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Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

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Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CRITICAL ANALYSIS OF POWERS AND DUTIES OF KARTA UNDER HINDU UNDIVIDED FAMILY: EVOLUTION, CONTEMPORARY CHALLENGES, AND GENDER REFORMATION

AUTHORED BY: DEETSHITHA MOHAN.M ¹

ABSTRACT

This article explores the evolution and significance of the Karta's institutional position and legal authority within the Hindu Undivided Family (HUF) in the Indian constitutional context. Tracing its roots to Mitakshara school of Hindu jurisprudence, the study critically examines how the Karta mechanism acts as a vital institutional framework for interests of all coparceners. Comparative perspectives examining the gender reformation following the Hindu Succession Amendment Act 2005, the recognition of female Kartas, and the expanding scope accountability mechanisms are integrated for comprehensive understanding. The research critically evaluates the adequacy of the existing legal framework balancing the Karta's traditional authority with contemporary constitutional principles of equality, transparency, and justice, while identifying practical enforcement challenges and proposing reformative recommendations.

KEYWORD: Karta; Hindu Undivided Family; Mitakshara school; coparcenary rights; powers of alienation; legal necessity; fiduciary duty

1. INTRODUCTION

The Hindu personal law places central emphasis on the institution of the Hindu Undivided Family (HUF) which is not only a unit of kinship, but it is also an independent legal and economic unit under Indian jurisprudence. The centre of its operations is the Karta, which is the first male in the family, with the management and control of the joint family affairs. The Karta has an authority that is unrivalled in most families: He runs the family business, administers property, serves as a representative of the family in legal proceedings, and has the

¹ 2nd Year Law Student pursuing B. Com LLB (H.) at Tamil Nadu National Law University, Trichy, Tamil Nadu.

power to take binding decisions on behalf of all coparceners. However, this status of wide powers is compensated by another equally important category of obligations such as the need to act in good faith, protect family assets, keep accounts, and the general well-being of its members.

The seat of the power of the Karta indicates the tradition of history and interpretation of judicial law within the school of the Mitakshara of Hindu law. His position is not based on any contract but rather on an appreciation of customary law which places him with fiduciary duty similar to that of a trustee. Modern practices, however, such as changes in law and constitutional ideas of equality have changed the debate on who can take the position of Karta, and female Kartas have gained significant judicial acceptance. This changing situation poses critical questions regarding the scope, justification and responsibility of his (or her) powers.

It is important to critically analyse the role of the Karta because it has three reasons. To begin with, although his authority is wide, it is not always codified to an extent that causes disagreements and lawsuits. Second, the aspect of privilege and responsibility needs to be questioned to avoid the abuse of overpowering influence, particularly, property management and alienations. Third, the dynamism of personal law against the backdrop of the constitutional ideals is the need to revisit the issue concerning the desirability of traditional privileges attached to the Karta in a social order that can change.

This paper, thus, aims at discussing the authority and responsibilities of the Karta in Hindu Undivided Families and the judicial trends and legislative changes. It will attempt to assess the suitability of the already established legal framework in terms of accountability whilst maintaining effectiveness of the family governance. The research makes an effort to evaluate the adequacy of the Karta powers in the modern demands of justice, equality, and accountability in the family law through critical examination of the case law, statutory provisions, and academic views.

RESEARCH PROBLEM:

Regardless of its broad powers in the administration of the Hindu Undivided Family, the position of the Karta is still not codified but subject to customary laws and judicial interpretation. This leaves a grey area on what he can do and where he can be held accountable. As new values in constitutions and appreciation of female Kartas grow, new structures must be

revisited. The research problem is thus to critically evaluate whether the current legal stance of the Karta is adequate to balance the authority and responsibility in the modern times.

RESEARCH OBJECTIVE:

- To analyse the source, character and the law that forms the basis of the powers vested in the Karta under the Hindu undivided family law.
- To understand the extent of powers and liabilities that are placed on the Karta in the management of family property, and in protecting the interest of the family members.
- To assess judicial interpretations and legislative progressions in relation to the status of the Karta, as well as the status of female Kartas.
- To critically evaluate the presence of sufficient checks and balances, to ensure that the authority held by the Karta is consistent with the principles of justice, equality and accountability.

