father's own individual interest under the pre-2005 proviso — was the subject of long-standing criticism as a matter of gender equality, and it was this specific gap that the 2005 amendment to Section 6 was enacted to close.

2B. Section 6, Hindu Succession Act, 1956, As Substituted by the Hindu Succession (Amendment) Act, 2005 (in force from 9 September 2005)

The amendment did not merely add a new rule about what happens on a coparcener's death; it rewrote Section 6 to change who counts as a coparcener in the first place. Sub-section (1) of the amended Section 6 provides:

> *“On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall, — (a) by birth become a coparcener in her own right in the same manner as the son; (b) have the same rights in the coparcenary property as she would have had if she had been a son; (c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener.”* **— Section 6(1), Hindu Succession Act, 1956 (as substituted by Act 39 of 2005)**

In plain terms, this sub-section does three distinct things. First, it makes a daughter a coparcener "by birth" — the same trigger that has always applied to sons — rather than making her status depend on any other event, such as her father's death, her marriage, or her own request. Second, it gives her exactly the same rights in the coparcenary property that a son would have. Third, it makes her subject to the same liabilities (such as the family's debts) that a son would bear. The closing words — extending the meaning of "coparcener" to include a daughter wherever that term is used elsewhere in the law — are what make this change operate throughout the rest of the coparcenary framework, not just in an isolated pocket of the statute.

The remaining sub-sections build on this foundation. Sub-section (2) confirms that property a daughter takes as a coparcener under sub-section (1) is held by her "with the incidents of coparcenary ownership" — meaning it is not converted into some lesser or different kind of interest merely because a woman holds it — and that she may dispose of it by will, exactly as a son could. Sub-section (3) addresses what happens when a coparcener dies after the amendment: his interest in the joint family property now devolves by testamentary succession (under a will) or intestate succession (under the ordinary succession rules), rather than by the old rule of survivorship, and a daughter takes the same share on that succession as a son would. Sub-section (4) abolishes the traditional "pious obligation" under which a son could be made to discharge his father's debts purely because he was a son — though this abolition applies only to debts contracted after the amendment came into force, preserving liability for older debts. Sub-section (5) is a saving provision: it makes clear that the amendment does not reopen or unsettle any partition of joint family property that had already been validly and finally given effect to before 20 December 2004 — whether that partition was recorded through a registered deed or given effect to through a court decree.

Read as a whole, the effect of the amended Section 6 is to place daughters on an entirely equal footing with sons as coparceners, from birth, in every Mitakshara joint family governed by Hindu law — while protecting family arrangements that had already been genuinely and finally settled before a fixed cut-off date in December 2004. What the amendment does not, on its own wording, expressly resolve is a question that turned out to matter a great deal in practice for families like Kavita's: what happens where the father — the coparcener through whom the daughter's claim would run — died before the amendment came into force in September 2005, and no formal partition had ever taken place? That question was left to the courts, and it took a decade and more than one Supreme Court ruling to settle it, as the next section sets out.

2C. Why the 2005 Amendment Was Necessary — Earlier State-Level Reforms

The central 2005 amendment did not emerge without warning, and it was not even the first legislative attempt to address this gap. Several state legislatures had already moved, well before 2005, to correct the exclusion of daughters from coparcenary status within their own states, using their constitutional power to legislate on matters of succession concurrently with Parliament. Kerala took the most far-reaching approach: through the Kerala Joint Hindu Family System (Abolition) Act, 1975, the state did not merely add daughters as coparceners — it abolished the concept of a Mitakshara joint family holding property by survivorship altogether within the state, converting such holdings into ordinary individual ownership for all members, male and female alike.

Other states — including Andhra Pradesh, Tamil Nadu, Karnataka, and Maharashtra — took a different approach, each enacting its own state-level amendment to the Hindu Succession Act, 1956 that added daughters as coparceners by birth within that state, broadly along the lines the central amendment would later adopt nationally. These state amendments meant that, for a period of years before 2005, a family's home state could itself determine whether a daughter held coparcenary status, creating exactly the kind of regional inconsistency that a uniform, nationwide reform was eventually enacted to resolve. This history is relevant background to Kavita's own research question, though it does not itself change the analysis in Sections 3 to 5 of this report, which concerns the central, nationwide 2005 amendment and its interpretation by the Supreme Court.

