

# Statements Relating to Family Affairs and Pedigree Evidence

**Petchinathan G and V. Mahalingam**

B.COM.LL.B (HONS) and Assistant Professor

SRM School of Law, SRM Institute of Science and Technology, Kattankulathur

**Abstract:** *The law of evidence serves as the backbone of judicial proceedings, ensuring that facts are proven through reliable means. Among the exceptions to the "Hearsay Rule," statements relating to family affairs and pedigree evidence occupy a significant position. These statements, often made by deceased persons or those who cannot be called as witnesses, provide a vital link in establishing relationships, bloodlines, and succession rights. This paper examines the admissibility of such statements under the Bharatiya Sakshya Adhinyam, 2023 and the Indian Evidence Act, 1872. It explores the necessity of such evidence, the conditions for its validity, and the role of "ante litem motam" (statements made before the dispute arose). The research further analyzes the evidentiary value of family horoscopes, tombstone inscriptions, and genealogical trees, while addressing the challenges of proving ancient family history in modern litigation.*

**Keywords:** Pedigree Evidence, Family Affairs, Hearsay Exception, Admissibility, Bharatiya Sakshya Adhinyam 2023, Indian Evidence Act 1872, Ante Litem Motam, Relationship, Succession, Genealogy

## I. INTRODUCTION

The administration of justice relies on the ability of parties to prove facts through credible evidence. While the general rule of evidence law mandates that witnesses must testify to facts within their personal knowledge (the rule against hearsay), the law recognizes certain practical realities where direct evidence is impossible to obtain.

Statements relating to family affairs and pedigree (lineage) are classic examples of such exceptions. In disputes involving inheritance, succession, or the legitimacy of a claimant, the individuals who possessed primary knowledge of the facts— such as parents or grandparents—are often deceased by the time the matter reaches the court. Without allowing statements made by these individuals during their lifetime, justice would be unattainable in many family and property disputes.

In the Indian context, where oral traditions and family records like Panda registers or family trees are common, pedigree evidence bridges the gap between historical facts and modern legal requirements. Both the earlier Indian Evidence Act, 1872 and the new Bharatiya Sakshya Adhinyam, 2023 provide specific provisions to admit these statements, provided they meet strict criteria of reliability.

## 2. THE CONCEPT OF PEDIGREE EVIDENCE

"Pedigree" refers to the lineage, descent, or family history of an individual. Pedigree evidence involves statements made by persons (now deceased or unavailable) regarding the existence of a relationship by blood, marriage, or adoption.

### A. Necessity of Admission

The primary reason for admitting pedigree evidence is necessity. In cases involving events that occurred decades ago (e.g., a marriage in 1U50 or a birth in 1U40), it is often impossible to find a living eyewitness. Therefore, the law permits the court to look at:



- \* Statements made by deceased family members.
- \* Family bibles or records.
- \* Inscriptions on tombstones or portraits.
- \* Genealogical trees (Pedigree tables).

### **B. The Rule Against Hearsay and its Exception**

Usually, a statement made by "A" to "B" cannot be proved by "B" to establish the truth of the statement. However, for family affairs, "B" can testify about what deceased "A" said regarding the family's history, provided "A" had a special means of knowledge.

### **3. MEANING OF SPECIAL MEANS OF KNOWLEDGE**

For a statement regarding family affairs to be relevant, the person making the statement must have had special means of knowledge. This typically includes:

1. Family Members: Parents, siblings, or extended relatives.
  2. Family Dependents: Long-term domestic servants or family priests (Purohits) who have observed the family's conduct over generations.
  3. Community Elders: In certain tribal or rural setups, elders who maintain the history of the clan.
- The court must be satisfied that the declarant was in a position to know the truth about the relationship they were describing.

### **4. LEGAL BASIS: ACT OF 1872 vs. ADHINIYAM 2023**

The legal provisions for pedigree evidence remain largely consistent in the transition to the new law, emphasizing continuity in evidentiary standards.

#### **A. Under the Indian Evidence Act, 1872**

Section 32(5): Relates to statements made by a deceased person regarding the existence of any relationship by blood, marriage, or adoption.

