

**HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT,
1928**

12 of 1928

[20th September, 1928]

CONTENTS

1. Short title, extent and application
2. Persons not to be excluded from inheritance or rights in joint family property
3. Saving and exception

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STATEMENT OF OBJECTS AND REASONS "This Bill ~~the~~ the revival of a similar Bill introduced by the Late Mr. T. V. Seshagiri Ayyar in the first Assembly where it was passed on the 27th March, 1923. Its consideration in the Council of State was adjourned on the 19th July, 1923 till the next session, when no further action being taken, it lapsed. The bill seeks to remove certain disabilities which exclude Hindu heirs from inheritance. These are congenital blindness, deafness and dumbness, congenital want of any limb or organ, lunacy and idiocy though not congenital or incurable, sanious or ulcerous leprosy, impotency or other incurable disease. These disqualifications owe their origin to the obvious reason that those who take no hand in fighting should take no hand in the estate. The old reason has disappeared but the old disability remains, though its propriety has been judicially doubted, it being held that infirmities such as congenital leprosy (Kayarabana v. Subbaraya, 25 Mad LJ 251), or lameness (Venkata V. Purshottam, 25 Mad 133), blindness (Yellarajhulu v. Yellarajhulu. 37 Mad LJ 405) or a nasal tumour (Subba V. Venkatarama, 20 Mad LJ 508) are no longer sufficient to disqualify a person from inheritance, though a person suffering from congenital insanity or imbecility and those unfit to discharge the religious duties incumbent upon the heir, or for the

ordinary intercourse of life stand upon a different footing. (Hindu Code Second Edition. Section 244 and cases cited). The Bill is intended to remove from the law its obsolete and spent provisions, for which there is now no parallel elsewhere. They disfigure that law and make it harsh and unjust. It is hoped that the Assembly will reaffirm its previous decision, and thus give the other Chamber another opportunity to concur in a reform against which nothing reasonable has been or can be urged. H. S. Gour." Gaz. of India, 1928, Part V, p. 51.

1. Short title, extent and application :-

(1) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1928.

¹ [(2) It extends to the whole of India except the State of Jammu and Kashmir.]

(3) It shall not apply to any person governed by the Dayabhaga School of Hindu Law.

1. Substituted for old sub-section (2) by the Miscellaneous Personal Laws (Extension) Act, 1959 (48 of 1959). section 3 and Sch. 1 (1-2-1960).

2. Persons not to be excluded from inheritance or rights in joint family property :-

Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from which a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of any disease, deformity, or physical or mental defect.

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3. Saving and exception :-

Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.