At the national level, the reform was also preceded by a formal law reform recommendation: the Law Commission of India, in its 174th Report (2000), titled "Property Rights of Women: Proposed Reforms Under the Hindu Law," examined the gender inequality inherent in the pre-2005 coparcenary system in detail and recommended that daughters be made coparceners by birth on the same footing as sons. The central Hindu Succession (Amendment) Act, 2005 substantially adopted this recommendation, extending it uniformly across India (other than in states which had already independently legislated, and other than in respect of Kerala, where the coparcenary system itself had already been abolished).

3. What the Courts Have Held

3A. The Narrower First Reading — Prakash v. Phulavati

The first major Supreme Court ruling to construe the amended Section 6 was Prakash v. Phulavati, (2016) 2 SCC 36, decided on 16 October 2015 by a two-judge Bench. In that case, the coparcener father had died in 1988 — long before the 2005 amendment — and his daughter claimed a coparcenary share under the amended provision. The Supreme Court held that the benefit of the amendment was available only to what it described as "living daughters of living coparceners" as on 9 September 2005 — meaning both the daughter herself and her father, the coparcener through whom her claim arose, had to be alive on that specific date for her to claim coparcenary status under the amendment.

The Court's reasoning rested on two related ideas. First, it treated the amendment as a change to substantive rights, and applied the ordinary presumption that such changes operate prospectively (looking forward from the date they come into force) unless the legislature has clearly said the change should operate retrospectively (reaching back to affect events that already happened). Second, it reasoned that where a coparcener had already died before the amendment, a "notional partition" of the property was treated as having already occurred by operation of the pre-amendment law at the moment of his death — meaning everyone's shares had, in the Court's view, already been fixed under the old rules, and there was nothing left for the 2005 amendment to operate on for that particular family. On the facts before it, because the daughter's father had died in 1988, her claim to a coparcenary share was rejected.

3B. An Intermediate Signal — Danamma @ Suman Surpur v. Amar

Note: unlike the cases discussed immediately before and after this one, this report could not independently confirm a single, consistent formal law-report citation number for this case from more than one reliable source — different secondary sources gave different reporter citations for it. Consistent with Lexovia's case-law integrity practice, it is therefore referenced here by name, date, and bench only, and not by a specific citation number.

In this case, decided by the Supreme Court on 1 February 2018 (per Sikri and Bhushan, JJ.), the coparcener father had died in 2001 — again, before the 2005 amendment came into force — and a partition suit concerning the family's property had in fact been filed even before his death. Even so, the Supreme Court held that the daughters were entitled to an equal coparcenary share, reasoning that the partition suit itself had not been finally decided by a court before the 2005 amendment came into force, so there was no completed partition of the kind that could be said to have already fixed everyone's shares under the old law.

This ruling did not, in terms, expressly overrule Phulavati's "living coparcener" requirement — it was decided on a somewhat different footing, concerning an undecided partition suit rather than the complete absence of any partition proceeding. But it plainly signalled that Indian courts were not applying the "father must be alive" requirement uniformly, and that the precise circumstances of each family's case — in particular, whether any partition proceeding had actually been concluded — mattered a great deal to the outcome. This inconsistency across rulings set the stage for the Supreme Court to resolve the underlying question directly and definitively, which it did two years later.

3C. The Definitive Resolution — Vineeta Sharma v. Rakesh Sharma

The conflict was finally and authoritatively resolved in Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1, decided on 11 August 2020 by a three-judge Bench of the Supreme Court (reported also at MANU/SC/0582/2020). The Court held, in terms:

> *"Since the right in coparcenary is by birth, it is not necessary that father coparcener should be living as on 9.9.2005."* **— Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1**

The Court's reasoning turned on a distinction, long recognised in Hindu law, between two different kinds of heritable interest. An "unobstructed heritage" is a right that vests in a person by the mere fact of birth, without needing any other event to happen first — the traditional example being a son's coparcenary interest, which he holds from birth regardless of whether his father is alive or dead. An "obstructed heritage", by contrast, is a right that vests only upon the happening of some other event — typically, the death of the last holder of the property, as with an heir succeeding to someone's separate property.