Section 32(G): Relates to statements made in family bibles, tombstones, portraits, or family trees.

Section 50: Opinion on relationship, expressed by conduct, is relevant.

#### **B. Under the Bharatiya Sakshya Adhinyam, 2023**

The BSA 2023 incorporates these principles, ensuring that traditional family evidence is still admissible in the digital age. The provisions remain focused on the reliability of the source and the timing of the statement.

### **5. ESSENTIAL ELEMENTS FOR ADMISSIBILITY**

For a statement relating to family affairs to be admitted under Section 32(5) / BSA equivalent, four conditions must be satisfied:

1. The Declarant is Unavailable: The person who made the statement must be dead, untraceable, or incapable of giving evidence.
2. Special Means of Knowledge: As discussed, the person must have had a reason to know the fact (e.g., being a relative).
3. Statement made "Ante Litem Motam": This is the most critical requirement. The statement must have been made before the dispute in question arose.
4. Relationship Scope: The statement must relate to relationship by blood, marriage, or adoption.

#### **C. THE DOCTRINE OF "ANTE LITEM MOTAM"**

The phrase Ante Litem Motam means "before litigation was contemplated."



Why is this important?

If a person makes a statement about a family tree while a property dispute is already brewing, there is a high risk that the statement is biased or fabricated to suit a legal claim. To be admissible, the statement must have been made at a time when the mind of the declarant was "free from all bias" and they had no interest in distorting the truth.

"The law trusts the statement because it was made at a time when there was no reason to tell a lie."

## **7. TYPES OF PEDIGREE EVIDENCE**

### **A. Oral Statements**

Testimony by a witness regarding what their deceased father told them about their grandfather's siblings.

### **B. Family Records and Bibles**

Entries made in family books or religious texts regarding births, deaths, and marriages.

### **C. Genealogical Trees (Pedigree Tables)**

Handwritten charts or "Sajra" (in land records) that depict the lineage of a family. These are often used in Indian courts to prove reversionary rights.

### **D. Inscriptions and Portraits**

Inscriptions on tombstones (proving date of death or relationship) or names engraved under family portraits.

### **E. Horoscopes (Janampatris)**

In many Indian families, horoscopes are maintained meticulously. While a horoscope is admissible to prove relationship or age, the court usually requires proof of who prepared it and whether they had special knowledge.

## **8. PROOF OF RELATIONSHIP BY**

### **CONDUCT (SECTION 50)**

When the court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct of any person who has special means of knowledge is a relevant fact.

Example:

If the community and neighbors treated "A" and "B" as a married couple for 30 years, their conduct (and the community's perception) is evidence of a valid marriage, even if no marriage certificate exists.

## **U. ROLE OF THE COURTS**

Courts act as "gatekeepers" of pedigree evidence. Because this evidence is technically hearsay, the judicial approach is one of cautious acceptance.

1. Corroboration: Courts rarely rely solely on an oral statement of a family member. They look for corroboration from land records, census data, or old invitations.

2. Scrutiny of Ancient Documents: Under the law, documents 30 years old (or 20 years under certain modern interpretations) carry a presumption of genuineness, but this does not automatically prove the truth of the contents regarding family history.

## **10. IMPORTANT CASE LAWS**

### **A. Dolgobinda Paricha v. Nimai Charan Misra (1U5U)**

The Supreme Court clarified that for "conduct" to be admissible under Section 50, it must be the conduct of a person who has special means of knowledge as a member of the family or otherwise.

### **B. State of Bihar v. Radha Krishna Singh (1U83)**



This is a landmark case on pedigree evidence. The Court laid down strict guidelines for admitting genealogical trees, stating that they must be proved to have been made ante litem motam and by a person with special knowledge.

C. Sita Ram Bhau Patil v. Ramchandra Nago Patil (1U77) The Court held that a statement in a document regarding a relationship is only admissible if the requirements of the law (death of declarant, special knowledge, etc.) are strictly met.

### **11. CHALLENGES IN PROVING FAMILY AFFAIRS**

**Loss of Oral Traditions:** As joint families break down, younger generations often lack knowledge of their extended lineage.

