

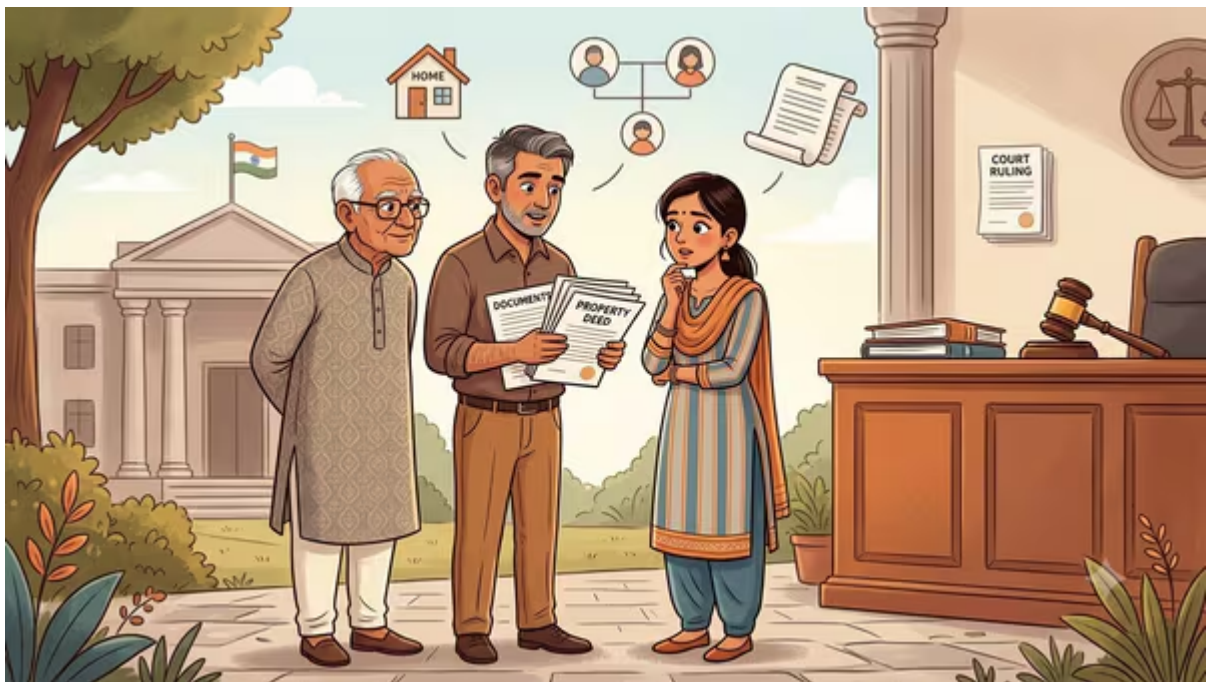
Can children claim a share in property inherited by their father? Karnataka HC explains when they can—and cannot

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The Karnataka High Court ruling clarifies that property received by a father from his own father does not automatically become ancestral. Children cannot claim a birthright in such assets if they remain the father's self-acquired property.



Children cannot claim birthright in father's property: Key conditions explained (AI-generated image)

If you think you have a birthright in your grandfather's property, you may be in for a surprise.

In a recent ruling, the Karnataka High Court held that property inherited by a father from his own father's self-acquired assets does not automatically become ancestral property in the hands of grandchildren.

In *Smt. Usha N. Swamy v. Sri M. Venkataswamy & Ors.*, the court held that the property in dispute was self-acquired property and not [ancestral property](#).

The court dismissed a woman's claim for an equal share in properties that originally belonged to her grandfather, holding that since the assets were the grandfather's self-acquired properties, she could not claim a right in them by birth.

What was the woman's claim?

Usha N. Swamy had filed a suit seeking partition, claiming an equal share in the properties as a coparcener. She argued that the properties, which had passed to her father after her grandfather's death, were ancestral in nature.

However, a division bench of Justices DK Singh and TM Nadaf rejected her appeal. The court held that coparcenary rights by birth arise only in ancestral or coparcenary property, and not in self-acquired property.

Tanmay Patnaik, Partner – Private Client at Trilegal, explained “that the grandfather's property was self-acquired and was later transferred to the father through a [family](#) arrangement or partition as his separate allotment. Hence, it retained its character as separate property, and the daughter had no birthright to claim a share in it.”

Doesn't the property inherited by her father become ancestral?

Not necessarily.

The High Court clarified that property inherited by a father does not automatically become ancestral for his children merely because it passes from one generation to the next.

Nilesh Tribhuvann, Founder & Managing Partner at White & Brief - Advocates and Solicitors, said, “Merely passing a property from one generation to the next does not make it ancestral. Its legal character depends on the source of acquisition and whether it has retained its coparcenary character.”

In this case, the court noted that the properties had originally been purchased by the woman's grandfather and were therefore his self-acquired assets. Their legal character did not change simply because they later devolved on his son. As a result, the father's children could not claim a birthright in those properties.

So, when is property considered ancestral?

In its 16 June judgment, the court reiterated that coparcenary rights by birth arise only in ancestral or coparcenary property. Such rights do not extend to property that was originally self-acquired by an ancestor and later inherited by legal heirs in their individual capacity.

Since the disputed properties were found to be the grandfather's self-acquired assets, the court held that the father inherited them as his separate property. Consequently, his children did not acquire any right in them by birth.

Tribhuvann said, “Self-acquired property is the one that is acquired by an individual through purchase, [gift](#), will or personal effort, over which they have absolute ownership.”

A property that was originally self-acquired can become ancestral property if the owner voluntarily blends it into the common pool of Hindu Undivided Family (HUF) or if the property continues only as undivided joint family property across four generations of male lineage.

He said that the legal character of the property depends on how it was acquired and whether it continued as joint family property.

Do daughters have the same coparcenary rights as sons?

Yes. According to the Hindu Succession (Amendment) Act, 2005, daughters enjoy the same coparcenary rights as sons. They are entitled to an equal share in ancestral or coparcenary property.

However, the amendment does not convert self-acquired property into ancestral property. In Swamy's case, the High Court found that she had failed to establish that the disputed assets were ancestral or coparcenary properties.

Patnaik said, "The amendment only gives daughters equal rights where the property is already coparcenary property. It does not create a birthright in a father's self-acquired property."

Tribhuvann explained, "Under Hindu law, ancestral property is the one that is inherited by birth as part of an undivided Hindu coparcenary, typically tracing its origin to a common ancestor and remaining undivided across generations."

When can children inherit a father's self-acquired property?

Children do not have a birthright in a father's self-acquired property during his lifetime.

According to Tribhuvann, they become entitled to such property only if the father dies without leaving a Will (intestate), or if a share is specifically given to them under the Will.

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About the Author

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