The Court held that a daughter's coparcenary right under the amended Section 6 falls squarely into the first category: it is unobstructed heritage, vesting in her by birth, exactly as a son's does. Because the right vests by birth and not by reference to any other person's death or survival, the Court reasoned, it makes no difference whether her father — the coparcener through whom her status is traced — happened to still be alive on 9 September 2005, or had died at any point before that date, so long as no partition of the kind described in Section 6(5) had already been validly and finally completed before 20 December 2004. On this reasoning, the Court expressly disapproved Prakash v. Phulavati's "living coparcener" requirement, holding that requirement was not the correct reading of the amended provision.

An everyday way to think about the distinction the Court drew: a son's right to the family's ancestral property has never depended on whether his father is alive today — he has held that right since the day he was born, and it simply continues, unaffected, whether his father is living or has since passed away. The Supreme Court in Vineeta Sharma held that, since 2005, exactly the same is now true for a daughter — her coparcenary status was never something that depended on catching her father alive on a particular date; like her brother's, it was hers from birth.

The Court also described the 2005 amendment's operation using a specific, technical label: it characterised the amendment as neither purely "retrospective" (reaching back to disturb rights that had already finally, validly vested under the old law) nor purely "prospective" (applying only to events occurring after the amendment), but "retroactive" — meaning it takes an antecedent event (a daughter's birth, which may have occurred long before 2005) as its trigger, while the legal consequences of that birth (her coparcenary status) are given effect to from the date the amendment came into force onward. This is the technical basis for the conclusion, discussed above, that it does not matter when the daughter or her father was born or died, so long as no partition validly and finally completed before 20 December 2004 stands in the way.

The Court additionally addressed how this principle applies to partition suits that were still pending — that is, filed but not yet finally decided — at the time of the 2005 amendment or even at the time of the Vineeta Sharma judgment itself in 2020. It held that a preliminary decree in a partition suit (an initial court order declaring the parties' shares in principle) does not, by itself, bring the partition to a final and complete end; until a final decree is passed (actually dividing the specific properties, or directing their sale, in line with the shares declared), a court hearing the matter must take into account supervening events and changes in the law — including the 2005 amendment itself — before the final decree is passed. Only a partition that has actually reached finality — through a final decree, a registered partition deed, or an oral partition followed by conduct sufficient in law to prove it was acted upon — falls outside the reach of the amendment as interpreted in Vineeta Sharma; a partition suit that remains pending, even one filed years before the amendment, does not.

4. Reading the Statute and the Case Law Together

Bringing the statutory text and the three decisions together, the settled legal position — as it now stands following Vineeta Sharma — is that a daughter's coparcenary status in her father's Hindu Undivided Family does not depend on the timing of her father's death relative to 9 September 2005. What matters is that she was born into the coparcenary — whether that birth occurred before or after that date — not whether her father happened to survive until that date. Phulavati's contrary reading, which had required the father to be a "living coparcener" on that specific date, no longer represents the law on this point, having been expressly disapproved by the later, larger Bench in Vineeta Sharma.

The one boundary the statute itself does draw is different in kind from the date of the father's death: Section 6(5) protects only a partition of the ancestral property that had already been validly and finally completed — whether by a registered deed or by a court decree — before 20 December 2004. A family in which no such partition had taken place, however long ago a coparcener died, remains open to the daughter's claim under the amended Section 6 as interpreted in Vineeta Sharma. A family in which the property genuinely was partitioned by deed or decree before that December 2004 cut-off, by contrast, is not reopened by the amendment at all, regardless of when anyone died.

It is also worth noting what the amendment and this line of cases do not turn on: they do not turn on a daughter's marital status. Nothing in the text of the amended Section 6, and nothing in Phulavati, Danamma, or Vineeta Sharma, draws any distinction between a married daughter and an unmarried one. The "daughter of a coparcener" language in Section 6(1) applies to a coparcener's daughter regardless of whether she has married, and regardless of whether she continues to reside with her natal family or has moved to live with her husband's family after marriage.

5. How a Coparcenary Share Is Actually Determined

Establishing that a daughter is a coparcener is the first question; it is a separate question, in practice, how large a share that coparcenary status actually translates into, because a coparcenary interest is not a fixed fraction — it fluctuates with the number of coparceners in existence at any given time, and is only converted into a fixed, quantified share at the point of an actual or notional partition.

