

This his favour was
entitled to recover



**ASSIGN
BUSTER**

This voluntary act of widow or a limited owner is called surrender.

Nature:

Surrender is the extinction of the interest and rights of widow and not the alienation of the rights of widow in favour of reversioners. In such a case the position of reversioner is not like a transferee, more so he does not derive the title from the widow but from the last male holder. In fact it is the self effacement by the widow which is the basis of surrender and not the ex facie transfer by which the effacement is brought about. The requisites of a valid surrender by a Hindu widow is— (a) Surrender must be of whole estate; (b) Surrender must be in favour of nearest reversioner; and (c) Surrender must not be a device to divide the estate between the widow and the nearest reversioner. However a portion of it can be retained by widow for her maintenance. The effect of valid surrender by a widow was same as on her death and without her consent other heirs stepped into her shoes. If the nearest reversioners were ladies even then there was no change in the effects of surrender.

In fact the doctrine of surrender was based upon the theory of merger of widow's interest. A reversioner after surrender of estate by widow in his favour was entitled to recover the estate and possession from a person who had either obtained the possession without valid alienation or to whom no alienation was effectuated.

Essentials of Surrender:

Essentials of a valid surrender can be summarised as under— (1) Surrender by widow should involve all the interests of the widow in the estate. (2)

Surrender by widow should be with avowed object that the succession should go to the nearest heirs. (3) Surrender must be in good faith.

(4) Surrender must be in favour of all the nearest reversioners. Surrender in favour of only one reversioner, in spite of the fact that it is for the benefit of all the reversioners was not valid.

(5) Surrender could be done in favour of nearest female heir. Even an adopted son of widow taken into adoption after the surrender could not nullify the effects of surrender. The Hindu Succession Act, 1956 through its Section 14 has abolished the concept of woman's estate. So now whatever property is in the possession of a Hindu female she becomes the absolute owner thereof.