

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 6

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Invalidity of Hindu Marriage and Critical Analysis on Property Rights for Children of Invalid Marriage

SHRINIDHINATRAMIZHPAVAI A.¹ AND J. SAI KRISHNAN²

ABSTRACT

The law recognizes that not all marriages are created equal. Some are deemed invalid, challenging our conventional notions of “happily ever after”. The authors through this quote in this research paper is primarily focusing on the consequences of an invalid marriage which extend far beyond the dissolution of a relationship; they touch upon matters of property, inheritance, and the well-being of children.

This research paper delves into the intricate world of invalid marriages, exploring the myriad factors that can lead to their legal nullification or voidance. It provides a comprehensive overview of the common causes of marriage invalidity, including issues related to consent, age, bigamy, and familial constraints. Furthermore, the paper examines the multifaceted legal repercussions that result when a marriage is declared invalid, encompassing matters such as property division.

Concluding on a forward-looking note, the article offers insights into potential remedies and legal recourse available to individuals entangled in invalid marriages. It underscores the significance of seeking expert legal counsel to navigate this intricate terrain and advocates for a compassionate and empathetic approach toward those affected by these circumstances.

Keywords: *Invalid marriage, Property rights, Inheritance.*

I. INTRODUCTION

The institution of marriage, a time-honoured and treasured social compact, has been seen as a pillar of human civilization, representing the ties of love and devotion and serving as the foundation of family life.

Marriage is the primary means through which a social institution is called. It is celebrated with the entire family and is regarded as the most lucky day in Indian tradition. However, due to marriage's complex nature and the intertwined legal, cultural, and religious dimension as a result

¹ Author is a student at Sastra deemed University, Thanjavur, India.

² Author is a student at Sastra deemed University, Thanjavur, India.

numerous complexities have been created.

The idea of an "invalid marriage" has become a source of complexity rising awareness and academic inquiry. In essence, an invalid marriage denotes a relationship that, for a variety of reasons, does not satisfy the legal or cultural requirements essential for recognition. These justifications may include matters of acceptance, age, or respect for cultural norms maybe against the letter of the law, practices.

The effects of marriage can be felt far and wide, not just by the parties involved, but also their communities, families, and the courts charged with enforcing the law.

In the sections that follow, we'll travel over the varied terrain of marriage validity. looking at everything from concerns with coercion and consent to complex cultural nuances that go against accepted legal norms. This study aims to make a significant impact by shedding light on the subtleties that surround the institution of marriage and the significance of addressing the invalid marriages within the broader societal and legal frameworks.

II. ESSENTIALS OF HINDU MARRIAGE

Section 5 of the Hindu marriage act states that the Hindu marriage may be solemnized if that the both persons should be a Hindu explained in section 2 of the Hindu marriage act. This section also provides few other essentials to validate the marriage.

According to Section 5(i) of the Hindu Marriage Act, 1955, neither party must have a spouse who is still alive at the time of the marriage in order for the union to be legal. The marriage is regarded as invalid if any of the parties already has a spouse who is still alive when they are married. In other words, if one of the parties is already married to someone else at the time of the new union, the marriage is not legally recognised. Only when the first marriage has been legally dissolved by death or divorce may a second marriage be legally consummated.

According to Section 5(ii)(a) of the 1995 Act, both parties in a Hindu marriage must be able to provide legal consent. The opposite party may decide to declare the marriage null and void if any of the parties is mentally incompetent and unable to provide their consent.

A marriage may also be dissolved at the discretion of one party under Section 5(ii)(b) of the Act if the other party, though capable of providing legal assent, has a mental condition that renders them unfit for marriage and parenthood.

If the other party has a history of recurrent bouts of insanity, it is possible for one party to request annulment under Section 5(ii)(c) of the Act. However, the phrase "epilepsy" was eliminated from this section by the 1999 Marriage Laws (Amendment) Act.

The bride must be at least 18 years old and the groom must be at least 21 years old at the time of their marriage, in accordance with Section 5(iii) of the Act. Any marriage that takes place in violation of these age restrictions won't be deemed voidable or invalid.

