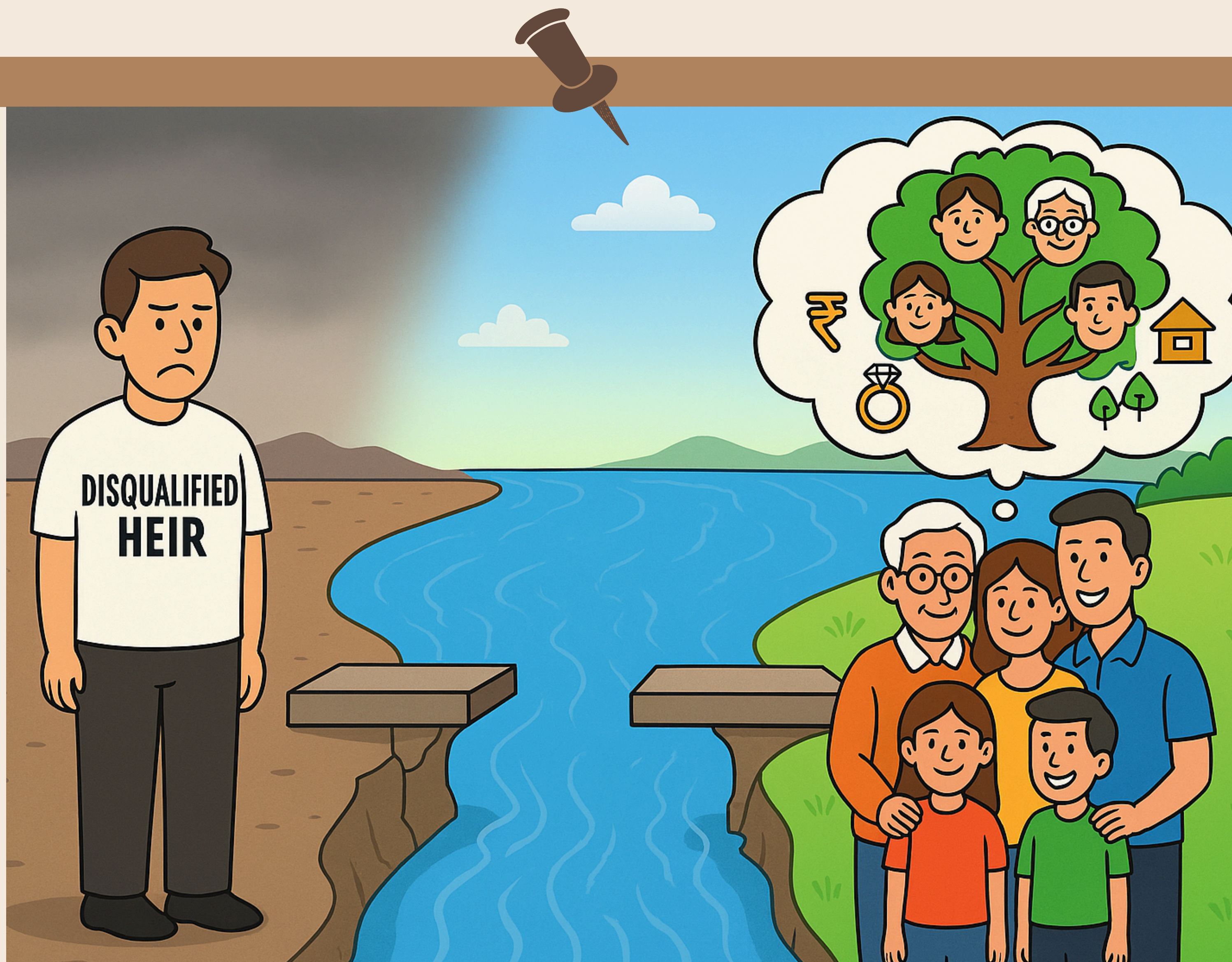


# Disqualification OF LEGAL HEIRS



Wednesday Wisdom  
08-10-2025

Old Bollywood films like ChaalBaaz, Swarg and current TV serials[1] are full of inheritance property disputes, but one may wonder what the reality of inheritance law in India. Inheritance disputes over property have become a common issue in India, especially in cases where individuals contest the rightful succession or seek to establish themselves as legal heirs. While there is no mechanism to fast-track resolution of such disputes, many can be avoided if individuals clearly understand their rights and obligations under the law. A clear knowledge of who is entitled to inherit under succession law and who is excluded, helps to protect legitimate heirs and prevents unlawful claims.

In our previous articles, we explained the distribution of a Hindu deceased person's estate under the Hindu Succession Act, 1956 ("Act") when there is no valid Will. In this [article](#), we focus on certain circumstances mentioned in the Act under which Hindu legal heirs are disqualified from inheriting the deceased's estate.

