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# Analysis on the Role of Karta under Hindu Law

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## ABSTRACT

*The role of the Karta under Hindu law is a fundamental aspect of family governance and property management within Hindu Joint Families (HUFs). This abstract explores the pivotal position of the Karta within the framework of Hindu law, shedding light on their rights, duties, and responsibilities in the context of family affairs. The Karta, typically the senior-most male member, is entrusted with the administration of the HUF's joint property. This analysis delves into the historical origins of the Karta's authority, rooted in ancient Hindu texts and customs, and its evolution within the modern legal system. Central to this exploration is an examination of the Karta's powers and limitations. It discusses their ability to make financial decisions, enter into contracts, and represent the HUF in legal matters. Moreover, it highlights the delicate balance between their authority and the rights of other family members, including female heirs and coparceners. The study also addresses the contemporary challenges and shifts in the role of the Karta, such as the impact of legal reforms that grant equal inheritance rights to daughters. It assesses the implications of these changes on the traditional family structure and property management practices within HUFs. This abstract seeks to provide a concise overview of the role of the Karta under Hindu law, emphasizing its historical significance, contemporary relevance, and the ongoing legal debates and reforms that shape this vital position within Hindu Joint Families.*

**Keywords:** Karta, Hindu Joint Family, Hindu Succession Act, Coparceners.

## I. INTRODUCTION

In Hindu joint family, the senior-most male ascendant is the head of the family and known as Karta. Karta is the manager of the family. He takes care of the family and its property. The relationship of Karta with the other members of the family is not that of a partner, agent or principal. He stands in a fiduciary relationship with the members of the family. The Karta of the family has unlimited liability, also he is not responsible to any member of the family except in case of fraud or misappropriation. Although the senior-most male member of the family is

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the Karta, a junior member can also become the Karta if all the coparceners agree to it.

Before Hindu succession Amendment Act 2005, Hindu females were not allowed to become the coparceners in a joint Hindu family, but after the amendment daughters, are also allowed to become the coparceners in the joint family property.

**Older view:** In *Gangoli Rao Vs Chinappa*, the father has a wife and two minor sons. A died leaving behind his interest in the family property. His widow alienated the property. The alienation was challenged by the sons, Supreme Court admitted the contentions of the sons and laid down the view that women cannot be a coparcener and the Karta and this decision was upheld in *Income tax Vs. Seth Govind ram*.

**Modern View:** In *Mrs Sujatha Sharma Vs. Shri Manu Gupta* Delhi High Court enlarged the scope of Section 6 of Hindi Succession Act, 1956 and stated that a female can also become the Karta of the family.

### 1. Power to represent

The family does not have a corporate existence, it acts through its Karta. The Karta is the sole representative member of the joint family when it comes to any legal or social matter. Whenever there is a suit filed by the family it is filed in the name of Karta or if there is a case against the family then also it is in the name of the Karta. In the case of *Rajayya v. Singa Reddy*, it was held that if there is a judgement against the Karta of the family, it automatically binds all the other members of the family.

### 2. Power of management

In the case of *Bhaskaran v Bhaskaran*, it was held that the Karta of the family has absolute power of management. As being the head of the family, he cannot be questioned by anyone. He can spend all the family funds without being interrupted except in cases of fraud or misappropriation. Also, he holds some special rights like that of the facility of eviction within which if there's some specific member demands some specific portion of the family property while not the Karta acceding to such a requirement, he is often evicted type that portion. He can discriminate between the members of the family and it cannot be challenged, although he cannot deprive anyone of their right to residence and maintenance.

### 3. Power over income

All the members of the joint family hand over their income to the Karta of the family. He looks after the allotment of the funds to the members of the family according to their needs and looks after their requirements. He provides all the members of the family with the required funds. He

can discriminate between the family members but he can't deprive them of their right to maintenance.

#### 4. Power of alienation

The Karta's power of alienation is limited and it can be challenged by the coparceners. Karta can exercise the power of alienation in these 3 circumstances:

- Apatkale (Legal Necessity)
- Kutumbarthe (Benefit of the estate)
- Dharmarthe (Indispensable duties)

In the case of, **V.V.V. Ramaraju and Another vs Korada Malleswara Rao and Others** it was held that in the above-mentioned circumstances alienation will be binding on all the members of the Hindu joint family including minors. This was decided by the Gauhati High Court in **CIT vs Gangadhar Sikaria Family Trust** where the court held that the transfer is not for the purpose of legal necessity or benefit of the estate is voidable therefore is not void ab-initio (Mukhtiar Singh v Amarjit Singh).

- Legal Necessity:

The scope of the word "necessity" is very broad. It depends upon case to case, circumstances to circumstances. Still, for interpretation, it can be stated that things which are deemed necessary for family members. In the case of *Dev Kishan vs Ram Kishan*; when the Karta mortgaged and sold the joint family property for the purpose of marriage of the two minor daughters the court held that such action was an unlawful alienation as being violative of Child Marriage Restraint Act, 1929.