If the parties are engaged in a banned relationship, marriage is prohibited under Section 5(iv) of the Act, unless the parties' respective cultural traditions permit such a union. In accordance with Section 3(g) of the 1955 Act, a connection is deemed to be unlawful if:

The two are one another's immediate ancestors.

One has a descendent from the other's direct ancestor or was previously married to them.

One is married to the brother, mother, father, grandpa, grandmother, or other related of the other.

They are either both the offspring of two siblings, or one of them is a brother, uncle, niece, aunt, nephew, kid of a sibling.

In conclusion, if any of these banned situations apply to the parties, a marriage is not permitted.

A marriage between two Sapindas is regarded as invalid when it is solemnised, according to Section 5(v) of the 1955 Act. To put it another way, this indicates that the husband and wife shouldn't share ancestry. A Sapinda connection is one that goes back up to the third generation through the maternal line and up to the fifth generation through the paternal line, with the individual in question being classified as the first generation, according to Section 3(f) of the Act.

III. MARITAL MIRAGE: EXPLORING NULLITY AND INVALIDITY

If there are obstacles or impediments that prohibit the relationship from being recognised as legal, marriages may be ruled invalid. Absolute barriers and relative impediments are the two categories into which these obstacles fall.

Absolute obstacles concern circumstances in which a fundamental impediment exists, rendering the marriage null and void from the beginning—basically, an invalid marriage from the start.

On the other hand, relative obstacles refer to impediments that forbid marriage with a specific person, and such unions are regarded as voidable. This indicates that under these situations, one partner has the choice to void the marriage. These sorts of obstacles have caused marriages to be divided into two categories: void marriages and voidable marriages.

(A) Void Marriages:

A marriage is deemed null and void under the Hindu Marriage Act if it does not adhere to the

requirements listed in Section 5 of the Act. The following situations make a marriage null and void:

1. **Bigamy:** A marriage is deemed void if either party still has a spouse alive at the time of the new union. For instance, it is considered bigamy and legally void if "A" is already married to "B" and marries "C" without separating from the first union.

2. **Prohibited Degree:** Unless traditions accept such unions, a marriage is void if it includes partners who are engaged in an illegal connection. For instance, if "A" and "B" are married and engage in a relationship that is illegal

3. **Sapindas:** A marriage between individuals who share intimate blood links or are members of the same family is regarded as null and invalid. For instance, if 'A' and 'B' are closely kin, their marriage would be regarded as null and void.

As a result of these requirements listed in Section 11 of the Hindu Marriage Act, marriages that do not meet the requirements are declared null and invalid.

(B) Voidable Marriages:

Section 12 of the Hindu marriage act states that when any partner can file for the annulment of the marriage, the union is considered voidable. Until a petition to nullify the marriage is submitted, it is still legal. Such marriages must be declared void by a competent court, according to the Hindu Marriage Act of 1955. The parties concerned in these situations must determine whether they want to keep the marriage going or try to have it annulled. The petition can be filed by the petitioner if either of the essentials is fulfilled

1. After learning of fraud or force in a marriage, a petition may be filed with the court within a year.

In the case of **Scott v. Sebright**³ where the bridegroom told the bride that if at the ceremony she would not behave normally he would shoot her.

In the case of **Rice vs. Rice**⁴ where before the ceremony the bridegroom showed a pistol and threatened to shoot her if she would not undergo the ceremony.

2. At the time of the marriage ceremony, the petitioner was unaware of the charges supporting the petition.

³ Scott v. Sebright

⁴ Rice v. Rice

3. Within one year of the petitioner learning of these facts, the petition based on these accusations must be submitted in court.
4. Furthermore, no sexual contact has been developed since the petitioner learned of these allegedly true facts.

In the case of **Shantabai v. Tara Chand**⁵, it was decided that even when a wife had normal sexual organs, a severe dislike to sex might be viewed as a sort of impotence. In another instance, it was assumed that a husband and wife's lack of sexual consumption may be caused by the husband's incompetence, anxiousness, or psychological problems when they cohabited for three nights and days following their marriage.

