

Lijee Philip

When the patriarch of a prominent high-net-worth family in Mumbai passed away, his death set in motion the familiar rituals of division—of shares in companies, offshore accounts and luxury apartments spread across continents.

However, for one of the heirs, it was not an easy or equal process. The entire sequence of who gets what and where wasn't just about claiming what was rightfully theirs. It became a litmus test of the heir's identity, dignity and survival.

Unlike other family members, the gender identity of this heir had always been a private matter, never discussed, never acknowledged. When the patriarch's will was opened and read aloud, an ultimatum surfaced. The heir recalls, under anonymity: "I was threatened that I would be 'outed' against my consent if I didn't comply to certain demands." Eventually, they were coerced into a lavender marriage—a euphemism for a union between a heterosexual and a homosexual person. It was a union of convenience crafted to preserve the family's image, at all costs.

This is an emerging reality for gay children in some of India's wealthiest families.

DEATH IS ONLY THE BEGINNING

They are finding themselves excluded, silenced or coerced by their own blood. For many traditional families, the moment of asset distribution acts as the final blow that they deploy to turn sexual identity and orientation into bargaining material.

Rajat Dutta, founder of Inheritance Needs Services, which provides inheritance-related, non-advisory services, says families complete the paperwork keeping homosexual heirs in mind. Some are mindful. He says: "Some families are anxious and concerned. To avoid social attention or legal contestation,

The Inheritance of Loss

LGBT heirs of rich families are often excluded from or ring-fenced in wills



Unequal
&
Excluded

which offers gift tax exemption only to heterosexual spouses.

But the fight is not always legal, says Pallavi Pareek, CEO, Ungender, a legal inclusion consultancy: "The real fight isn't always in court. It happens in living rooms, in hushed conversations where being queer is treated as a family threat." Pareek, who works with private family offices and legal advisors to HNIs, describes the issue as one of layered discrimination. "Queer heirs face a double burden—laws that don't recognise them, and families that silence them."

One of the most talked-about cases was that of Ajay Mafatlal. After

- LGBT heirs of wealthy families find themselves excluded from or silenced in asset distribution
- Queer heirs face a double burden—laws that don't recognise their relationships, and families that silence them
- Same-sex partners cannot claim spousal rights
- A same-sex couple petitioned the Bombay High Court against the discriminatory provision of IT Act, which offers gift tax exemption only to heterosexual spouses

LONG ROAD

In 2001, Naz Foundation filed a PIL challenging Section 377 of the Indian Penal Code. It took over a decade for the law to be overturned. Finally, in 2018, the Supreme Court, in the *Navtej Singh Johar v Union of India* case, struck down Section 377 as unconstitutional.

But legal experts say this was only the beginning. Balaji says, "The striking down of Section 377 removed a colonial-era punishment, but it didn't grant any rights. It didn't ensure right to inheritance, housing, pension, insurance—or marriage."

In 2023, the Supreme Court was asked to rule on the legality of same-sex marriages. In a 3:2 split, the court declined to recognise it. The majority stated that the Constitution does not guarantee the fundamental right to marry. While the minority opinion supported the idea of civil unions, the ruling left queer couples without legal recognition and, by extension, no claim to spousal rights.

The court also rejected the right of same-sex couples to jointly adopt children, citing that existing rules allow joint adoption only to married couples.

Ultimately, even the best laws can do little without social acceptance. Until Indian families begin to view queer heirs as equal stakeholders, not liabilities, legal tools can only go so far. Dutta says, "Asset owners have started ring-fencing wealth bequeathed to LGBT children. But the true shift will happen only when the fight moves from the shadows into the open—where being homosexual doesn't mean being invisible."

For many LGBT heirs, the biggest inheritance they seek isn't just money, it's the right to belong, say experts. The case of queer inheritance is more about acceptance—as a person, and not just on a piece of paper.

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legal think tank. "If an LGBT person isn't accepted, they are simply written out."

Take the case of a wealthy industrialist couple in Mumbai. They had created a comprehensive estate plan, assuming their children studying abroad would one day get married and have kids of their own. But when the son declined marriage proposals giving frivolous reasons, suspicion grew. Eventually, they found he was gay. What followed was a revamp of the estate plan. Testamentary documents were amended, setting distinct terms for each heir—not based on capability, but

conformity—and ensuring that the son's co-partner would never be able to get a share.

Dutta says, "The result is exclusion—it is not always overt, but embedded in the design and language of testamentary documents. It will be laced with concern, but the core focus is that only 'acceptable' family members would be in the line of succession."

STRUGGLES OF SUCCESSION

Though LGBT individuals can inherit from their natal families, their legal standing as partners remains non-existent. India's succession laws are governed

by the religion of the deceased at birth. The Indian Succession Act, 1925, does not acknowledge queer relationships. Same-sex partners cannot claim spousal rights to pension, insurance benefits and inheritance, unless explicitly stated in will or nomination. And even then, challenges are common.

In the absence of marriage equality, same-sex couples rely on fragile legal tools—wills, nominations, trusts—all of which are prone to legal scrutiny.

A same-sex couple have petitioned the Bombay High Court, challenging a discriminatory provision in the Income-Tax Act,

gender transition at the age of 53 in 2003, Mafatlal claimed inheritance rights as a male heir under the Hindu Succession Act. His brother challenged the claim, implying the transition was motivated by financial gain. The dispute never reached the courts. It ended behind closed doors—buried under legal structures and family trust deeds. He passed away in 2015.

Pareek says: "The issue isn't just wealth, it's recognition. It's the right to be seen as family." This is the crux of India's queer rights discourse, which began with the decriminalisation of homosexuality.