The general method Hindu law uses to calculate a share, where a partition is to be worked out, is this: at the relevant point in time, the ancestral property is notionally divided as if every living coparcener at that moment were claiming their share simultaneously. Each coparcener's share is then determined per stirpes at the topmost surviving generation — meaning the property is first divided equally among the branches of the family descending from the common ancestor, and each branch's share is then sub-divided equally among the coparceners within that branch — rather than dividing the whole property into equal shares per living individual regardless of which branch they belong to.

A simplified illustration helps make this concrete (using round, illustrative figures only, not any figure drawn from Kavita's actual property): suppose an ancestral property is held by two brothers, each the head of his own branch of the family, and one of those brothers has one son and one daughter, while the other brother has two sons. On a notional partition at the level of the two brothers' generation, the property would first be divided into two equal branch shares of one-half each. Within the first brother's one-half branch share, that half would then be further divided equally between his son and his daughter (as coparceners in their own right, each taking one-quarter of the whole property), while within the second brother's one-half branch share, that half would be divided equally between his two sons (each taking one-quarter of the whole property). The daughter's coparcenary status, in other words, affects how her own branch's share is sub-divided — it does not, by itself, change how the overall property is divided between the two original branches.

The calculation becomes a little more involved where a coparcener of an earlier generation has already died leaving his own children, because Hindu law applies the principle of representation: a deceased coparcener's branch does not simply drop out of the calculation, and it is not treated as if he never existed. Instead, his children step into his branch's share collectively, and that branch's share is then further sub-divided among them, exactly as it would have been sub-divided had he lived to divide it himself. Extending the earlier illustration: if the second brother (the one with two sons) had, in fact, already passed away before the notional partition date, leaving those two sons surviving, his one-half branch share would still first be attributed to his branch as a whole, and only then divided between his two surviving sons — the calculation still proceeds branch-by-branch first, individual-coparcener-within-the-branch second, regardless of whether the branch head is alive or has already died and been succeeded by his own children.

This mechanism explains why establishing coparcenary status, while necessary, does not by itself answer the question "how much do I get" — the actual quantum depends on the full coparcenary structure of the specific family: how many branches exist, how many coparceners (sons and, since the amendment, daughters) exist within each branch, and whether any part of the property has already been the subject of any partition, gift, or testamentary disposition affecting it. A precise calculation for any specific family accordingly requires a full, fact-specific review of that family's coparcenary history, which is outside the scope of this general research report.

6. Remedies Generally Available to a Coparcener — In General Terms

As a matter of general legal research (not advice on what Kavita should do), Indian law provides established procedural routes through which a coparcener's rights in joint family property can be judicially determined and given effect to, where family members do not agree among themselves. The principal remedy is a suit for partition, filed before the civil court of competent jurisdiction, in which a coparcener asks the court to declare their share in the joint family property and to divide the property by metes and bounds (or, where physical division is impractical, to direct a sale and division of the proceeds). A closely related remedy is a suit for a declaration of title and/or possession, where the primary dispute is about whether a person holds coparcenary status at all, rather than about dividing an already-agreed share.

In either type of suit, the court applies the same substantive law discussed in this report — the amended Section 6 as interpreted in Vineeta Sharma — to determine who counts as a coparcener and, having done so, applies the per-stirpes calculation described in Section 5 above to quantify each coparcener's share. Such proceedings are also subject to their own procedural requirements, including limitation periods (time limits within which a suit must be filed) and court-fee/valuation rules that vary depending on the nature of the relief sought and the state in which the suit is filed. This report does not set out those procedural specifics for Kavita's own situation, since doing so would require fact-specific advice; it notes only, at a general level, that such remedies exist and operate on the substantive framework discussed above.

7. Distinguishing Ancestral (Coparcenary) Property From Other Kinds of Family Property

Everything discussed in this report so far concerns one specific kind of property: ancestral, Mitakshara coparcenary property. It is worth being precise about what that means, because Hindu family property is not all of one kind, and the amended Section 6 does not govern every asset a family happens to hold jointly.