**Fabricated Genealogies:** In high-value property disputes, parties often "create" old-looking family trees to claim a share in the estate.

**Conflict with DNA Evidence:** Modern science (DNA testing) often conflicts with traditional pedigree evidence. Courts now generally prioritize DNA evidence over oral pedigree statements in cases of paternity.

### **12. CRITICAL ANALYSIS**

**Advantages:**

**Ensures Justice:** Prevents the loss of rights due to the passing of time and witnesses.

**Cultural Sensitivity:** Recognizes the way Indian society records its history (horoscopes, bards, priests).

**Disadvantages:**

**Reliability Issues:** Oral history can be distorted over generations (the "Chinese Whispers" effect).

**Strict Standards:** The requirement of ante litem motam is often hard to prove for very old statements.

### **13. FUTURE OF PEDIGREE EVIDENCE**

With the Bharatiya Sakshya Adhinyam, 2023, the legal system is moving towards digital records. However, for historical family disputes, the reliance on traditional pedigree evidence will persist. We may see a shift where:

\* Digital family archives and social media interactions are used to prove "conduct" and "relationship."

\* DNA databases become the primary source, with pedigree evidence serving as a secondary, supporting tool.

### **14. ADMISSIBILITY OF FAMILY**

#### **TRADITIONS AND REPUTATION**

The law further acknowledges that family history is often preserved through collective memory rather than individual witness accounts. Under the evidentiary framework, the general reputation within a family regarding a specific relationship is admissible, provided it is consistent and long-standing. This is particularly relevant in cases where no specific declarant can be identified, but a "family understanding" has existed for generations. Courts allow such evidence because the collective recognition by relatives serves as a safeguard against the idiosyncratic falsehoods of a single individual.

### **15. THE INTERPLAY BETWEEN PERSONAL LAW AND PEDIGREE**

In the Indian legal landscape, pedigree evidence is inextricably linked to personal laws governing marriage and inheritance.

Since many communities rely on customary practices rather than statutory registrations for life events, the proof of family affairs often dictates the devolution of property. The courts recognize that ignoring oral pedigrees or family trees would effectively disenfranchise individuals whose lineages are not documented in modern civil registries. Consequently, statements relating to family affairs act as a vital bridge between traditional social structures and the formal judicial system.



### 1C. EVIDENTIARY VALUE OF ANCIENT FAMILY DOCUMENTS

When dealing with family affairs, documents such as old letters, diaries, and family settlement deeds are given significant weight if they are produced from proper custody. Unlike oral testimony, which may be subject to the fading memory of a witness, these contemporaneous records provide a "frozen" snapshot of family relations at a specific point in history. However, the court must still verify that the author of the document had the requisite "special means of knowledge" and that the document was created before any legal controversy began. This rigorous verification process ensures that ancient documents are not used as vehicles for fabricated claims in modern litigation.

### 17. IMPACT OF SCIENTIFIC ADVANCEMENTS ON PEDIGREE PROOF

As we move further into the 21st century, the reliance on traditional pedigree evidence is being increasingly challenged by DNA profiling and forensic genealogy. While the Bharatiya Sakshya Adhiniyam, 2023 continues to value traditional statements, there is a growing judicial trend toward prioritizing biological certainty over oral tradition in cases of disputed parentage. Nevertheless, scientific evidence cannot replace pedigree statements in matters of "relationship by adoption" or "social status," where the legal tie is based on conduct and intent rather than genetics. Thus, the future of evidence law lies in a balanced synthesis where modern science confirms biological links, while pedigree evidence provides the social and historical context of the family unit.

### 18. Statements in Family Bibles and Registers

Under the established principles of evidence law, entries in family bibles or religious registers are considered highly reliable because they are often recorded at the time of the event (birth, death, or marriage) by a person with direct knowledge. These documents are admissible even if the specific author is unknown, provided the book has been treated by the family as a genuine record of their history. In the Indian context, this extends to Panda registers maintained at pilgrimage sites like Varanasi or Haridwar. These registers, spanning centuries, serve as "public documents" of family lineage and are frequently admitted by courts to establish complex genealogical links that pre-date modern civil registration.