RESEARCH QUESTION:

1. What are the legal foundations, scope, and limitations of the Karta's powers in managing a Hindu Undivided Family?
2. How have courts and statutory reforms shaped the duties and responsibilities of the Karta, including the recognition of female Kartas?
3. Does the current legal framework governing the Karta adequately balance his authority with accountability and the rights of other family members in a modern, constitutional context?

RESEARCH METHODOLOGY:

This project work uses a doctrinal method of research. The sources used are both primary and secondary in nature and the statute, several judgments, books, journal articles, newsletters and websites have been referred to in the process of writing this project.

REVIEW OF LITERATURE:

1. KARTA/MANAGER AND HIS LEGAL POSITION: A SOCIO LEGAL STUDY²
A thorough analysis of the legal position of the Karta by analysing the doctrines of

² Ankita Gupta, *Karta/Manager and His Legal Position: A Socio Legal Study*, MANUPATRA ROUNDUP (2013).

statutory provisions and case laws. The research paper dwells upon the authorities, responsibilities, and constraints of the Karta, especially, property alienation rights and recent legal supreme court rulings. It contains major references of cases such as Radhakrishna v. Kuluram and Union of India v. Sri Ram Bohra to show the special status of the Karta. The study strikes a reasonable balance between theory and practice, which makes it useful in learning about the modern problems in HUF management. Nevertheless, the article might be further developed with gender reform and female Karta recognition after amendments of 2005.

2. ANALYSIS ON THE ROLE OF KARTA UNDER HINDU LAW³

A modern interpretation of the changing role of the Karta in Hindu Undivided Families is given in journal article by Adhi Kesavan and M. Kumarappan. These powers of the Karta, such as representation, management, income control, and alienation rights, are discussed by the authors in a systematic manner and with references to current issues that emerge as a result of legal reforms. Of interest in the study is the effect of the Hindu succession Amendment Act of 2005 on the rights of females as coparcenary and the eligibility of the Karta. The study contains the analysis of appropriate case law and deals with the trade-off between old-fashioned authority and new accountability practices. The article is a great source of information about the historical foundations of the Karta principles, as well as the modern application of these principles.

3. HINDU JOINT FAMILY & KARTA RIGHT OF ALIENATION⁴

In the article by Pushkar Sinha gives a specialized analysis of the Kartas powers of alienation in Hindu Joint Family. The study critically evaluates the three common grounds of valid alienation, namely, legal necessity (Apatkale), benefit of estate (Kutumbarthe) and indispensable duties (Dharmarthe). The paper contains substantial case law research such as Kandasami vs. Somakanda and Manohar vs. Dewan to show how the courts interpret alienation rights. The article adequately follows the history of the development of the ancient Dharmashastra concepts to the current statutory law, especially looking at the influence of the Hindu Succession Act 1956 and its revision in 2005. Although the article is exhaustive on the elements of alienation, it is possible to generalize on the scope of managerial powers and responsibilities.

³ Adhi Kesavan & M. Kumarappan, *Analysis on the Role of Karta under Hindu Law*, 6 INT'L J.L. MGMT. & HUMAN. 2410 (2023).

⁴ Pushkar Sinha, *Hindu Joint Family & Karta Right of Alienation*, 2 INDIAN J. INTEGRATED RES. L. 1 (2022).

4. ANALYSIS OF KARTA AND COPARCENER'S ROLE, POWERS, AND LIABILITY IN THE JOINT HINDU FAMILY⁵

The detailed analysis of the HUF governance offered by Jannat Chuchra (2023) focusing on the Karta and coparcener under the framework of the Mitakshara school presents a two-fold outlook on the HUF governance. The study methodologically examines rights of coparcener such as survivorship, partition and alienation and looks at managerial powers of Karta as well as fiduciary duties. The article has successfully used cases that have been landmarked such as State Bank of India v. Ghamandi Ram and deals with the radical effects of the Amendment Act 2005 on female coparcenary rights. The paper is also most useful in a practical sense because of the comprehensive coverage of voluntary and involuntary cases of alienation. The study effectively strikes a balance between theory and the current legal trends providing us with information concerning the changing family formations and gender equality ideals.

2. LEGAL FOUNDATIONS AND SCOPE OF KARTA'S POWERS

Hindu Undivided Family (HUF) is the most distinctive legal entity associated with Hindu Law.⁶ The Karta, occupying a sui generis position within this structure, serves as the primary manager and representative of the joint family.⁷ The Karta is traditionally the eldest male member in the Hindu family but recent reforms have expanded eligibility.⁸ Understanding the powers of the Karta requires an appreciation of historical change, frameworks and judicial interpretation.