Ancestral property, in the strict legal sense used throughout this report, means property inherited by a Hindu male from his father, father's father, or father's father's father — that is, property that has passed down for at least three generations in the male line without having been partitioned — and in which, therefore, his male descendants (and now, since 2005, his female descendants as well) acquire an interest by birth. This is distinct from a person's self-acquired property: property that an individual has purchased, earned, or otherwise obtained through their own resources and efforts, in their own name, with no contribution from ancestral joint family funds. Self-acquired property remains that individual's own separate property throughout their life; it does not automatically become coparcenary property merely because that individual happens also to be a member of a joint Hindu family, and on their death it generally passes according to their will, if any, or otherwise according to the ordinary rules of intestate succession applicable to them — not by the survivorship or coparcenary-by-birth rules discussed in this report.

A third category worth noting is property that started as one individual's self-acquired property but was subsequently and deliberately "thrown into the common stock" — voluntarily impressed with the character of joint family property by that individual, through clear words or conduct indicating an intention to abandon separate ownership in favour of the family's joint ownership. Where this has genuinely happened, the property can become ancestral/coparcenary property going forward, even though it did not start out that way. Whether any part of a family's property falls into this third category is a fact-specific inquiry turning on the actual history and treatment of that specific property, and this report does not undertake that inquiry for Kavita's own property, since the facts as instructed do not describe any such blending having occurred.

8. Evidence Typically Relevant to Establishing Ancestral Character and Coparcenary History

Because coparcenary status and the ancestral character of property both depend on the specific factual history of a family's holdings rather than on any registration or certificate that conclusively settles the question, disputes about them are typically resolved by reference to documentary and other evidence built up over the family's history, rather than by any single decisive document. As a matter of general legal research — not a review of Kavita's own evidence, which this report has not been asked to and does not undertake — Indian courts considering questions of this kind have typically had regard to matters such as: revenue records and land records showing historical ownership and the names in which the property has been recorded over successive generations; genealogical tables and family pedigree evidence establishing the relationships between the relevant family members and which generation each belongs to; the existence (or absence) of any prior partition suit, partition deed, or family settlement affecting the property; correspondence, wills, or other documents in which family members have described or referred to the property; and evidence of how the property has actually been used, managed, and dealt with over time, including whether income from it has been treated as belonging to the joint family as a whole or to any individual member separately.

None of this evidentiary detail changes the substantive legal principles set out in Sections 2 to 6 of this report; it simply describes, at a general level, the kind of material that typically becomes relevant once those principles are applied to a specific family's actual property and history — which, as noted throughout this report, is a fact-specific exercise this report does not undertake for Kavita's own property.

9. Coparcenary Property and a Will — Can an Individual Coparcener's Share Be Willed Away?

The facts as instructed describe Kavita's father as having died intestate, without a will. It is nonetheless worth noting, as general background, how the amended Section 6 treats the position where a coparcener does leave a will, since this is a natural question that arises alongside the one Kavita has actually asked, and helps complete the picture of how the amended law operates.

Before 2005, because a coparcener's interest passed by survivorship rather than by inheritance, he generally had no power to dispose of his coparcenary interest by will at all — his interest simply was not his to leave to anyone by testamentary document; it passed automatically to the surviving coparceners regardless of what any will he made might say. Sub-section (3) of the amended Section 6 changes this for deaths occurring after the amendment: because a coparcener's interest is now treated, on his death, as devolving by testamentary or intestate succession rather than by survivorship, he is able to make a will disposing of his own individual, quantifiable share in the coparcenary property, in the same way sub-section (2) confirms a daughter may do with the share she takes under sub-section (1).

It is important to be precise about the limits of this power, however: a coparcener can only will away his own individual, notionally-quantified share — calculated exactly as described in Section 5 of this report, as though a partition had taken place immediately before his death — not the coparcenary property as a whole, and not any other living coparcener's own share in it. In other words, the amendment gave individual coparceners, daughters and sons alike, a new power to dispose of their own defined share by will after 2005, but it did not convert the entire ancestral property into something any single family member could dispose of unilaterally. Since Kavita's father died intestate in 1998 — both before the 2005 amendment and without leaving any will in any event — this specific aspect of the law does not itself change the analysis of Kavita's own facts, but it is included here as relevant general background to how coparcenary property and testamentary disposition interact under the current law.