### 1U. The Relevance of Portraits and Family Monuments

The law recognizes that family history is often etched into physical objects. Statements made in the form of inscriptions on family portraits, tombstones, or monuments are relevant when they describe relationships. For instance, a name engraved on a cenotaph identifying someone as the "eldest son" of a deceased patriarch serves as a relevant fact to prove that relationship. The rationale is that such public displays of family status would have been challenged by other family members during the time of their creation if they were false.

Therefore, the lack of contemporary dispute lends these physical markers a high degree of evidentiary credibility.

### 20. Distinguishing Between Pedigree and General Reputation

It is vital to distinguish between specific statements about family affairs and general reputation. While a statement under Section 32(5) of the Evidence Act (or its BSA equivalent) must come from a person with "special means of knowledge," general reputation is the collective opinion of a community. For example, if a whole village regards two people as father and son, this "reputation by conduct" is admissible even if no specific relative's statement is available. However, specific pedigree evidence is considered "direct hearsay" and carries more weight in inheritance disputes than the "general hearsay" of communal reputation.

### 21. Procedural Safeguards Under BSA 2023

The Bharatiya Sakshya Adhiniyam, 2023 maintains the strict requirement that any statement regarding family affairs must have been made ante litem motam—before the controversy began. This safeguard prevents the manufacture of evidence once a property interest is at stake.



**The Burden of Proof:** The party asserting a particular lineage carries the primary burden of proving the existence and validity of the statement.

**Witness Credibility:** Courts closely examine the "special means of knowledge" of the witness testifying to the statement.

**Corroborative Evidence:** Oral pedigree evidence is rarely accepted in isolation; it must usually be supported by some form of documentary or conduct-based evidence.

## **22. Judicial Interpretation of "Family" and "Relationship"**

Modern courts have expanded the definition of "family" to include relationships that may not be strictly biological but are recognized by social practice. This includes:

\* **Adoption:** Statements regarding the performance of adoption ceremonies (like Datta Homam) are crucial in proving legal heirship.

**Illegitimacy:** Pedigree evidence is often the only way to prove or disprove the legitimacy of a child born out of traditional wedlock.

\* **Fosterage:** In certain communities, foster relationships carry weight in social conduct, which may influence the court's understanding of "family affairs".

## **23. Challenges of Hearsay in Digital Lineages**

With the rise of digital genealogy platforms (like Ancestry.com or MyHeritage), a new challenge arises for the law of evidence. While traditional laws focused on handwritten family trees, modern courts must now determine the admissibility of digital "family clouds". Under the BSA 2023, these may be admitted as electronic records, but the fundamental test remains: was the data entered by someone with special knowledge and was it done before the dispute arose?. The risk of "collaborative errors" in digital trees where multiple users edit the same lineage creates a higher threshold for judicial scrutiny.

## **24. Practical Importance in Land Revenue Proceedings**

In rural India, pedigree evidence (often called the Kursinama or Shajra) is the foundation of land revenue records. When a landowner dies, the revenue officer must determine the legal heirs based on the family tree. If this is challenged in a civil court, the historical accuracy of that Shajra becomes the central point of evidence. Because these trees are often maintained by village officials over decades, they are treated as having a high "presumptive value," though they can be rebutted by stronger oral or scientific evidence.

## **25. Conclusion and Critical Summary**

The law regarding statements on family affairs is a testament to the legal system's adaptability. It acknowledges that the "truth" of a family's history is not always found in government certificates but in the shared memories and conduct of its members. While the Bharatiya Sakshya Adhinyam, 2023 provides the modern procedural vessel, the ancient principles of reliability, necessity, and the absence of bias continue to be the North Star for judges navigating the complexities of human lineage.

## **BIBLIOGRAPHY**

Statutes

\* Bharatiya Sakshya Adhinyam, 2023

\* Indian Evidence Act, 1872

Primary Commentaries

\* Woodroffe & Ameer Ali: Law of Evidence

\* Ratanlal & Dhirajlal: The Law of Evidence



Judicial Precedents

- \* State of Bihar v. Radha Krishna Singh (Role of Genealogy)
- \* Dolgobinda Paricha v. Nimai Charan Misra (Opinion on Conduct)