HINDU LAW AND THE MITAKSHARA SCHOOL:

The notion of Karta has its origin in the Mitakshara school of Hindu law, which laid down basic principles of coparcenary and management of the family.⁹ As contemplated in Vijnaneshwara's Mitakshara, the Karta is the eldest member of the family and is the manager of all joint family affairs. Essentially, the Mitakshara system contemplates a joint family as a

⁵ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 INT'L J.L. MGMT. & HUMAN. 2756 (2023).

⁶ Ankita Gupta, *Karta/Manager and His Legal Position: A Socio Legal Study*, Manupatra Roundup (2013).

⁷ Pushkar Sinha, *Hindu Joint Family & Karta Right of Alienation*, *Indian J. Integrated Res. L.*, Vol. II Issue II, 1 (2022).

⁸ Tanmay Raghuvanshi, *Transitioning Roles in Hindu Joint Families: Dependents to Karta*, 4 J. Legal Res. & Juridical Sci. __ (2025).

⁹ Vikramaditya Khanna, *Fiduciary Duty in India: The Special Case of the Hindu Undivided Family*, in *The Oxford Handbook of Fiduciary Law* (Evan J. Criddle et al. eds., Oxford Univ. Press 2019)

group bound by kinship due to a common ancestor, with joint ownership of property.¹⁰

It is the senior member who is Karta, not someone elected as Karta can exist.¹¹ In case *Damodae Misra v. Sanamali Misra* they said that only one Karta can exist for orderly management.¹² The role is one acquired at birth, and the Karta is a result of seniority, but there may be exceptions under some narrow circumstances in which a junior family member is permitted to serve as a Karta with the consent of the coparceners or when a senior member is incompetent to carry out the Karta's duties.¹³ The Supreme Court affirmed in *Nopany Investments Pvt LTD v. Santokh Singh* that the mere fact a person who served as Karta has been temporarily away is not enough to displace the Karta. There are exceptions to the general rule when it is impossible for the Karta to return to the family.¹⁴

KARTA AS CUSTODIAN VS. MANAGER:

The Karta's position as manager is distinguishable from him being a custodian.¹⁵ He is not a trustee or agent, the karta is not strictly bound by fiduciary duties, though he occupies a position of trust.¹⁶ In the case of *Radhakrishnan v. Kuluram*, the Supreme Court noted that the Karta represents the whole joint family on all matters – religious, social, and legal and his acts are fully binding on all members.¹⁷ The Karta is acting either as a custodian or guardian over the family property and affairs, not just a manager who has been appointed to act for limited purposes.

This distinction is significant. The Karta, unlike trustees, is granted extensive discretion in management choices. He is not required to be a prudent manager or maximize return savings as long as he is acting bona fide for the family.¹⁸ However, as a custodian, the Karta has a duty of care obligations around family interests, and he may be liable to coparceners for misappropriation or for gross negligence.

¹⁰ Fazila Shaikh, *Position of Females as Karta after Hindu Succession (Amendment) Act, 2005*, 3 Indian J. Integrated Rsch. L. 49 (2022).

¹¹ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 Int'l J. L. Mgmt. & Human. 2756 (2023).

¹² *Damodar Misra v. Sanamali Misra* (1967).

¹³ *Nopany Investment Pvt. Ltd. v. Santokh Singh*, AIR 2008 SC 673

¹⁴ *Id.*

¹⁵ Vikramaditya Khanna, *Fiduciary Duty in India: The Special Case of the Hindu Undivided Family*, in *The Oxford Handbook of Fiduciary Law* (Evan J. Criddle et al. eds., Oxford Univ. Press 2019)

¹⁶ *Radhakrishna v. Kuluram*, AIR 1967 SC 574.

¹⁷ *Id.*

¹⁸ *Bhowani v. Jagannath*, (1909) 13 CWN 309.

