

# [The lineally descended from a common ancestor and](https://assignbuster.com/the-lineally-descended-from-a-common-ancestor-and/)

The induction of coparcenary system considerably whittled down the absolute power of the head. But the joint family with its unique characteristics remained the basic tenet of Hindu society. It was considered to be most characteristic way of Hindu life inevitable for the cohesive development of the society. Hence it led to a presumption that every Hindu family is a joint Hindu family Hindus are accustomed to live in joint family units. A joint Hindu family, at best, may be defined by stating the jointness of members of whom it is made up.

Thus “ it consists of all persons lineally descended from a common ancestor and includes their wives and unmarried daughters. A daughter ceases to be a member of her father’s family on marriage and becomes a member of her husband’s family. The existence of a joint estate is not an essential requirement to constitute joint family, there can be a joint family even in absence of an estate. Generally, a Hindu family is regarded as joint not only in estate but also in food and worship.

Under the Mitakshara law the existence of property is not a necessary requisite to constitute a joint family though a practice of common mess and common worship leads necessarily to a presumption of existence of some property, e. g., household goods or articles which they enjoy in common. The Supreme Court observed that joint Hindu family is a larger body consisting of a group of persons who are united by the time of Sapindaship arising by birth, marriage or adoption. The fundamental principle of jointness is Sapindaship. That it does not take more than one male to form a joint Hindu family with females. It may consist of a single male member and widows of deceased male members.

In Commissioner of Income Tax, Bihar, Ranchi v. Smt. Sandhya Rani, Dutta, a Hindu governed by the Dayabhaga School of Hindu Law, died intestate leaving behind his widow and two daughters. The assessee widow and two daughters inherited the self acquired properties of the deceased in equal shares. The assessee and the two daughters entered into an agreement.

Thereby they claimed to form a Hindu undivided family and the assessee threw her share of the inherited property into the kitty of this Hindu undivided family. The Supreme Court observed that the concept of Hindu females forming a joint Hindu family by an agreement amongst themselves appears to be contrary to the basic tenet of the Hindu personal law which requires the presence of a male for the purposes of the constitution of a Joint Hindu family. Therefore, the presence of a male is an essential requirement of joint family. In Pushpalatha N.

V. v. V. Padma, the court observed that existence of joint estate is not an essential requisite to constitute joint family and family which does not own any property may nevertheless be joint. The Joint Hindu family consists of all persons lineal descended from a common ancestor and includes all wives, unmarried daughters. The court also observed that, undivided Hindu family is originally joint not only in estate but also in food and worship.

The court also observed that the status of a coparcenar is confirmed on a daughter of a coparcenar from the commencement of the amendment Act 2005. A joint Hindu family is not a corporation. It has no legal entity distinct and separate from that of the members who constitute it. It is not a juristic person either. It is a unit and in all affairs it is represented by its Karta or Head.

Within its fold no outsider, except by adoption, can be admitted by agreement or otherwise. It confers a status on its members which can be acquired only by birth in the family or by marriage to a male member.