### **1.Can a nephew claim his deceased uncle's property if the uncle was unmarried and his father (the uncle's brother) had already died before the uncle?**

**Answer: No.** In such a case, the nephew cannot claim his deceased uncle's property. Under the Act, if a Hindu man dies unmarried and without any Class I heirs (such as spouse, children, or mother), the property devolves upon his Class II heirs, which include his father, siblings, and other specified relatives.

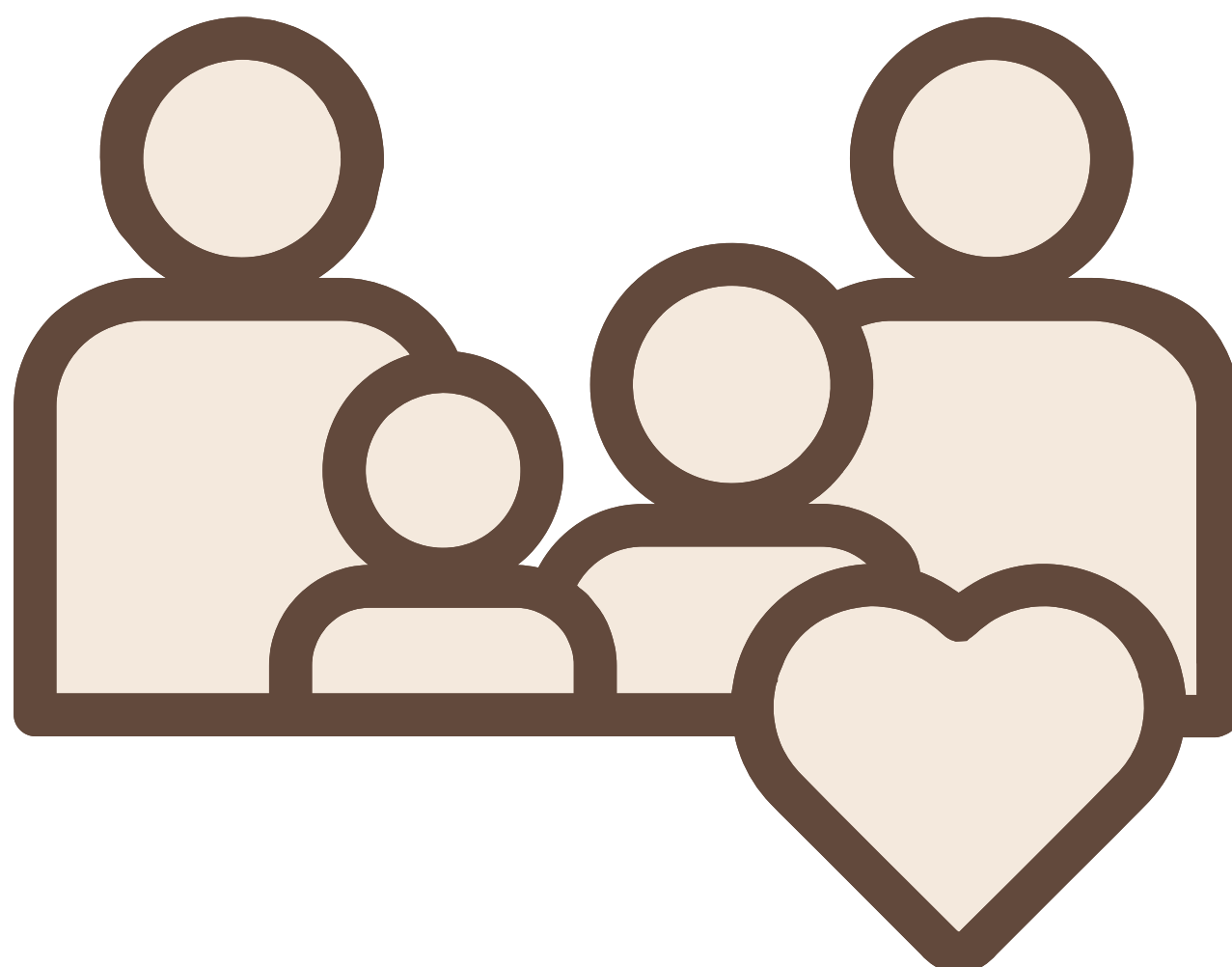
[1] The article reflects the general work of the author on the date of publication and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

However, succession opens only at the time of the deceased's death, and only those relatives who are alive at that moment can inherit. If the uncle's brother (the nephew's father) had already died before the uncle, then he is not considered an heir at the time succession opened.