- The benefit of the estate:

Anything done in furtherance of the benefit of the Hindu joint family is the benefit of the estate. In the leading judgement of *Balmukund vs Kamalavati* Supreme Court held that anything which is done for positive benefit of the estate is included in the benefit of the estate.

- Indispensable duties:

This term signifies pious, religious obligations. A person under Hindu Law is bound by the religious ceremonies such as Shradha ceremony, Marriage as it is held to be a sacred duty in Hindu law especially of daughters and most important the funeral ceremony. A Hindu Karta can alienate the whole property to perform the indispensable duties.

#### 5. Power to compromise

The power to compromise all the disputes related to family is also vested in Karta. He can take all decisions regarding the compromise whether being related to family or its management. However, if his act of compromise is not justiciable then it can be challenged in a partition. He can also compromise a suit pending in the court and it will be binding on all the members. The only exception to this is in case of a minor coparcener the compromise has to be approved by the court as stated in Order 32 Rule 7 of the code of civil procedure

#### **6. Power to contract debts**

The Karta has an implied authority to contract debts and pledge the credit of the family for the ordinary purpose of the family business. The members cannot escape from this liability even after partition.

- Loan on promissory notes: Whenever the Karta takes a loan or makes execution of a promissory note for the reason being a family purpose or business then an individual family member can also be sued against its payment irrelevant of the fact that he/she was not a party to it. Although they have a limited liability varying upon their share in the joint family property.

#### **7. Power to enter into the contract**

The Karta of the family can enter into a contract on behalf of the whole family and such contracts are binding upon the family members. The reason behind giving this power is that if such power is not conferred upon him then it would become impossible to carry out business.

#### **Duties of Karta**

- Maintenance

All the members of the Hindu Joint Family whether coparcenary or not have a right to maintenance. It is the duty of the Karta to maintain all the members. No member of the family can be deprived of the right to maintenance and if they are they can challenge it before the court and claim their right and arrears of maintenance.

- Marriage

Karta has a duty to engage the unmarried members of the family in wedlock especially of daughters as their marriage is considered to be sacrosanct in Hindu law. In the case of Chandra Kishore vs Nanak Chand, it was held that it is the duty of the Karta to bear all the expenses of the marriage from the joint family funds, or if in a case the expenses are incurred by some other sources, he'll have to reimburse them when asked.

- Render accounts

In Hindu law, a Karta is not under the obligation to maintain the family business account, but he is under the obligation to render the accounts if any coparceners demand it at the time of partition. He can be held liable for any misappropriation or fraud.

- Representation

The senior-most member of the family commonly known as Karta is the one who represents the Joint Hindu Family. The family does not have a corporate existence, it acts through its Karta. The Karta is bound to perform functions like paying all the taxes, dues etc on behalf of his family. Karta can also be sued on behalf of his family.

Liabilities of Karta

- Liability to maintain

The Karta of the Hindu Joint Family is liable to maintain all the members of the joint family. All the members of the Joint Hindu Family have a right to maintenance and residence. If the Karta is unable to maintain them, he can be sued for the same and the member can claim their arrears of maintenance.

- Liability to spend reasonably

The Karta also has the power to spend funds from the joint family account. But such power is limited to some restrictions such as the Karta cannot use the funds for unlawful purposes and also, he should spend it wisely. If any of the coparceners is not satisfied with the spending made by the Karta, he/she can file a suit against the Karta and discover the truth.

- Liability not to alienate property

The Karta is allowed to alienate the Joint Hindu Family Property only in certain cases such as legal necessity, the benefit of the estate, in case of indispensable duties. Other than this the Karta is not allowed to alienate the Joint Family Property. If he wrongfully alienates the property then the coparceners have a right to challenge the alienation.

- Liability not to start a new business

The Karta of the family is under the obligation not to start a new business without the prior consent/permission of coparceners of the Joint Hindu Family. Once the coparceners expressly or impliedly have given their consent, the Karta can start a new business.

- Liability to render accounts

Until the family remains joint, the Karta has no obligation to maintain the accounts. But as soon as the partition takes place the Karta is under an obligation to render the accounts of Joint Family

Property.

## II. CONCLUSION

The concept of Karta in a Joint Hindu family is not only about a position in a family rather it serves an important practical purpose. He is not a trustee, partner or an agent of the family but is the head of the family who runs it in the best possible way.

Earlier, the view was that a daughter cannot be a coparcener in the joint family property but this view was abandoned after passing of Hindu Succession Amendment Act, 2005. This Amendment Act has given daughters equal rights as to that of sons (right of coparcenary). Section 6 of the Hindu Succession Act, 1956 has been taken to the more logical consequence and now the female member of the family can also become the Karta of the family as stated by Delhi High Court in *Sujata Singh vs Shri Manu Gupta*.

Centralization is the best key to management and this is provided by the Karta. As the Karta has a number of powers, many checks have also been imposed on Karta so that he doesn't misuse his power. Even though he misuses his power the law has enough remedies to ensure that he doesn't use his power like this.

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