IV. ANALYSIS ON PROPERTY RIGHTS

In the recent landmark case of **Revanasiddappa vs. Mallikarjun**⁶, the Supreme Court of India, led by a three-judge bench comprising Chief Justice Dr. D.Y. Chandrachud, Justice J.B. Pardiwala, and Justice Manoj Misra, issued a significant ruling that has far-reaching implications for inheritance rights within Hindu Mitakshara joint families.

The core issue addressed in this judgment was the inheritance rights of children born into Hindu joint families through void or voidable marriages. The Supreme Court's decision clarified that such children cannot inherit joint family property but are entitled to inherit their parents' separate or self-acquired property.

This ruling effectively reconciles conflicting earlier judgments. In the 2003 *Jinia Keotin v. Kumar Sitaram Manjhi* case, the court had held that children from void or voidable marriages cannot inherit joint family property. However, the 2011 *Revanasiddappa v. Mallikarjun* case took a different stance, emphasizing the child's innocence and their right to all rights accorded to other children, citing Article 39(f) of the Indian Constitution.

The recent judgment harmonizes Section 16 of the Hindu Marriage Act of 1955 with the Hindu Succession Act of 1956. According to the Mitakshara Coparcenary system, children born from null or voidable marriages under Sections 11 or 12 of the Hindu Marriage Act typically only have the right to inherit their parents' wealth and not that of other relatives. This includes children born from adultery- or fraud-related marriages that were later annulled by the court.

To determine the separate shares of the parents of children born from void or voidable marriages, the court ruled that a hypothetical partition, pursuant to Section 6(3) of the Hindu

⁵ AIR 1966 MP 8

⁶ 2023 INSC 783

Succession Act, 1956, must first be conducted. According to this provision, this portion is converted into the parents' personal property and is then dispersed to all heirs, including children from such marriages.

The significance of this decision lies in its thorough elucidation of the distinction between children who are legally acknowledged and those born outside of a valid marriage. Children born into a valid marriage automatically become members of the joint family, take on positions within the family, and may even become Karta, who hold significant power and responsibility.

This clarification is essential as it underscores the importance of recognizing the legitimacy of children born within valid marriages. Failing to do so would be unfair to individuals born from legally voidable marriages.

Moreover, this historic decision serves as a disincentive to null and voidable marriages, preserving the sanctity of the institution of marriage and the conditions required for a valid Hindu marriage under Section 5 of the Hindu Marriage Act, 1955.

However, it's crucial to acknowledge that this ruling may inadvertently overlook issues related to marital crimes such as bigamy, as it fully recognizes the legitimacy of such marriages, potentially undermining matrimonial law and the dignity of marriage as a social institution.

In conclusion, the Supreme Court's decision in *Revanasiddappa vs. Mallikarjun* (2023 INSC 783) correctly interprets Section 16 of the Hindu Marriage Act, 1955, upholding the rights of children born into valid Mitakshara Hindu Joint Families while striving for a fair balance with the rights of children from void and voidable marriages. It is a favorable verdict aimed at maintaining fairness and equity in family law.

V. CONCLUSION

The complicated subject of void marriages has been examined in this research article from a variety of legal, cultural, and religious perspectives. It has become clear that a number of things, including legal restrictions, fraud, a lack of consent, or cultural standards, can lead to invalid marriages. Legal systems, religious organizations, and individuals all need to understand the complexities of invalid marriages since they have an impact on matters of legality, inheritance, and social position. In order to properly balance people's rights and societal norms in this changing environment, additional study and legal reforms may be required to address the difficulties and complications related to invalid marriages.

VI. REFERENCES

- Children Of Invalid Marriages Have Right Only In Parent's Property: A Step In The Right Direction? <https://legalserviceindia.com/legal/article-13340-children-of-invalid-marriages-have-right-only-in-parent-s-property-a-step-in-the-right-direction-.html>
- Digshikha Priyadarshani, Nullity of Marriage Under the Indian Personal Laws, <https://blog.iplayers.in/nullity-of-marriage/>
