

DOCTRINE OF PIOUS OBLIGATION

Joint families under Hindu Law are not limited to succession and a coparcenary system. The succeeding generation is also expected of some obligations, one of them being from the sons for the repayment of debts incurred by their father during his lifetime. Pious meaning religious, and under the doctrine of pious obligation, an expectation is casted on a son to repay his father's loan and debts from the part of the ancestral property he holds under a religious duty towards his religion. However, this duty ceases to exist when the debts are avyavaharika, i.e. incurred for immoral or illegal purposes.

As laid down by the Hon'ble Supreme Court in the case of 'Sidheshwar Mukherjee vs. Bhubneshwar Prasad Narain Singh', the doctrine finds its origin in the historical smiritis. It was held that non-payment of debts was a positive sin and thus to save the father from the consequences of such a sin in the afterlife, it was a son's duty to pay off the debts. However, under law, the position has been modified to an extent where a son is liable to pay off the debts only confining to the interest in the coparcenary property he holds. He cannot be otherwise made personally liable. Also, unlike the previous distribution where the son was liable to pay off the whole debt and the grandson and great-grandson only the principal amount, now all three generations are equally obligated to pay off the principal amount and interests.

Under the Hindu Law, a son is under a pious obligation to discharge his father's debts out of his ancestral property regardless of the possibility that he had not been profited by the debts, gave the debts are not avyavaharika. The sons get absolved from their obligation to discharge the debt of their father from the family assets just if the debt was one spoiled with immorality or illegality.

In Hindu law there are two commonly destructive principles, one the standard of autonomous coparcenary rights in the sons which is an episode of birth, providing for the sons vested ideal in the coparcenary property, and the other the pious obligation of the sons to discharge their father's debts not spoiled with immorality or illegality, which lays open the entire estate to be seized for the installment of such debts. As indicated by the Hindu lawgivers his pious obligation to pay off the ancestors' debts and to mitigate him of the demise torments consequent on non-installment was irrespective of their acquiring any property, however, the courts dismiss this liability arising irrespective of acquiring any property and provided for this religious obligation a legal character.

Pious' means 'genuine, religious, dedicated, respectful. 'Pious obligation' means an obligation of a Hindu because of profound dedication to religion. Hindu law states that 'He who having gotten a sum loaned or the like does not reimburse it to the proprietor will be conceived henceforth in his creditors house a slave, a servant or a lady or a quadruped '. According to Hindu scriptures, it is the blessed obligation of a son to pay off or discharge his father's debts. The religious obligation is joined to the son as well as a grandson and to the considerable grandson also, on the ground that all the three are coparceners with others by their introduction to the world.

BURDEN OF PROOF OF THE DEBT

The obligation on son to pay off their father's personal debts is a religious obligation and on the off chance that they need to wriggle out of it? They can do as such just if the debts are polluted the son also need to show that loan boss had the notice or information that the debts was corrupted.

The Apex Court in *LuharMarit Lal Nagji v. Doshi JayantilalJethalal*, depending upon the judgments of the Privy Council alluded to (supra), articulated the principles thus : "the sons who challenge the alienations made by the father need to demonstrate that the precursor debts were immoral as well as that the purchasers had seen that they were so corrupted."

Ramasamayyan v. VirasamiAyyar ((1898) I.L.R. 21 Mad. 222)

Indeed, even where the home loan is not for legal necessity or for an installment of precursor debt, the lender can, in the execution of a home loan declare for the acknowledgment of a debt which the father is personally subject to reimburse, sell the estate without getting a personal pronouncement against him. After the sale has occurred, the son is bound by the sale, unless he shows that the debt was non-existent or was corrupted with immorality or illegality.

DEBTS OUTSIDE THE SCOPE OF THE DOCTRINE

Commercial Debts:

Commercial Debts was respected outside the regulation, as indicated by Old law. To the present law, it is the doctrine.(i.e. the son is subject to pay the commercial debts)

Suretyship Debts:

Liability arising out of suretyship by the father is not official on his son. Hence, it does not go inside the convention.

Gaming Debts:

Gaming Debts are outside the regulation according to the Old and New Laws. Eg: Debts caused by drinks, liquors and so forth.

Avyavaharika Debts:

As indicated by the Mitakshara, it is outside the doctrine. Cole rivulet translated it as “a debt for a cause disgusting to great morals”. In other words, it is a debt for an illegal or immoral purpose.

PIOUS OBLIGATION AFTER THE AMENDMENT OF 2005

After the initiation of the Hindu Succession (Amendment) Act, 2005, it is ideal to continue against a son, grandson or incredible grandson for the recuperation of any debt due from his father, grandfather or awesome grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or extraordinary grandson to discharge any such debt. Bias of Pious Obligation Doctrine :What is left of the pious obligation convention after the amendments in Hindu law is the injustice of the principle of pious obligation of the son to pay his father's debt, namely, even now the father amid his lifetime can estrange the joint family property of himself and of his son for the installment of his personal debts brought about by him which was neither necessary nor valuable for the family. This is the residue, which is neither justifiable nor reasonable. However, it is the legitimate and fair consequence of the inheritance of the son in the joint estate.

SOCIO-LEGAL IMPACT OF DOCTRINE OF PIOUS OBLIGATION

The socio-legal impact of the pious obligation teaching is not consistent with the present day jurisprudential trends in the field of exclusive jurisprudence. The Hindu law as stands changed by the various Acts favors the absolute right of ownership with regards to Hindu females; it can't stand to rationale and reason the at where the woman's restricted estate has been abolished the son's idea in the joint family property should be permitted to be taken away from the teaching of pious obligation. What is imperative in this respect is to change the pious obligation regulation into the absolute obligation and get it similarity with the

Dayabhaga school of Hindu law because that has as of now been the impact of Chandersen's decision of the Supreme Court.