

The secondly, if there
is no heir in



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The rules provided in this section and subsequent sections i. e.

Sections 9 to 13 are definite and have to be read along with the Schedule.

Section 8 divides the heirs of a male, for the purposes of inheriting the property into four classes. These are:— (1) Relatives mentioned in class I of the Schedule (2) Relatives mentioned in class II of the Schedule (3) Agnates of the deceased (4) Cognates of the deceased. In absence of the heirs qualified to succeed under the Act the property of the intestate shall devolve on the Government by escheat.

The Government cannot be classified as an heir entitled to succeed under the Act. Section 8 which runs as under mentions only four classes of heir:— The property of a male Hindu dying intestate devolve according to the provisions of this chapter— (a) Firstly, upon the heirs being the relatives specified in class I of the Schedule; (b) Secondly, if there is no heir in class I, then upon the heirs, being the relatives specified in class II of the Schedule; (c) Thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased; (d) Lastly, if there are no agnates, then upon the cognates of the deceased. The words “ dying intestate” would apply where a male Hindu dies intestate not having made any will or having made an invalid will. The term ‘ property’ in this section includes not only the separate or self acquired property but his interest in the coparcenary property after the partition thereof has been effected among all the coparceners. The section is prospective in its operation, that is to say that the section applies where on the death of a male intestate devolution of his property takes place after the commencement of the Act and does not govern succession to the property of a male Hindu whose death took place before the commencement

of the Act. Chapter II contains a number of provisions which supplement section 8 of the Act. The order of succession in class I and class II of the Schedule has been given in Section 9.

The order of succession amongst agnates and cognates has been given in Sections 12 and 13. The computation of shares of the various heirs in the four classes is regulated by the rules laid down in Sections 9 to 13. The Madras High Court in the Additional Commissioner of I. T.

v. P. L. Karuhban Chettiar has laid down that on the death of a male Hindu, his property will devolve, first of all, on the relatives mentioned in class I of the Schedule. The heirs of this class will inherit simultaneously and they will exclude Class II heirs altogether. In case of class II heirs of the Schedule those in the first entry of class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

The relatives specified in class II will get a chance only if there is no heir of class I, and if there is no heir of two classes, the agnates of the deceased will get the chance and lastly, if there is no agnates, the cognates of the deceased will take the property. Thus according to Section 9, heirs in class I of the Schedule will succeed simultaneously; in other words, they form one group of heirs and succeed as a body. Heirs of class II are excluded so long there is a single heir mentioned in class I. He or she succeeds in preference to all others mentioned in class II. For instance A dies leaving behind his predeceased son's daughter D1 and a daughter of predeceased daughter D2.

Since D1 and D2 are heirs of class I, both of them will inherit simultaneously to the exclusion of all the heirs mentioned in class II. In *Bliagwat Prasad Bhagat & others v. Sanker Bhagat & others*, the court observed that in case of self acquired property of male Hindu dying intestate, the inheritance after his death cannot legally be governed by Section 6 of Hindu Succession Act or its explanation. It would be governed only by rule of succession as provided under Section 8 of Hindu Succession Act, so that the widow, sons and daughters would inherit property in equal shares.