



P.L. PARUCK'S THE INDIAN SUCCESSION ACT, 1925. Sixth ed. 1977. By V.V. Raghavan. N.M. Tripathi Pvt. Ltd., Bombay. Pp. XCV+876. Price Rs. 80.

THIS IS the sixth edition of P.L. Paruck's well-known commentary on the Indian Succession Act, 1925. The commentary was first published within a few months after the enforcement of the Act which it deals with. During the next three decades or so the author periodically re-edited his work and got it re-published thrice. He died in 1957. His tradition of updating the book after the lapse of nearly a decade has, however, been maintained. In 1966 J.L. Joshi took up this task and now, after another decade, a fresh edition of the book, prepared by V.V. Raghavan, a former judge of the Madras High Court, is in our hands.¹

The Indian Succession Act, 1925 is an important constituent of the statute-book of India. Though the scope of the substantive law contained in its provisions is somewhat limited, the vast adjectival law spread over nearly two hundred sections of the Act applies (subject to a few exceptions) to all Indians alike.²

In the substantive law under the Act shares of the various components of the doctrinally heterogeneous Indian citizenry are neither the same nor uniform.³ In many cases its application depends on the marital status of a person.⁴ As regards inheritance, the Act contains two sets of legal provisions—one meant for those Parsis who are governed by the Parsi Marriage and Divorce Act, 1936⁵ and the other to the properties of⁶ :

- (a) all Jews,
- (b) Christians other than those of the former States of Travancore and Cochin,
- (c) those married Muslims, Parsis and Travancore-Cochin Christians, who are governed by the Special Marriage Act, 1954 ; and
- (d) those Hindus, Buddhists, Sikhs and Jains whose marriage is inter-religious (*i.e.*, where only one spouse belongs to any of those four communities) and is governed by the Special Marriage Act, 1954.⁷

1. P.L. Paruck's, *The Indian Succession Act, 1925* (6th ed., 1977 by V. V. Raghavan).

2. See chapters VII to IX (ss. 192-392).

3. See the Indian Succession Act, 1925 (hereinafter referred to as the Act of 1925), ss. 4, 23, 29 (1), 58 and 212.

4. See the Special Marriage Act, 1954 (as modified in 1976), ss. 21, 21A

5. See the Act of 1925, ss. 50-56.

6. *Id.* ss. 31-49.

7. *Supra* note 4.



The importance of the Act of 1925 in the country's legal system is, thus, crystal clear. In view of the importance of this legislative enactment, any good and exhaustive commentary on its provisions should count as a substantial contribution to the exposition of Indian law. However, after going through the pages of this new edition of an old commentary, the present reviewer strongly feels that at least his thirst (which surely is not extraordinary) has remained unquenched.

The editor of the book under review says, at the outset, that he has not made in it "any drastic changes" as, according to him, "time is not ripe to make changes in the character and scope of the book."⁸ We do not agree. In our opinion there was ample scope to make changes in the 1977 edition of the book by making useful additions and deletions.

Certain provisions (retained in the 1977 edition) were, of course, important in 1926 when the book made its first appearance and remained important till the advent of freedom ; but now they are outdated and can serve no purpose except annoyingly increasing the bulk of the book. For instance, throughout the book it has been explained how the sections of the former Indian Succession Act, 1865 were re-arranged under the Act of 1925. Further, the application of the Act of 1925 to the "Buddhists of Burma" and "Jews of Adan", is still referred to in the book.⁹ These and other outmoded aspects should, we feel, have been removed from the current edition of the book.

Deletion of the outdated provisions illustrated above was, however, not so much necessary as the addition of the new relevant materials without which the book now appears incomplete. Some instances are as follows :

First, the references to the Hindu Succession Act, 1956 are scanty. It would have been more useful to compare the provisions of the Act of 1925 with the said Act rather than with the parallel laws of England (as done in the book). No doubt, the Act of 1925 was mainly based on the English statutes, but its non-Indian character is, in our opinion, now its greatest weakness. The unsuitability of at least some of its provisions in modern India results from this weakness. The Act needs revision in the light of the recent Indian legislation and not in accordance with the English enactments of the near past (as advocated by the editor of the book under review.)¹⁰

Second, the work under review is not critical. Each and every provision of the Act, as enacted in 1925, has been accepted and explained, even in 1977, without adding any comments on its utility or suitability in modern India. The chapter on domicile¹¹, for instance, has outlived its utility and needs substantial changes, of which fact one finds no indication in the work under review.

8. *Supra* note 1, preface to the sixth edition, by V.V. Raghavan.

9. *Id.* at 3, 6.

10. *Id.*, preface.

11. Act of 1925, ss. 4-19.



Third, though the effect of conversion on inheritance-rights has been discussed,¹² no reference is found anywhere in the book to the Caste Disabilities Removal Act, 1850 which significantly protects the rights of converts and applies to all Indians alike.

