BLOGS

Lily Thomas v. Union of India: Detailed Case Analysis

Khushi Malviya · 19 May 2025

Lily Thomas v. Union of India addresses the issue of bigamy and the practice of converting to another religion in order to legally solemnize a second marriage. Read the case analysis in this post!

Edit TABLE OF CONTENTS Facts of the Case Issues Raised Arguments Advanced by Petitioners Arguments Advanced by Respondents Judgement of the Case Conclusion

Facts of the Case

Bigamy is the act of marrying another person while already being legally married to someone else. Under most personal laws in India, including Hindu Marriage Act, 1955, and other personal laws governing different religions, bigamy is prohibited.

The Lily Thomas case addressed the issue of bigamy and religious conversion for remarriage. Sushmita Ghosh filed a petition stating her husband, Mr. G.C. Ghosh, converted to Islam to marry another woman without divorcing her. This practice of converting to Islam for second marriages was common among Hindu men unable to obtain divorces.

The Supreme Court ruled that such marriages are void if the first marriage is still valid, and men who do so can be prosecuted for bigamy under **Sections 494 and 495 of the Indian Penal Code (IPC)**. This decision aimed to prevent the misuse of religious conversion to circumvent marital laws and reinforced that converting to Islam does not absolve a person from the obligations of their first marriage. The case emphasized the need for a uniform civil code while respecting religious freedoms.

Read More: Is Bigamy allowed in India?

Issues Raised

1. Whether a Hindu husband can solemnize a second marriage by converting to Islam, and if such a marriage would be void if the conversion was done to avoid an earlier marriage.
2. Whether the husband would be liable for bigamy under Section 494 of the IPC for marrying again without dissolving the first marriage.
3. Whether it is desirable and necessary to implement a Uniform Civil Code for all citizens to address such issues.

Contentions of the Petitioner

The petitioner in the Lily Thomas case raised several critical arguments challenging the practice of religious conversion to Islam for the purpose of engaging in polygamy. They argued that this practice violated women's rights to life and freedom under **Article 21** of the Indian Constitution.

Citing the principle of natural justice from the Maneka Gandhi v. Union of India case, the petitioner asserted that the respondent's second marriage contravened this principle and infringed upon **Article 21** rights. They contended that the respondent's conversion was not genuine, as he continued to practice his Hindu faith and was identified as a Hindu in various official documents.

The petitioner argued that the second marriage was void under **Section 11 of the Hindu Marriage Act**, as the respondent did not meet the conditions specified in **Section 5,** particularly the condition that there should be no living spouse.

The petitioner sought a declaration that the second marriage was void and requested that the respondent be held liable under **Section 17 of the Hindu Marriage Act**, as well as **Sections 494 and 495 of the Indian Penal Code**. They appealed to the court to punish the offender and ensure justice for the aggrieved party.

Contentions of the Respondent

The respondents in the Lily Thomas case argued that upon converting to Islam, they were entitled to have four wives, regardless of their first wife remaining Hindu. They claimed that personal laws governed the matter, and since the accusations were under the Indian Penal Code, there was no violation of fundamental rights.

They contended that the conversion to Islam met the primary requirements of being of sound mind and giving full consent, as evidenced by the conversion certificate from the Shahi Qazi.

Invoking **Article 25** of the Indian Constitution, which guarantees freedom of religion, the respondents argued that they had exercised their right to religious conversion. They asserted that **Section 11 of the Hindu Marriage Act** applies only to Hindus, and since the respondent had converted to Islam, Hindu laws no longer applied.

The respondents further noted that while polygamy is prohibited under Hindu laws, Muslim laws permit a man to have up to four wives, provided they are treated equally. Therefore, they argued that under the applicable Muslim laws, the respondent's second marriage was permissible.

Judgment of Lily Thomas v. Union of India

In the Lily Thomas case, Justice S. Sagir Ahmad ruled that a second marriage by an individual with a living spouse is invalid and void under **Section 11 of the Hindu Marriage Act, 1955**. The court emphasized that freedom under **Article 25** of the Indian Constitution must not infringe upon others' rights. Conversion to another religion solely for the purpose of contracting a second marriage was deemed unjustifiable, as it undermines the sanctity of marriage.

The court clarified that such conversions to Islam, to bypass the prohibition of bigamy under Hindu law, are not in accordance with true religious principles. It was also held that the offense of bigamy, as outlined in **Section 494 of the Indian Penal Code**, applies if a Hindu spouse lodges a complaint against their partner who contracts a second marriage without dissolving the first one. The judgment underscored that **Article 21**, concerning personal liberty, is not violated by enforcing laws against bigamy.

The Apex Court concluded that Mr. Ghosh's conversion to Islam and subsequent second marriage were invalid. It ruled that **Sections 494 and 495 of the Indian Penal Code,** as referenced in **Section 17 of the Hindu Marriage Act, 1955**, are applicable.

The court also highlighted that religious conversions for marriage purposes do not end the obligations from the first marriage, and such actions are punishable under law. The court also addressed the broader issue of a Uniform Civil Code (UCC), noting that while a UCC is desirable, immediate implementation could harm national unity. It recommended that laws should evolve gradually to address specific issues, respecting India's diverse social fabric and promoting unity

among different faiths.

Conclusion

The case addresses the complex intersection of religious conversion, polygamy, and fundamental rights within the Indian legal framework. The petitioner argued that using conversion to Islam as a means to contract a second marriage violated women's rights under **Article 21** and did not align with the genuine requirements of religious conversion.

The respondents, however, maintained that their conversion entitled them to follow Muslim personal laws, including the right to multiple marriages. The court ultimately ruled that such conversions solely for the purpose of second marriages were invalid under **Section 11 of the Hindu Marriage Act**, asserting that religious freedom under **Article 25** should not infringe upon the rights and freedoms of others.

This case underscores the importance of maintaining the sanctity of marriage and preventing the misuse of religious laws to circumvent the legal obligations of the Hindu Marriage Act.