BLOGS

Void Marriages under Hindu Marriage Act, 1955

Indrasish Majumder · 18 Apr 2023

Edit TABLE OF CONTENTS Introduction Relevant Sections Essential Elements Section 17 of the Hindu Marriage Act Section 18 of the Hindu Marriage Act Analysis of the Relevant Sections Section 494 of IPC Section 495 of IPC Analysis of Sections 494 and 495 of IPC

Introduction

Void marriages are marriages that are deemed invalid and have no legal effect from the beginning. The concept of void marriages is an essential part of family law in India and is dealt with by the Hindu Marriage Act, 1955, and the Indian Penal Code, 1860. The Hindu Marriage Act, 1955, and the Indian Penal Code, 1860, deal with the conditions and consequences of void marriages. It is essential to understand the concept of void marriages to avoid legal complications and ensure the protection of the rights and interests of the parties involved.

In this article, we will discuss the relevant sections, landmark cases, and essential elements related to void marriages in India.

Relevant Sections

Section 11 of the Hindu Marriage Act, 1955, lists the conditions for a void marriage. A marriage that falls under any of the following categories is void:

1. A marriage is solemnized when either party has a spouse living.
2. A marriage is solemnized between prohibited degrees of relationship.
3. A marriage solemnized where either party is a sapient of the other party.
4. A marriage is solemnized where either party is not capable of giving valid consent due to unsoundness of mind.
5. A marriage is solemnized where either party is suffering from a mental disorder that makes them unfit for marriage and procreation.

6. A marriage is solemnized when the consent of either party is obtained by force or fraud.
7. A marriage is solemnized where either party is under the age of 18 years (for females) or 21 years (for males).

Essential Elements

The essential elements that must be proved to establish a marriage as void are crucial in determining the legal status of the marriage.

To establish a marriage as void, the following essential elements must be proved:

1. The marriage must fall under any of the categories mentioned in Section 11 of the Hindu Marriage Act, 1955.
2. The marriage must be void from the beginning, i.e., the parties must not have any legal rights or obligations towards each other, and the marriage must be deemed invalid ab initio.
3. The parties to the marriage must not have lived together as husband and wife after the marriage.
4. The marriage must be declared void by a competent court.

Sections 17 and 18 of the Hindu Marriage Act, 1955

Sections 17 and 18 of the Hindu Marriage Act, 1955 deal with the provisions related to void marriages in India. These sections are important for understanding the legal status of marriages in India and protecting the rights and interests of the parties involved.

- Section 17 of the Hindu Marriage Act

Section 17 of the Hindu Marriage Act, 1955, deals with the punishment for bigamy. Bigamy is the offence of marrying someone while still being legally married to someone else. Section 17 provides that any person who, being already married, marries another person during the lifetime of the spouse, shall be punished with imprisonment for a term that may extend up to seven years and shall also be liable to a fine.

Section 17 is important as it protects the rights and interests of the parties involved in a marriage. It ensures that a person cannot marry another person while still being legally married to someone else. This provision also helps in preventing the exploitation of women, who are often the victims of bigamous marriages.

- Section 18 of the Hindu Marriage Act

Section 18 of the Hindu Marriage Act, 1955, deals with the punishment for solemnizing a second marriage during the lifetime of the spouse. Section 18 provides that any person who solemnizes a second marriage during the lifetime of the spouse shall be punished with imprisonment for a term that may extend up to seven years and shall also be liable to a fine.

Section 18 is important as it holds the person solemnizing the second marriage equally responsible for the offense of bigamy. This provision ensures that the person solemnizing the marriage is aware of the legal status of the parties involved and does not facilitate the commission of an offense.

Analysis of the Relevant Sections

Sections 17 and 18 of the Hindu Marriage Act, 1955 are important provisions for ensuring the sanctity of marriage and protecting the rights and interests of the parties involved. These provisions make the offense of bigamy punishable with imprisonment and fine, and ensure that the person solemnizing the second marriage is equally responsible for the offense.

These provisions have been subject to criticism for being gender-biased. While section 17 punishes the man who commits bigamy, section 18 punishes the person solemnizing the second marriage.

Another criticism of these provisions is that they do not apply to all communities in India. The Hindu Marriage Act, 1955, applies only to Hindus, Sikhs, Jains, and Buddhists. Other communities, such as Muslims and Christians, have their own personal laws that deal with the provisions related to bigamy.

Sections 494 and 495 of the Indian Penal Code

Sections 494 and 495 of the Indian Penal Code, 1860 deal with the provisions related to the offense of bigamy in India. These sections are important for understanding the legal status of marriages in India and protecting the rights and interests of the parties involved. In this article, we will analyze the provisions of sections 494 and 495 of the Indian Penal Code, 1860.

- Section 494: Marrying again during lifetime of husband or wife

Section 494 of the Indian Penal Code, 1860, deals with the offence of bigamy. It provides that any person who, having a spouse living, marries another person during the lifetime of the spouse, shall be punished with imprisonment for a term that may extend up to seven years and shall also be liable to a fine.

Section 494 is important as it protects the rights and interests of the parties involved in a marriage. It ensures that a person cannot marry another person while still being legally married to someone else. This provision also helps in preventing the exploitation of women, who are often the victims of bigamous marriages.

- Section 495: Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

Section 495 of the Indian Penal Code, 1860, deals with the offence of bigamy with concealment of former marriage. It provides that any person who marries another person during the lifetime of the spouse and conceals the fact of the former marriage from the person with whom the subsequent marriage is contracted, shall be punished with imprisonment for a term that may extend up to ten years and shall also be liable to a fine.

Section 495 is important as it holds the person committing bigamy with concealment of former marriage equally responsible for the offence. This provision ensures that the person who enters into a marriage contract with a person who is already married is aware of the legal status of the parties involved and does not facilitate the commission of an offence.

Analysis of Sections 494 and 495 of IPC

Sections 494 and 495 of the Indian Penal Code, 1860 are important provisions for ensuring the sanctity of marriage and protecting the rights and interests of the parties involved. These provisions make the offense of bigamy punishable with imprisonment and fine, and ensure that the person committing bigamy with concealment of former marriage is equally responsible for the offenCe.

These provisions have been subject to criticism for being gender-biased. While Section 494 punishes the man who commits bigamy, Section 495 punishes the person who enters into a marriage contract with a person who is already married, who is often a woman. This has been criticized for perpetuating patriarchal norms and unfairly targeting women.

Another criticism of these provisions is that they do not apply to all communities in India. These provisions apply only to marriages performed under civil laws, and not to marriages performed under personal laws of different communities in India.

Liked this post? Here are a few more articles on Hindu Marriage Act.

1. Registration of Marriage under Hindu Law
2. Dissolution of Marriage under Hindu Law
3. Divorce under Hindu Marriage Act, 1955