Doctrine of Escheat

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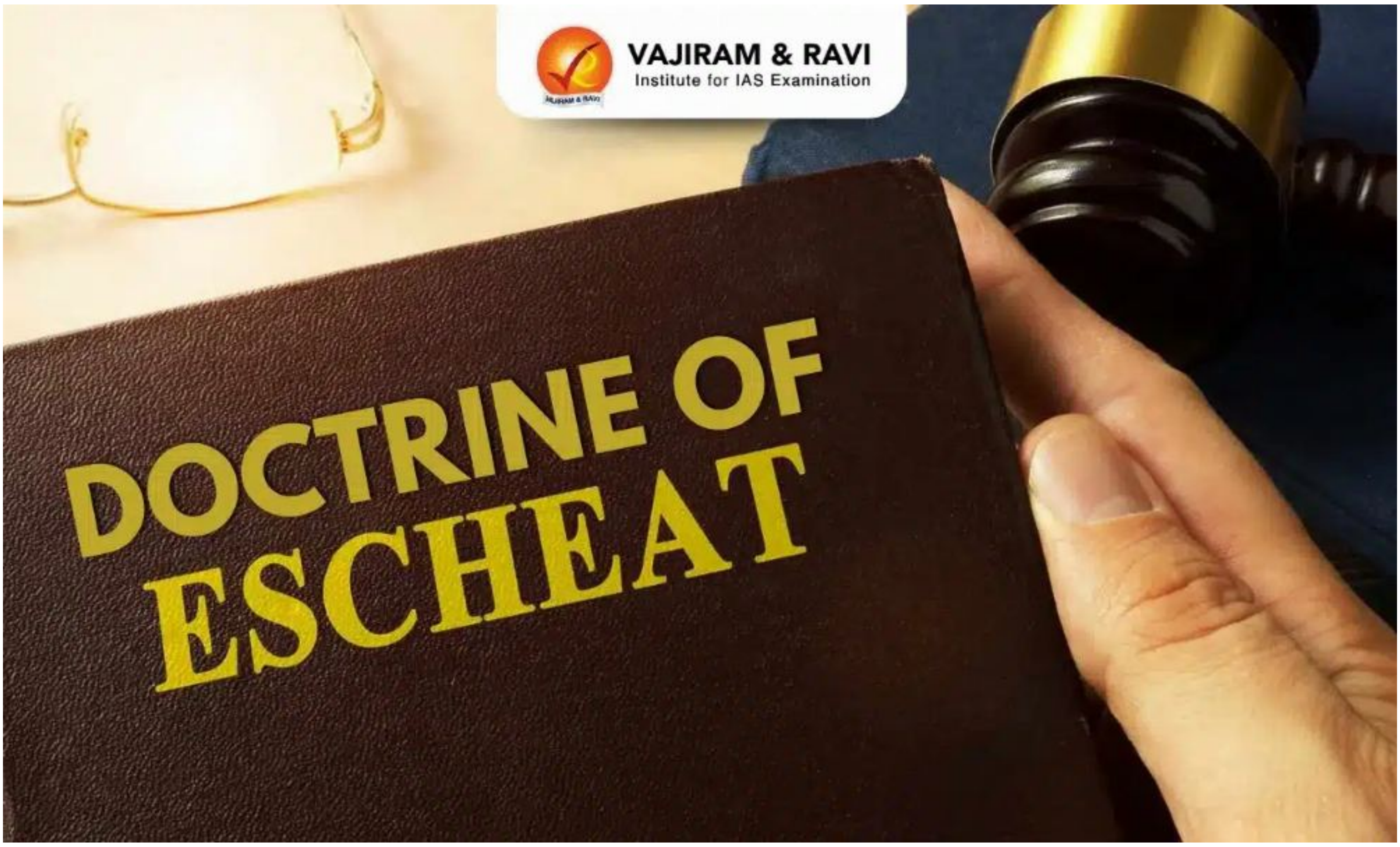

Doctrine of Escheat Latest News

The Supreme Court recently held that a State Government cannot invoke the doctrine of escheat under Section 29 of the Hindu Succession Act once a Hindu male has executed a Will, which has been declared to be valid and has been granted probate by a Court.

About Doctrine of Escheat

- It is a significant **legal concept** that **ensures no property is left without ownership**, **reverting it to the state if the original owner dies without legal heirs or fails to make a will.**
- This legal process **addresses the handling of unclaimed assets**, protecting societal interests and maintaining order within the legal framework.
- The doctrine **addresses two primary situations:**
    - when a **person dies intestate (without a will) and without heirs**, and
    - **when property remains unclaimed or abandoned for a specific period.**

- The **underlying principle** of escheat is that **property must always have an identifiable owner,** and **in the absence of heirs**, the **government assumes ownership.**
- In modern legal systems, escheat serves as a **way to maintain orderly succession** and **prevent assets from being wasted** or misused.

Historical Origins of Escheat

- Escheat originates from the **Old French word "eschete," meaning "to fall to".**
- The concept of escheat is **rooted in the feudal system of medieval Europe**, where **land was held by tenants under a lord.**
- **If the tenant died without an heir** or was **convicted of certain crimes** like treason, the **land would escheat, or revert, to the lord.**
- This system **allowed for continuous control of land,** ensuring that property remained within the hierarchy of the feudal structure.
- Over time, this **evolved to include the monarch or the state as the ultimate recipient of property without heirs.**

Escheat in Modern Legal Systems

- In modern legal systems, escheat ensures that unclaimed or ownerless property does not remain in limbo but is transferred to the state.
- The **state assumes ownership of such property, either permanently or temporarily, until rightful claimants can be found.**
- Escheat **laws vary across jurisdictions**, with some countries having well-defined processes for handling unclaimed assets.
- **In India**, **escheat is regulated** primarily through **Section 29 of the Hindu Succession Act, 1956, and Article 296 of the Constitution.**
    - These provisions **outline the circumstances under which property escheats to the state,** safeguarding against unclaimed or abandoned property.
    - However, the **Supreme Court made it clear that the doctrine of escheat** under Section 29 of the Hindu Succession Act, 1956, is a **remedy of last resort**; it **comes into play only when a person dies intestate and without any legal heirs.**
    - **Where a valid will is executed and duly probated,** the **property must devolve strictly in line with the testator's intent,** leaving no room for the State to assert rights over the estate.

Source: LIVELAW