Fourth, while explaining the exemption of "Hindus" from the application of the substantive law of inheritance under the Act of 1925, the fact that Jains, Sikhs, Buddhists and Brahmosamajis are also "Hindus" in the legal sense of the word is still sought to be established by referring to old judicial decisions on the point.¹³ The unequivocal legislative recognition of the same (under the Hindu Code of 1955-56) is wholly ignored in this context.

Fifth, though the book refers to the exemption (by administrative action in 1868) of the Christians of Coorg from the application of the Act of 1925,¹⁴ there is no reference in the book to the Christian succession laws still in force in the erstwhile States of Travancore and Cochin (now parts of the State of Kerala).¹⁵ The position of these local laws *vis a vis* the Indian Succession Act, 1925 is a matter which needs a careful examination.

Sixth, many provisions of the Act have been reproduced in the book without any comments. One of these is the provision on "savings" contained in section 391 of the Act. The only 'commentary' offered on this is "This is sec. 149 of the Probate and Administration Act, 1913".¹⁶ The provision could have been explained with the help of useful illustrations.

Last, this 1977 edition of the book seems to have taken no notice of the effect of the Marriage Laws (Amendment) Act, 1976. The statements regarding the application of the Act of 1925 to the property of persons governed by the Special Marriage Act, 1954 found in the book¹⁷, are wholly out of date. The editor, who signed his preface to the book on 18 March 1977, could have taken note of the extremely important changes effected in the law on this subject by the Marriage Laws (Amendment) Act, 1976.

The book has, of course, been updated in regard to the reported cases. However, it appears to this reviewer that too much stress has been laid by the editor on foreign cases (especially, English), and this has been proudly stated in the preface.¹⁸ There is, we feel, no reason why the Indian Succession Act, 1925—which unjustifiably remains based on the old English statutes—should also continue to be interpreted in the light of British judicial trend. The courts in India should, we submit, interpret the Act in consonance with the socio-economic conditions now prevailing

12. *Supra* note 1 at 7-8.

13. *Id.* at 5-6.

14. *Id.* at 21.

15. These are Travancore Christian Succession Act, 1097 F. and the Cochin Christian Succession Act, 1097 F.

16. *Supra* note 1 at 824.

17. *Id.* at 6.

18. *Id.*, perface.



in this country. For this purpose our courts, it must not be forgotten, need the help of academic lawyers and commentators of the Act of 1925 who should point out the discrepancies between the Act and the needs of the contemporary Indian society. In the preceding edition of the book under review, editor J.L. Joshi had said :

Will our statute book be cluttered with different succession Acts for different communities or will there be a uniform law of testamentary and intestate succession for all citizens of the Republic of India... ?¹⁹

The need for such a uniform law was pointed out also by an eminent judge in his foreword to the fourth edition of the book—which was the first edition brought out after independence and was prepared by the author himself.²⁰ However, neither Joshi nor the present editor (V.V. Raghavan) made any attempt to study the Act of 1925 from this angle. It is indeed important to examine whether this so-called “Indian” Succession Act is worthy of being accepted, with or without amendments, as the uniform succession law for the citizens of India. Already some studies of, and suggestions on, this aspect have been made in recent years.²¹ At present if a Hindu, Buddhist, Jain or Sikh citizen wishes to adopt the Act of 1925, he or she has to register a civil marriage *outside these four communities*.²² If a Muslim or a Christian of Travancore-Cochin wishes to adopt it (as also if a Parsi wants to be governed by the general provisions of the Act rather than by its special chapter relating to Parsis) he or she, too, has to register a civil marriage, *but not necessarily outside his or her community*.²³ An Indian (belonging to any community whatsoever) who does not want to register a civil marriage, or who prefers to remain unmarried, can never adopt the “Indian” Succession Act ; he or she is forced to accept the personal law of inheritance otherwise applicable. To this, and to all other flaws in the Act of 1925 which prevent it from being accepted as a national law, both the editors of the late P.L. Paruck have wholly shut their eyes.

This reviewer whole-heartedly agrees that among all the available commentaries on the Indian Succession Act, P. L. Paruck’s is most comprehensive. However, the editor of its latest version has, it is submitted with respect, not been able to contribute substantially to enhance the value of the book. One feels somewhat disappointed on this account as the present editor of the book is an eminent representative of the

19. P.L. Paruck, *The Indian Succession Act, 1925*, preface by J.L. Joshi (5th ed., 1966).

20. *Id.*, foreword by Justice Bhagwati (4th ed., 1953).

21. See, for instance, T. Mahmood, *Civil Marriage Law : Perspectives and Prospects* 7-8, 14, 17, 20-21, 43-45, 47, 66 (I.L.I. 1978)

22. *Supra* note 4.

23. *Ibid.*



judiciary. The excuse that “time is not ripe”, which the editor has advanced for his inaction,²⁴ seems rather lame.

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24. *Supra* note 8.

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