**Example:** Ramesh dies unmarried and intestate. His two siblings, Suresh and Sunita, are alive, while his third brother, Devesh, had already died earlier. Devesh's son, Neeraj, claims a share in Ramesh's property. The claim fails because Devesh was not alive when succession opened. Therefore, the property devolves only upon Suresh and Sunita, the surviving siblings of Ramesh.

## 2. Can the widow or children of a predeceased son claim the deceased's property?

**Answer: Yes.** Under the Act, if a son of the deceased has predeceased him, his branch is not entirely excluded. The children of the predeceased son (i.e., the deceased's grandchildren) step into their parent's place and inherit the share that their father would have received had he been alive when succession opened. Also, the widow of a predeceased son is entitled to inherit her husband share collectively with their children.



### **3. Can a person who commits the murder of the deceased inherit property?**

**Answer: No.** Under Section 25 of the Act, a person who commits or abets the murder of a deceased is completely disqualified from inheriting the property of the deceased. The Act further clarifies that when an heir is disqualified, succession proceeds as that person had predeceased the deceased. This prevents the murderer or his/her heirs from claiming any property or part of the property of the deceased.

In ***Vellikannu vs R. Singaperumal***[2] case, the Supreme Court upheld the High Court's decision, ruling that the plaintiff was not entitled to inherit the property. The Court emphasized that under Sections 25 and 27 of the Act, a person who commits murder or abets it is disqualified from inheriting the property of the deceased. This disqualification extends to the murderer's descendants, including the wife, as the murderer considered to have predeceased the intestate. The Court referred to the principle that a murderer should not be regarded as the stock of a fresh line of descent but should be considered non-existent when succession opens. Therefore, the plaintiff also cannot claim as widow of murderer. It was also observed that since the plaintiff claims as widow of a Defendant 1 and he is disqualified, same disqualification equally applies to her for she cannot claim through the murderer husband.

[2] Civil appeal No. 4838 of 1999

#### 4. What is the effect of conversion of religion on inheritance rights?

**Answer:** Under the Act, a Hindu heir who converts to another religion does not lose the right to inherit the property of their Hindu parents or relatives. However, children born to him or her after such conversion and their descendants who are non-Hindu at the time when succession opens are disqualified from inheriting deceased's property.

In ***Balchand Jairamdas Lalwant v. Nazneen Khalid Qureshi***[3], the Bombay High Court held that a Hindu who converts to another religion is not disqualified from inheriting property under the Act. The respondent, a Hindu woman who had converted to Islam, claimed her share in her deceased father's property. Her brother contended that, being a Muslim, she could not inherit under the Act. The Court rejected this argument, clarifying that Section 26 of the Act disqualifies only the descendants of convert who are non-Hindus at the time succession opens, not the convert themselves.

#### 5. Can illegitimate children inherit property under the Act?

**Answer:** As per the Section 16(3) of the Hindu Marriage Act, 1955, children born from void or voidable marriages are entitled to inherit the property of their parents but not that of any other relatives. Accordingly, an illegitimate child shall inherit the father's self-acquired property but has no right over ancestral or coparcenary property. Recent ruling by the Apex Court in *Revanasiddappa v. Mallikarjun*, affirms this position, and is applicable to Hindus governed under Mitakshara law. However, the word "Property" used in this sub-section 16 (3) of the Hindu Marriage Act, 1955 is silent on whether it involves ancestral property, self-acquired property or both.

[3] Appeal from Order: 1175 of 2014

## **6. Can an adopted child claim property from the biological parents after being legally adopted by another person?**

**Answer:** Under Section 12 of the Hindu Adoption and Maintenance Act, 1956, a child adopted by another person becomes the full legal child of the adoptive parents and is treated as born to them. As a result, the adopted child loses the right to inherit property from the biological parents, except in cases where the biological parents have explicitly provided through a WILL to such child or had granted the property to such child before adoption.

In cases where no legal heirs are eligible to inherit due to disqualification or absence of rightful successors, the property shall vest in the Government under **Section 29** of the Act. This ensures that property does not remain ownerless and that the succession process reaches lawful conclusion.

For any feedback or response on this article, the authors can be reached on [charusheela.vispute@ynzgroup.co.in](mailto:charusheela.vispute@ynzgroup.co.in) and [aarti.banerjee@ynzgroup.co.in](mailto:aarti.banerjee@ynzgroup.co.in)

**Author: Charusheela Vispute**

Charusheela is a Partner of Estate planning and trademark, having specialisation in property and testamentary matters. By qualification she is Bachelor of Arts and Bachelor of Law from Mumbai University.



**Co-author: Aarti Banerjee**

Aarti is a Partner - Corporate Legal Advisory:

Aarti is experienced in corporate legal matters having specialization in drafting, vetting and negotiation of agreements. By qualification she is an advocate and a solicitor.