10. Application to the Facts, As Instructed

CONTENT WITHHELD

11. Summary of Key Legal Principles Discussed in This Report

This report has covered a substantial amount of statutory text and case law; it may help to draw the main threads together in one place, purely as a summary of what has already been set out above and not as any new analysis.

On coparcenary status by birth: under the amended Section 6 of the Hindu Succession Act, 1956, a daughter becomes a coparcener in her father's Mitakshara Hindu Undivided Family by birth, in the same manner and with the same rights and liabilities as a son, per Section 6(1).

On the date of the father's death: following Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1, it is not necessary that the father was alive on 9 September 2005 for the daughter to hold coparcenary status; the earlier, narrower view in Prakash v. Phulavati, (2016) 2 SCC 36, that the father had to be a "living coparcener" on that date has been expressly disapproved.

On completed partitions: the one circumstance the statute itself treats as a firm boundary is Section 6(5) — a partition of the property validly and finally completed, by registered deed or court decree, before 20 December 2004, is not reopened by the amendment. A partition suit that remained pending (not yet reduced to a final decree) at the relevant time is treated differently, as Danamma illustrates and as Vineeta Sharma's treatment of pending suits confirms.

On marital status: neither the statutory text nor the case law discussed in this report draws any distinction between married and unmarried daughters.

On quantifying a share: coparcenary status establishes entitlement in principle; the actual size of any individual coparcener's share is a separate, fact-specific calculation performed per stirpes through the branches of the family, as described in Section 5 of this report, and depends on the specific coparcenary structure of the family in question.

On scope: all of the above concerns ancestral, Mitakshara coparcenary property specifically — not a family member's self-acquired property, which generally passes under their will or the ordinary rules of intestate succession applicable to them, as described in Section 7 of this report.

On evidentiary practice: establishing coparcenary status and the ancestral character of specific property in practice typically draws on revenue and land records, family genealogical evidence, the existence or absence of any prior partition proceeding, and the way the property has actually been treated and managed over time, as described in Section 8 of this report.

12. Frequently Asked Questions

Q1. Does it matter that my father died before the law changed in 2005?

CONTENT WITHHELD

Q2. Does my marital status affect my right to ancestral property?

CONTENT WITHHELD

Q3. What if the property was already divided among the male members of the family before I could claim anything?

CONTENT WITHHELD

Q4. Am I automatically entitled to an equal share with my brother once coparcenary status is established?

CONTENT WITHHELD

Q5. Does this law apply to all property a family owns, or only to certain kinds of property?

CONTENT WITHHELD

Q6. Does the 2005 amendment apply the same way in every part of India?

CONTENT WITHHELD

Q7. If a coparcenary interest was never formally quantified, how would anyone know what "my share" actually is, in numbers?

CONTENT WITHHELD

Q8. Does a daughter also inherit a share of her father's own separate, self-acquired property, in addition to any coparcenary interest?

CONTENT WITHHELD

Q9. Is there any time limit within which a coparcenary claim must be raised after a father's death?

CONTENT WITHHELD

Q10. Has the Supreme Court's position in Vineeta Sharma been questioned or reconsidered since 2020?

CONTENT WITHHELD

13. Scope and Sources of This Research

This report has been prepared by reference to the text of the Hindu Succession Act, 1956, both in its original form and as substituted by the Hindu Succession (Amendment) Act, 2005; the Law Commission of India's 174th Report (2000); and the reported decisions of the Supreme Court of India in Prakash v. Phulavati, (2016) 2 SCC 36, Danamma @ Suman Surpur v. Amar (Supreme Court of India, 1 February 2018), and Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1. Each statutory quotation and each case citation and holding set out in this report was independently checked against more than one source before being included, consistent with Lexovia's internal case-law integrity practice; the one exception is the Danamma decision, for which this report deliberately does not assert a single, specific reporter citation number, for the reasons explained in Section 3B, though its date, bench, and substance were independently confirmed.

This report sets out the statutory text and judicial positions identified above as of the date of this research. It is prepared for educational and informational purposes only and does not constitute legal advice under the Advocates Act, 1961 or any other applicable law. It does not represent an exhaustive compilation of all judicial pronouncements on this subject, and the law may develop further. Lexovia is not a law firm and does not provide legal advice; customers with a specific ancestral-property question of their own are encouraged to consult a qualified enrolled advocate.