

The the places of
worship and sacrifice
or



**ASSIGN
BUSTER**

The Calcutta High Court re-stated in Kashinath Das v. Pravesh Chandra Das that where an agreement has been effected between the brothers not to go for partition, the agreement would not exclude any of the brothers to file suit for affecting partition. Such agreements do not involve any consideration and hence they cannot be binding agreements. The Madras High Court also took the same view and held that the coparceners in a joint Hindu family can agree for consideration that for a certain time or until a certain event or throughout their lives they would not exercise their right to divide.

Property Liable for Partition:

It is only the coparcenary property which is subject to partition.

The separate property is not liable to partition at all, as it belongs absolutely to the owner thereof. Secondly, the property, to which the law of primogeniture applies, cannot be divided, e. g.

, a Raj. Nor can family idols and places of worship be divided. Similarly, there are certain properties indivisible by their nature, e. g., animals or furniture etc. Their value is determined and distributed among the coparceners and some of those properties may be enjoyed jointly by them or by turns. Thus, the following properties are not liable to partition: 1.

Impartible estate i. e., property which descends to one member only, either by custom or under any provision of law or by terms of grant. 2. Property indivisible by nature, e.

g., ponds, staircase, passage. 3. Family idols and relics which are object of worship.

4. Separate property of a member. 5. The places of worship and sacrifice or the property, which has been dedicated to religious and charitable purposes.

6. The well and the right to draw water from the well. 7. The ornaments and the dress materials given to the wives of the coparceners. 8.

The headship of a Math. According to Manu, “ a dress, a vehicle, ornaments, cooked food, water and female slaves, property destined for pious use and sacrifices, and a pasture land are indivisible. Vijnaneswara stated “ water or a reservoir of it, as a well or the like, not being indivisible, must not be distributed by means of the value, but is to be used by the co-heirs by turns”. According to Calcutta High Court, the division of residential house can be done only if any portion of it is not devalued.

On the other hand, if the partition diminishes the value of the property then the partition should not be effected. In such cases, the coparcener, who takes the residential house, will have to compensate the other coparcener with the just equivalent. Where the properties are indivisible by nature, e. g. , a vehicle, animals like cows, buffaloes, bullocks and horses, they should be sold away and the proceeds of the sale should be distributed among the coparceners, in case no agreement is reached between them.