CHAPTER VIII

Laws of Inheritance.

From the earliest time, people have been living in joint family system in Assam. The Hindu society is patriarchal, where the father is recognised as the leader or head of all the members of the family. Among the non-Aryan tribes living in the hilly regions, the matriarchal system is also seen in vogue and, for instance, we can point out to the Garos, the Mikirs and the Austro-Asiatic Khasis, where the society recognises the mother as the leader or head of the family. The other non-Aryan tribes, including the semi-Hinduised and Hinduised, follow the patriarchal system. But as we have said above, we will not enter into the social jurisdiction of those non-Aryan peoples living in the hilly regions, as each of them would require a separate provision for it. However, those who are living in the plains and are coming into the contact with the more civilised society, they have adopted the social laws and manners and customs of their neighbouring Hindu society.

In a Hindu society, the joint family includes the 'Sapinda' relations, that is, all the members of it are of direct blood relationship. But as regards inheritance of property, two schools of inheritance, viz., 'Mitaksara' and 'Dayabhaga', have been prevailing in India from time immemorial. Being supported and expounded by Vijnanesvara of the last part of the 11th and 1st part of the 12th century A.D., Mitaksara system came to be introduced in western India except Assam and Bengal and the Dayabhaga system of Jimutabahana of the 12th century A.D., came to be prevalent in eastern India. In the subsequent periods, the different Smrtikaras of western India expounded the social laws in support of the Mitaksara system, while in eastern India, M.M. Damodara Misra (of the 15th century A.D.), Pitambar Siddhanab Vagisa (16th
century A.D.) and Raghunandan Bhattacharyya (15th century A.D.) began to work as exponents of the 'Dayabhaga' system. Between 11th century A.D. and 16th century A.D., there were other Smrtikāras to whom different representative works on 'Smrtis' were ascribed. Notable amongst them were Vedacharyya (supposed to be of 13th century), Nilambaracharyya (12th century A.D.), Damodara Misra, Pitambar Siddhanta Vagisa and Sarvajna Narayana (12th century A.D.).

M.M. Damodara Misra was the royal priest of the Bhuyans and therefore, it may be supposed that during the Bhuyan rule the Dayabhaga system and other social laws as interpreted by Damodara Misra became more popular in Assam. After the termination of the rule of the Chutias and the Bhuyans, many Brāhmaṇas and Gaṇakas (astrologers) were brought to the Ahom kingdom proper. It is most likely that the Ahom kings appointed the 'Sabhā-pāndits' (the court-scholars) from among these Brāhmaṇas to assist them in judicial matters in connection with socio-religious affairs. Therefore, it is quite natural that the Dayabhaga system and other social laws as interpreted by Damodara Misra came to be prevalent almost in the whole of the Ahom kingdom excepting the modern districts of Kamrup and Goalpara, through the influence of these Brāhmaṇas and Gaṇakas. From the records we know that the Ahoms borrowed many social customs and manners from the Bhuyans. On the other hand, Pitambar Siddhanta Vagisa was a scholar in the court of the Koch king Naranarayana who had composed eighteen 'Kaumudis' on Hindu law. At the instance of the Koch king Naranarayana and his brother Chilarai, the division of castes and the division of work and other social laws, made according to Hindu Varṇaśāstra and mentioned in the 'Kaumudis,' was first introduced in the Koch kingdom. Amongst the eighteen 'Kaumudis of Siddhanta Vagisa, the
'Vivāda Kaumudi' is also one which includes the 'Dāya Kaumudi' as a part of it. During the latter part of the Ahom rule, that is, in the regnal years of Siva Singha (A.D. 1714 - 1744), the Parbatia Gosain, who was the royal priest and who hailed from Bengal, tried to introduce social laws in Assam as interpreted by Raghunandan Bhattacharyya of Bengal. The interpretations of social laws by Raghunandan Bhattacharyya is known as 'Navya-smārtta' and that of the old school is 'Prācīnna'. The Brāhmanas, Mahantas and the Satrādhikārs who followed the 'Prācīnna' system refused to accept the new interpretations; at length a decision was arrived at in the court of the Ahom king, when the king after hearing both the parties proclaimed that the Parbatia Gosāin and his disciples would follow the 'Navya-smārtta' system of Raghunandan Bhattacharyya and the others would follow their old 'Prācīnna' system.  

Gunabhiram Barua says that the laws of inheritance is determined in Assam according to the rules laid down in the Śrutas (scriptures). At the absence of a son, a grandson etc. kinsmen become the heir of the property of the deceased person. "Now a days", writes Gunabhiram, "in spite of the existence of other relatives, the daughter's son becomes the heir of the property of his maternal grandfather." But, he says, that this rule is not commonly followed in Assam. Examples of bequeathing a property by a person to his daughter or son-in-law or whomsoever he likes in his life time, are not rare in Assam. After the death of such a person, the bequeathed person can enjoy the property as the owner of it. The right of inheritance is not lost owing to intercaste (Asavarṇa) marriage or widow marriage. The procedure of taking an adopted son (Dattaka) is somewhat different in Assam. A man can take some one from his own family or clan, or from a different family or clan,
as his adopted son and thus can make him the heir of his property. As regards taking an adopted son, the question of performing any ceremonial function according to the scriptures or the question of the age of the boy, do not arise. Whether a male or a female, a person can accept an adopted son. A widow can take an adopted son with the approval of her relatives or the elderly people of the society. Though there is no hard and fast rule of performing any ceremonial functions in connection with taking an adopted son, there is a reference to such ceremonial functions performed by Chaturbhuj Thākur, one of the prominent religious teachers. Chaturbhuj Thākur accepted his sister's son as his adopted son. As soon as the father and the mother accept a child as their own, his illegitimacy is removed and becomes the usual heir of his father's property.

In the Satra institutions the successor of an Adhikāra is selected according to the laws of Primogeniture (Jyesthānukrama), succession from father to son and succession according to fitness. In the Satras, where the Satrādhikār is a celibate, the successor is nominated by the deceased Adhikāra, or, the 'Deka-Adhikār', i.e., the assistant to the Adhikāra, is installed in the post of the Adhikāra. The 'Deka-Adhikār' is like a crown prince.

So long the members of the family remain in a joint family, the question of division of property does not arise. After the death of the father, if the sons desire to separate from the joint family, then a division of the property takes place. The brothers divide the property into equal shares, either by mutual arrangement among themselves or by inviting the village elders to effect an amicable settlement. Although the
divisions are made into equal shares, yet the youngest son is allowed the first choice of the shares, and so on. Robinson assigns two reasons for allowing the first choice to the youngest son; he thinks that it might be a device of the elders so that the youngers cannot make a better plan to appropriate the better share, or it might originate from the idea of providing the youngers with the better shares, as the elders are more able to provide or manage themselves. The first reason shown by Robinson is however, not tenable and hence the second one is probably acceptable.

REFERENCES


5. A Descriptive Account of Assam, By- W. Robinson, 1841, page-198.