

"subject only to the
property belonging to
the



**ASSIGN
BUSTER**

“ Subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer ‘ intervivos’ or by will.” The parents will have absolute right of disposal in the properties belonging to them. These rights will not be curtailed by the adoption of son or daughter.

The law, however, allows that such right may be curtailed by an express agreement to the contrary made between the adopted child and the adopting parents. Thus section is applicable only to the property belonging to the adoptive parents, the section thus governs the joint Hindu family properties in which neither the father nor the mother had an absolute disposing power. The adoptive parents have power to transfer the property intervivos or by will. Intervivos transfers are those transfers which are governed by the transfer of Property Act and transfer by will are those which are governed by the provisions relating to will given in the Indian Succession Act. Since an adopted son acquires a status of a natural son, he becomes a member of the coparcenary of the adoption.

For example, there is a joint family consisting of A and the brother B. A was issueless and he adopts the son namely C. After the adoption of Ñ the coparcenary which consisted of two brothers will now become, the coparcenary consisting of three persons namely A, B, and C, and Ñ will acquire all those rights and privileges in his family by virtue of being a coparcener. K is the owner of the ancestral as well as some other property. He adopts C, a male child. The adoption of Ñ does not affect the self acquired property of the adoptive father. He can use the property in any manner as he likes.

Ñ after adoption will acquire interest in the ancestral property held by his father in the same manner as if he were born in the same family. Thus Ñ and K will be entitled to equal share in the ancestral property. In case K alienates the ancestral property before Ñ was taken into adoption then Ñ would be bound by that alienation to the same extent as a natural born son could be. In *Ugre Gowda v. Nage Gowda*, the Supreme Court observed that, an adoption of son does not deprive the adoptive mother of the power to dispose of her separate property by transfer or by will.

Hence, such adoption would not divest the widow of the suit property which vested in her by succession on the death of her husband.