

A D D E N D A.

A SYNOPSIS OR GENERAL SUMMARY

OF THE

HINDU LAW ACCORDING TO THE MITACSHARA.

THE Hindu Law of Inheritance, according to the *Mitacshara*, may be classified under the following heads:—

First.—Heritage (Daya) or that wealth which becomes the property of another solely by reason of relation to the owner. (Ch. I, Sec. 1, v. 2.)

Second.—The time when, and the manner in which, this wealth becomes the property of another.

Third.—Who these persons are to whom such wealth goes, their rights and shares, and the order in which they take such rights and shares.

Right of Property.

1. Definition and division of heritage (Daya) (Ch. I, Sec. 1, v. 2, 3.) Definition of partition; paternal estate and son. (Ib. v. 4, 5.)

2. Disquisition on property; mode of acquisition. (Ib. v. 7 to 11.)

3. Ownership is by inheritance, purchase, partition, seizure or finding. (Ib. v. 12, 13.)

4. Property in the paternal or ancestral estate is by birth, (Ch. I, Sec. 1, v. 27), and not by demise of the last owner. (See Ib. v. 22, 23.)

5. Exception in case if the father be alive and separate from the grandfather, or if he have no other brothers. (Ch. I, Sec. 5, v. 3.)

6. Not so in case of a nephew. His right is by the owner's demise. (Ch. II, Sec. 4, v. 7, and note.)

7. The father has an absolute right over moveables. (Ib. v. 21.) But not over immoveable property or bipeds. (Ib. v. 27.)

8. In ancestral property the right of father and son is equal (Ch. I, Sec. 5, v. 1, 3, 5.) The son can compel a partition against the father's will, and prevent a sale or gift thereof being made by the father. (Ch. I, Sec. 5, v. 7, 8, 9.) But not so in property acquired or recovered by the father (Ch. I, Sec. 5, v. 9, 10, 11.) But he has no right to portion allotted to the parents or property acquired by the father after partition, if afterwards there be a son born. (Ch. I, Sec. 6, v. 1, 2, 4, 5, 6.) But not so in case of re-union. (Ch. I, Sec. 6, v. 7.)

9. Sale of immoveables is forbidden, except under certain circumstances. (Ib. v. 27, 28, 29.)

10. Consent of unseparated kinsmen is necessary to pass land by gift, sale, or mortgage. (Ib. v. 30.) Formalities necessary to pass land. (Ib. v. 30, 31.)

11. The rights of father and son are equal in ancestral property, but the allotment of shares amongst grandsons by different fathers is according to the fathers. (Ch. I, Sec. 5, v. 1, 2, 6.) A grandson can compel partition of the grandfather's property although the father be unwilling. (Ch. I, Sec. 5 v. 5, 11.) He has also a right of prohibition to a donation or sale of effects inherited from the grandfather. But not so in effects acquired or recovered by the father. (Ch. I, Sec. 5, v. 9, 10, 11.)

Effects not liable to partition.

1. "Whatever has been acquired by the co-parcener himself without detriment to the father's estate, as a present from a friend, or gift at nuptials. (Ch. I, Sec. 4, v. 1, 2, 10.)

2. Hereditary property which had been taken away, but recovered by the exertions of some of the co-parcener,* and without detriment to the father's estate. (Ch. I, Sec. 4, v. 1, 2, 6.) Except in case of land, when the person who recovers, takes one-fourth, and the remainder is equally shared by all the brethren. (Ch. I, Sec. 4, v. 3.)

3. What has been acquired by science † without detriment to the father's estate. (Ch. I, Sec. 4, vs. 1, 2, 5, 6, 10.)

* See *Bissessur Chuckerbutty vs. Seetul Chunder Chuckerbutty*. 9 W. R., p. 69; 5 Wym., p. 201. *Appendix*, p. 84, case 15.

† See *Chalakonda Alasani vs. Chalakonda Rathachalam*. 2 Stokes, p. 56; *Appendix*, p. 76, case 9.