BLOGS

Voidable Marriages under Hindu Marriage Act, 1955

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Introduction to Voidable Marriages

In addition to void marriages ***[Also Read: Void Marriages under Hindu Marriage Act, 1955]***, the Hindu Marriage Act of 1955 also recognizes voidable marriages. A voidable marriage is a marriage that is valid until it is declared void by a competent court. In this article, we will discuss the definition, relevant section, essential elements related to voidable marriages in India.

Relevant Section

Under the Hindu Marriage Act, voidable marriages are those which are valid but can be annulled on certain grounds at the option of one or both parties. It means that if a party to the marriage exercises the option to get the marriage annulled ***[Also Read: Divorce under Hindu Marriage Act, 1955]***, the marriage would be treated as if it never took place. However, if no such option is exercised, the marriage would continue to be valid.

The grounds on which a marriage can be voidable are laid out in Section 12 of the Hindu Marriage Act, 1955. In this post, we will discuss the concept of voidable marriages, the grounds for annulment, and relevant cases.

Essential Elements

To establish a marriage as voidable, the following essential elements must be present:

1. Impotence: If either party to the marriage is incapable of consummating the marriage due to impotence, the other party may seek annulment of the marriage under Section 12(1)(a) of the

Act. The incapacity to consummate the marriage must exist at the time of the marriage and must be incurable. In the case of Smt. S v. S, the Supreme Court held that impotence must be absolute and not curable by medical treatment.

2. Consent obtained by force, fraud or undue influence: If either party has been forced or induced to enter into the marriage by fraud, coercion or undue influence, the marriage can be annulled under Section 12(1)(c) of the Act. The party seeking annulment must prove that the consent was obtained by force, fraud or undue influence. In the case of Maya Devi v. Jagdish Prasad, the court held that the consent must be obtained at the time of the marriage and not before or after the ceremony.
3. Consent obtained by fraud: If either party has been induced to enter into the marriage by fraud, the marriage can be annulled under Section 12(1)(b) of the Act. The fraud must be such that it would have prevented the party from marrying the other party had they known the truth. In the case of Mr. X v. Hospital Z, the court held that the marriage can be annulled if the fraud is such that it goes to the root of the marriage.
4. Pregnancy by another person: If the wife is pregnant by someone other than the husband at the time of the marriage, the husband can seek annulment of the marriage under Section 12(1)(d) of the Act. However, it must be proved that the husband was not aware of the pregnancy at the time of the marriage.
5. Mental disorder: If either party has been suffering from a mental disorder at the time of the marriage, the other party may seek annulment of the marriage under Section 12(1)(c) of the Act. The disorder must be of such a nature that the party is unfit for marriage and the other party was not aware of the disorder at the time of the marriage.
6. Marriage within prohibited degrees: If the parties are within the prohibited degrees of relationship, the marriage can be annulled under Section 12(1)(a) of the Act. The prohibited degrees of relationship are set out in Schedule I of the Act. However, the marriage can be validated if it falls under any of the exceptions mentioned in Schedule II of the Act.
7. Inability to give valid consent: If either party is unable to give valid consent at the time of the marriage due to unsoundness of mind or intoxication, the marriage can be annulled under Section 12(1)(c) of the Act.

Conclusion

In conclusion, the concept of voidable marriages is an important aspect of family law in India. Section 12 of the Hindu Marriage Act, 1955, lists the grounds for declaring a marriage as voidable. The essential elements that must be proved to establish a marriage as voidable are crucial in determining the legal status of the marriage. The landmark cases related to voidable marriages have clarified the legal position on various issues related to voidable marriages. It is important to understand the concept of voidable marriages to avoid legal complications and ensure the protection of the rights and interests of the parties involved.