LEGAL FRAMEWORK AND STATUTORY EVOLUTION:

Before the 1956 Hindu Succession Act, the Karta's status was completely determined by customary Hindu Law.¹⁹ The 1956 Act provided statutory backing to customary principles, consolidating law while leaving day-to-day management powers largely untouched.²⁰ But, the Hindu Succession (Amendment) Legislation, 2005 was a significant watershed period.²¹ After commissioning the 174th Law Commission Report, the Amendment resulted in three substantive changes; it abolished the survivorship doctrine, abolished the son's pious obligation and gave daughters equal coparcener rights.²²

Section 6 of the Amended Act declares that a daughter by birth, holds the same rights, liabilities and interests as a son and a daughter is a co parcener.²³ The Significance of this representation not only substantially alters the mechanics for succession, but also means that a female member is now eligible to be Karta if she is the senior most member of the joint family. The Case of Mrs. Sujata Sharma v. Shri Manu Gupta and Ors., handed down by the Delhi High Court, provides judicial recognition, indicating that a female can, "act as Karta of a joint family", and hold the same rights and powers as a male Karta. This judgement was a landmark case in affirming gender equality in the context of inheritance rights to family management.

POWERS OF THE KARTA

The Karata possess absolute power to manage all family affairs in a manner he deems fit.²⁴ As held in Bhaskaran v. Bhaskaran, the Karta's power of management is unqualified, and no family member has a right to challenge the Karta's conduct in management matters, unless such family member can establish fraud or misappropriation on the part of the Karta. The Karta's absolute discretion includes the receipt of all family income from any source, disposition of the income for family purposes, appropriate living standards for each individual, and management of family business.

The Karta has an unlimited right to represent the family in all legal, social and religious

¹⁹ Radhika Gupta, *Joint Hindu Family and Rights of Daughter in Property*, 2 Indian J. Integrated Rsch. L. 1 (2021).

²⁰ Id.

²¹ Fazila Shaikh, *Position of Females as Karta after Hindu Succession (Amendment) Act, 2005*, INDIAN J. INTEGRATED RES. L., Vol. III Issue VI (2023).

²² . Id.

²³ Adhi Kesavan & M. Kumarappan, *Analysis on the Role of Karta under Hindu Law*, INT'L J.L. MGMT. & HUMAN., Vol. 6 Issue 6 (2023).

²⁴ Bhaskaran v. Bhaskaran, (1908) ILR 31 Mad 318.

matters.²⁵In *Singriah v. Ramanuja*, the court held that the Karta has the right to represent the Joint Family in legal proceedings.²⁶ All suits on behalf of the family must be filed in the name of the Karta, and all judgements are binding upon all family members, including minors who were not parties.²⁷ This right to represent the family members, including minors who were not parties. This right to represent extends to all transactions and dealings by virtue of representing the family, not the Karta individually.

The Karta has the power to incur debts, for family purposes, without the consent of other coparceners.²⁸ These debts will bind on all members of the family, and creditors may recover against joint family property. As it is clear in the case, if the Karta borrows money for family business or necessity, it automatically binds all coparceners, even minor coparceners.²⁹

The most commonly litigated part of Karta's powers involves Karta's power to alienate joint family property.³⁰ Unlike his absolute management powers, Karta's power to alienate is conditional and limited by the authority of courts.³¹ According to the Mitakshara school, there are three conditions which allow karta to alienate joint family property without the consent of the other coparceners

1. Legal necessity (Apatkale)
2. Benefit of Estate (Kutumbarthe)
3. Indispensable Duties (Dharmarthe).³²

Legal necessity is defined as situations which are absolutely necessary for preserving the family's financial integrity and continuity. In *Dev Kishan v. Ram Kishan*, it was noted that legal necessity is a flexible concept depending on the fact and circumstances of each case.³³ “Legal necessity includes payment of antecedent family debts, marriage expenses of family members including daughters’ medical expenses associated with serious illness, discharge of

²⁵ *Singriah v. Ramanuja*, AIR 1959 Mys 239.

²⁶ *Id.*

²⁷ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 *Int'l J. L. Mgmt. & Human.* 2756 (2023)

²⁸ *Dev Kishan v. Ram Kishan*, AIR 2002 Raj 370.

²⁹ *State Bank of India v. Ghamandi Ram*, AIR 1969 SC 1330.

³⁰ Anubhav Singh, *Analysis of the Powers of Karta vis-à-vis Position of Women as a Karta*, 2 *Indian J. L. & Legal Rsch.* 1 (2020)

³¹ *Balmukund v. Kamla Wati and Others* (1964).

³² Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 *Int'l J. L. Mgmt. & Human.* 2756 (2023)

³³ *Dev Kishan v. Ram Kishan*, AIR 2002 Raj 370.

statutory liabilities including taxes, and removal of encumbrances against family property.³⁴

Nevertheless, not all debts can be considered as legally necessary. In *Shankarlal Ladha v. Vasanth Deshmukh and Ors.* it was determined that the purchaser of joint family property must prove the existence of legal necessity.³⁵ This necessity should be pressing and must be evidenced.³⁶

Benefit of estate provides grounds for an alienation only if the sale or mortgage is to increase or preserve the property of the joint family estate.³⁷ In *Balmukund v. Kamla Wati and Ors.*, the Supreme Court that anything that has been done for a positive benefit of the estate is included in this definition of benefit of the estate might include mortgaging property access funds for agricultural improvement or business development, consolidate joint family property, discharge a competing or adverse claim thereby receiving clean title, and/or disposing of unproductive property in order to acquire productive or profitable property.³⁸

Alienations for religious and charitable obligations consist of the performance of Shradha and funeral rites, for marriage ceremonies, performance of religious rites, and in general, any other social, customary, or religious obligations that are required or ordained by Hindu customs.³⁹ Notably, even if one of the three factors has been met, such transfer is still a secure transfer that is subject to significant limitations.

When it comes to an agreement on a transfer of property, it is clear that the Karta must exercise their authority with reasonableness, requiring appropriate caution and foresight.⁴⁰ It is the case that transfers must be transacted on reasonable or market terms rather than through grossly inadequate consideration. In *Dastagirsab v. Sharanappa*, the Supreme Court stated that a marriage expense is a legal necessity but a sale must nevertheless be on reasonable commercial terms.⁴¹

³⁴ Chirashree Das Gupta, *Gender, Property and Institutional Basis of Tax Policy Concessions: Investigating the Hindu Undivided Family*, Ambedkar Univ. Discussion Note (2010).

³⁵ *Shankarlal Ladha v. Vasanth Deshmukh and Ors.*, 2009 (111) BomLR 393

³⁶ Pushkar Sinha, *Hindu Joint Family & Karta Right of Alienation*, 2 Indian J. Integrated Rsch. L. 1 (2021).

³⁷ *Balmukund v. Kamla Wati and Others* (1964)

³⁸ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 Int'l J. L. Mgmt. & Human. 2756 (2023)

³⁹ *Id.*

⁴⁰ *Dastagirsab v. Sharanappa @ Shivasharanappa Police Patil* (2025) Supreme Court.

⁴¹ *Id.*

The burden on an alienee (purchaser) when a transfer is challenged by coparceners is to show either that the transaction was supported by sufficient legal necessity or benefit to the estate, or that the Aline made reasonable and bona fide inquires and was satisfied of the Karta's authority. This is a useful safeguard against improvident alienations.⁴²

One must note that one cannot simply make an alienation to accomplish an unlawful purpose and pretend as if it is lawful if challenged. For example, in *Dev Kishan v. Ram Kishan*, the court held that an alienation made to facilitate a child marriage, in violation of the Child Marriage Restraint Act, 1929, could never support a legal necessity.⁴³ Likewise, any alienation made on behalf of a family member to finance activities that contravene any public policy or law, such as selling a family asset to support a gambling addiction, will be void.

The Karta has expansive power to make contracts on behalf of the family which bind every family member.⁴⁴ These include simply commercial contracts, agreements to sell and/or to lease property and service contracts. The reasoning is that without such authority, the family business would deadlock.⁴⁵

The Karta also has power to compromise disputes between a family member and any outsider or between family members.⁴⁶ *Bhola Prasad v. Ramkumar* indicates that a Karta is allowed to enter into a compromise on behalf of family members as long as the compromise is entered into bona fide for the benefit of the family.⁴⁷

The Karta has unilateral authority over the family income, no matter where it comes from, and that income must be placed in a common pool.⁴⁸ The Karta also exercises authority over allocating and spending that income.⁴⁹ In *Bhowani v. Jagannath*, the court found that since the Karta is neither a trustee nor an agent, he takes no obligation to save or conserve family funds. He can spend them according to his preferences for family purposes.⁵⁰

⁴² *Dev Kishan v. Ram Kishan*, AIR 2002 Raj 370.

