



BOOK REVIEWS

MULLA'S PRINCIPLES OF HINDU LAW (1998, 17th ed.). By S.A. Desai (Ed.). Butterworths, New Delhi. Pp. CLIII + 921 (Vol. I), LII + 540 (Vol. II). Price Rs. 1000.

MULLA'S HINDU Law is a textbook of recognised authority on the subject. Mulla was a versatile and voracious author on law. He did a pioneering work in the field of writing textbooks and commentaries on several branches of law.

His 'Principles of Hindu Law' is one of the early works on the subject. It was first published about ninety years ago. To write a text book on Hindu law is comparatively a difficult task. The rules constituting Hindu law, in modern times, have come from various sources spread over a long period of time. It consists of ancient *shastric* rules to modern statutes. Mulla's book covered the whole period and all branches of Hindu positive law. It is very comprehensive and systematic work on the subject. Since its first edition it has remained a popular book on the subject among lawyers, judges and law students. It has since then undergone several editions and reprints. This bears testimony to its popularity. It is considered to be an authoritative work on the subject and has been relied on in a number of judgments of superior courts. In subsequent editions distinguished men in the field of law have revised it. Edition after edition, in making it updated it has grown in volume.

During the last century and particularly after independence of the country, Hindu law has undergone complete transformation. From *shastric* and customary law it has become, in most part, statutory law and it has been further modernised by court decisions. The book has kept pace by incorporating these developments.

The present edition has many distinguishing features. The book now consists of two volumes. This has not been done only because of the swelling of the volume of the work but also on the basis of division of the subject into old and modern law. The first volume deals with un-codified part of Hindu law and the old law relating to the branches, which have now been codified. It is to be stated that despite codification of certain branches of Hindu law the old law on those branches has not become fully irrelevant. Section 3 of the Hindu Marriage Act, 1955 provides as under:

Overriding effect of the Act - Save as otherwise expressly provided in the Act.

(a) Any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the



commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;

(b) Any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Act.

In Hindu Minority and Guardianship Act, 1956; Hindu Succession Act, 1956 and Hindu Adoptions and Maintenance Act, 1956 there are identical provisions. Thus customary or old Hindu law continues to apply with respect to matters for which no provisions are made in the said Acts. Those provisions of traditional law also will continue to apply which are not inconsistent with the provisions of the above-mentioned Acts. It is to be stated that the 1955-56 Hindu law statutes are not exhaustive, and therefore, old Hindu law still has its relevance.

Volume II of the work contains exhaustive commentaries on the 1955-56 Hindu law statutes. Thus the two volumes together present a comprehensive treatment of the subject. The volumes contain their separate indices and list of cases. Volume II contains VI appendices, which contain certain statutes, which changed the traditional Hindu law in respect of disposition of property inheritance, etc.

Latest decisions have been incorporated in the work. These decisions indicate the emerging trends of the development of Hindu law. In the words of the editor of the present edition:¹

Many of these decisions have broken new ground in as much as they show an emerging trend of a radical interpretative process of the interpretation of laws as regards marriage, succession and also laws relating to guardianship and adoptions as are applicable to persons professing and following the Hindu religion. These decisions are indicative of an emerging trend of a liberal approach and a greater degree of latitude which have given an impetus to some of the ameliorative provisions engrafted into the laws by the legislatures.

However it appears that it has not been possible to incorporate all latest decisions in the work. Some important decisions have been overlooked while dealing with the definition of Hinduism. These are: *Dr. M. Ismail Faruqui v. UOI*² and *R.Y. Prabhoo v. P.K. Kunte*³. These decisions very boldly underline the basic features and character of Hinduism. The decision in *R.Y. Prabhoo* gives a very precise definition

1. Preface, S.A. Desai (Ed.), *Mulla's Principles Of Hindu Law* 1 (1998).

2. AIR 1994 SC 4897.

3. AIR 1996 SC 1113.



of Hinduism and throws light on its basic nature and character. The central observation is worth extracting⁴:

No precise meaning can be ascribed to the terms 'Hindu', 'Hindutva' and 'Hinduism', and no meaning in the abstract can confine it to the narrow limits of religion alone excluding the contents of Indian culture and heritage. The term 'Hindutva' is related more to the way of life of the people in the sub continent. It is difficult to appreciate how the term 'Hindutva' or 'Hinduism' per se, in the abstract, can be assumed to mean and be equated with narrow fundamentalist Hindu religious bigotry. Ordinarily, 'Hindutva' is understood as a way of life or state of mind and it is not to be equated with or understood as religious Hindu fundamentalism.... The word 'Hindutva' is used as a synonym of 'Indianisation' i.e. development of uniform culture by obliterating the differences between the cultures co-existing in the country.

There are deficiencies in the printing scheme of the book. A few of these may be mentioned here. The pages containing prefaces have not been numbered. In volume II, which contains comments on new 'Hindu Acts' in the indices of sections described as 'Arrangement of sections', page numbers are not given. Again the number of sections does not find place at the top of the page/pages containing the text of the section and comments on it. These will cause inconvenience to a reader in tracing out the comments on a particular section. The price of the book is given at an inconspicuous place i.e. at the bottom of the back cover page of IInd volume. There are some other deficiencies of the same nature. It is hoped that in the next edition of this book due care and caution will be taken to remove these deficiencies.

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4. *Ibid.*

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