⁴³ *Id.*

⁴⁴ Chirashree Das Gupta, *Gender, Property and Institutional Basis of Tax Policy Concessions: Investigating the Hindu Undivided Family*, Ambedkar Univ. Discussion Note (2010).

⁴⁵ *Id.*

⁴⁶ *Bhola Prasad v. Ramkumar* (Case Judgment).

⁴⁷ *Id.*

⁴⁸ *Bhowani v. Jagannath*, (1909) 13 CWN 309.

⁴⁹ *Id.*

⁵⁰ *Id.*

The Karta may carry on the family business, run a new commercial enterprise with consent from coparceners, direct labourers as necessary, buy and sell whatever may be sold and purchased, and enter into partnerships in the family's behalf. The Power to run a business includes, by implication, the power to mortgage or selling family property for valid business purposes.

3. DUTIES, RESPONSIBILITIES, AND FIDUCIARY OBLIGATION

The obligations and functions assigned to the Karta create a vital counterbalance to his wide-ranging authority.⁵¹ These obligations exist on several levels:

1. Legal obligations backed by court order
2. Fiduciary duty toward the family
3. Social and religious obligations recognized by custom
4. Obligations to third parties⁵²

The primary positive obligation of the Karta is to maintain all members of the joint family.⁵³ This is an obligatory, not discretionary, duty which can give rise to a legal claim if it is breached. Maintenance involves the reasonable provision of:

1. Food
2. Shelter
3. Clothing
4. Medical Care and hospital costs
5. Education
6. Religious observances
7. Other subsistence appropriate to the family's status and means.⁵⁴

The duty applies to all coparceners (male and female), coparcener's wife, coparcener's widows, unmarried daughters, minor sons and all other dependents supported by the family.⁵⁵ The 2005 amendment, which permitted daughters to be coparceners, has enhanced daughters claims to be maintained to the same degrees as sons.

⁵¹ Vikramaditya Khanna, *Fiduciary Duty in India: The Special Case of the Hindu Undivided Family*, in *The Oxford Handbook of Fiduciary Law* (Evan J. Criddle et al. eds., Oxford Univ. Press 2019)

⁵² Id.

⁵³ Chandra Kishore v. Nanak Chand (Supreme Court Judgment).

⁵⁴ Adhi Kesavan & M. Kumarappan, *Analysis on the Role of Karta under Hindu Law*, 6 Int'l J. L. Mgmt. & Human. 2410 (2023)

⁵⁵ Fazila Shaikh, *Position of Females as Karta after Hindu Succession (Amendment) Act, 2005*, 3 Indian J. Integrated Rsch. L. 49 (2022).

It is the Karta's obligation to solemnize the marriages of no fewer than all unmarried members of the joint family, especially the daughters. This is regarded as a sacred obligation (dharma) as described under Hindu law.⁵⁶ As held in *Chandra Kishore v. Nanak Chand*, the Karta has the sacred duty to pay all marriage costs from the joint family property.⁵⁷ If payment is made from some other source, the Karta is still required to pay back the costs of such marriage when demanded.

In same manner, the Karta is required to arrange for performance of the important rites and ceremonies of the family, which include Vivaha (marriage), Shraddha (memorial rights), funeral rites, vrat ceremonies, and any other customary religious ceremony conducted by the family.⁵⁸

The Karta has an implicit yet important obligation to safeguard the family property from deterioration, loss, or intrusion.⁵⁹ This obligation encompasses:

1. performing maintenance and repairs in a timely manner;
2. paying taxes and statutory fees
3. refusing trespass and encroachment
4. taking steps to avoid decay that arises from neglect.

If the Karta does not perform maintenance resulting in significant deterioration, it could be constructed as breach of this obligation. If agricultural land is left uncultivated or a building collapse as a result of the Karta not maintaining repairs, Coparceners could also seek relief.

An important protective obligation of the Karta is to account to the coparceners.⁶⁰ The Karta will not be obligated to keep detailed accounts during the period of jointness, but in the event of partition or the coparceners demand them, he must divulge all transactions and account for the family property.

In *Suryanarayana v. Sugamanathi*, the court found that when the Karta was being accused of misappropriation or of committing fraud, or when the family business compelled keeping accounts, the Karta could be compelled to bring forward old accounts. If there is no evidence

⁵⁶ *Chandra Kishore v. Nanak Chand* (Supreme Court Judgment).

⁵⁷ *Id.*

⁵⁸ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 *Int'l J. L. Mgmt. & Human.* 2756 (2023)

⁵⁹ *Id.*

⁶⁰ *Suryanarayana v. Sugamanathi*, AIR 1961 AP 393.

of embezzlement, the Karta does have to account petitions.⁶¹

Although the Karta is not technically a fiduciary in the strict legal meaning, he has an obligation to the Family to act bona fide and in the family's interests, not for his own benefit.⁶² Misappropriation, fraud, or grossly mismanaging the family assets may lead to liability for the Karta. The duty of good faith means the Karta does not engage in transactions that unfairly enrich himself at the family's expense, he does not convert family property to his own use, he acts only for the family's authorized purposes and he does not grossly negligent or recklessly manage the property.⁶³

The biggest remedy available to coparceners who are affected by the Karta's violation of obligation is to obtain a partition of the joint family property.⁶⁴ After partition, accounts are settled, and the Karta's wrongdoing may be measured and accounted for in the property division. A coparcener may also bring suit for an accounting of family transactions, especially if there is suspicion of embezzlement or mismanagement by the Karta. After proof embezzlement, the Karta shall then return the property amounts to the family.⁶⁵ If the Karta's conduct is that of criminal breach of trust, he can be prosecuted under appropriate criminal statutes.⁶⁶

Recent cases have found that the Karta may be prosecuted for criminal breach of trust if he has converted joint family property. The 2005 amendment and subsequent court decisions have illustrated female Kartas are equally competent, and have the same responsibilities as male Kartas.⁶⁷ A distinction is not made on gender-based duties. More importantly, it is still unclear if female Kartas are now held to jurisdiction to perform typical, traditional, male-oriented religious duties.⁶⁸

⁶¹ Id.

⁶² Vikramaditya Khanna, *Fiduciary Duty in India: The Special Case of the Hindu Undivided Family*, in *The Oxford Handbook of Fiduciary Law* (Evan J. Criddle et al. eds., Oxford Univ. Press 2019)

⁶³ Chirashree Das Gupta, *Gender, Property and Institutional Basis of Tax Policy Concessions: Investigating the Hindu Undivided Family*, Ambedkar Univ. Discussion Note (2010).

⁶⁴ Id.

⁶⁵ *Laxminarayanan v. Dinker*, (1943) 3 Nag 390.

⁶⁶ Jannat Chuchra, *Analysis of Karta and Coparceners Role, Powers, and Liability in the Joint Hindu Family*, 6 *Int'l J. L. Mgmt. & Human.* 2756 (2023)

⁶⁷ Anubhav Singh, *Analysis of the Powers of Karta vis-à-vis Position of Women as a Karta*, 2 *Indian J. L. & Legal Rsch.* 1 (2020)

⁶⁸ Id.

While the courts have not suggested any definitive progress, there still seems to be an overreaching issue of equality based reputational rights which indicates a female Karta should not be held to different duties based on gender.⁶⁹ Modern joint families often have more intricate family structure involving multiple residencies, occupations, income.⁷⁰ The Karta's liabilities seem to be based on agricultural practices and traditional joint-residence families, which a Karta's authority would range to be imposed or suggest change according to more contemporary family structures. The lower courts appear to be aware of this dynamic as they also suggested that a Karta's authority needs be executed in accordance with any changing legal mandate, perhaps with regard to taxation, corporate matters, or similar governing duties.⁷¹

4. CONCLUSION

The HUF remains a key institution of Hindu personal law, a consequence both of legal and social arrangements that have survived centuries of evolution. At the heart of the system lies the central figure of the Karta, who as a head and manager represents the collective unity and governance at the heart of the joint family. The position of Karta represents a unique combination of extensive powers with moral obligations, yet remains largely uncodified and dependent upon judicial interpretation and customary principles. From the classical beginnings of Mitakshara to the statutory interventions under the Hindu Succession Act, 1956, and its Amendment in 2005, the position of the Karta has been both preserved and progressively redefined. Historically, the Karta was regarded as a natural guardian and manager of the joint family property, having almost absolute discretion in the matter of making decisions. The courts have, however, been progressively balancing such discretion with the fiduciary nature of his duties-good faith, prudence, and accountability.

Case law developments such that in *Sujata Sharma v. Manu Gupta* have transformed the previously patriarchal worldview of HUFs by accepting female Kartas, consistent with the constitutional mandates of equality and non-discrimination without the legality of female Kartas. A clearly promoted understanding of family law in this way indicates a broader harmonization of customary Hindu law with modern concepts of constitutional morality. However, the lack of statutory codification continues to lead to uncertainties relating to the

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Adhi Kesavan & M. Kumarappan, *Analysis on the Role of Karta under Hindu Law*, 6 Int'l J. L. Mgmt. & Human. 2410 (2023).

extent of Karta's powers particularly with respect to property alienation, incurring debt, and representation.

In conclusion, the research underscores the fact that while the role of Karta is important for cohesion, discipline, and effectiveness in the governance of the family structure, balancing this Karta's power with transparency, accountability, and gender inclusivity is also important. Changes in family formation, accounting for the increasing participation of women and contemporary economic environments, requires that the law around Karta must transcend traditional assumptions in order to achieve equitable justice within the familial structure.

- SUGGESTIONS

Codifications of the Karta's Power and Duties

The broad discretion and customary foundations of the Karta's function should also be codified, perhaps with a new statute. There are clear advantages to codifying the Karta's authority, including legal clarity and reducing litigation. There is precisely the need for greater legislative guidance in order to clarify what constitutes management discretion and what constitutes abuse of discretion.

Mandatory accounting and transparency

The Karta should have a legal obligation to prepare and provide periodic accounts on the joint family property and income. This component would strengthen accountability in the Karta's decisions, and provide formal protections against the Karta committing misappropriation of joint family assets.

Gender-neutral recognition of Karta

Legislative reforms should make it absolutely clear that male coparceners and female coparceners may serve as Karta, with equal rights and duties. This would remove a remaining source of ambiguity, and would remove any social resistance to female Karta following *Sharma v. Manu Gupta*.

Judicial Oversight in Alienation cases

Given that alienation of joint family property has all the qualities of the most contentious area of family law, it is recommended that courts adopt a stricter scrutiny or rigorous standard when ascertaining whether transfers were made for legal necessity, benefit of estate, or for compulsory duties

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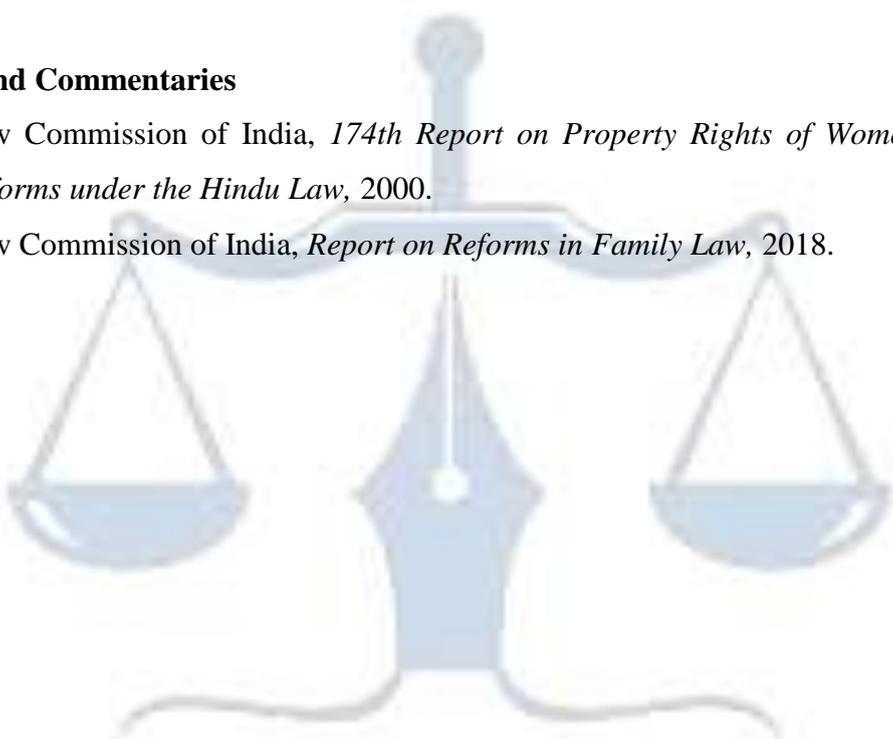
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