



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

MOCK TEST-5

MAINS EXAMINATION-TRANSLATION AND ESSAY WRITING

PAPER-III

TIME: 2:00 HRS

MARKS:70

Instruction:

- 1) Attempt all the questions compulsorily
- 2) All questions carry Equal Marks
- 3) Write the answers as orders of the questions
- 4) Strict your answer to the Question only
- 5) Write an Essay in 800-1000 words in words only

QUESTION & ANSWER KEY PAPER

1. Translate the following from English to Telugu

(1*15=15 Marks)

The Telangana High Court has held that the incapacity of a non-party to a legal proceeding can be equated to 'legal disability' under sections 6 and 7 of the Limitation Act, 1963.

The order was passed by a division bench of Justice Moushumi Bhattacharya and Justice M.G.Priyadarsini in an I.A. filed in an appeal suit, praying to condone the delay of 428 days in filing the appeal. The petitioner/appellants pleaded that they were third parties who were not originally parties to the suit before the trial court and hence were not aware about the proceedings.

The incapacity of a non-party may be equated to the legal disability under sections 6 and 7 of the Limitation Act since the absence of lack of knowledge is an impairment of the non-party's right to seek legal redress within the prescribed timelines. It may even be said that a non-party's prayer for condonation of delay should be assessed on a wholly different template. While a party to a lis

is expected to be diligent in approaching the Appellate forum, a non-party cannot be put through the same regimen of limitation as well as of expected conduct. It should also be borne in mind that the Suit filed by the respondent No.1 was decreed without the rigour of trial and/or contest. The window of knowledge for timely-action to the appellants was hence further curtailed,” the bench held.

Backgrounds:

The case arose from a suit filed by a buyer (1st respondent) against sellers (respondent Nos. 2-11) for specific performance of an alleged agreement of sale dated executed in March 2013. The suit was decreed without contest in September 2021.

The appellants claimed to be prior purchasers of the land and also claimed to be in possession of the same. They stated, that only in July, 2023, when respondent no.1 took aggressive steps to execute the decree and evict them from the property, is when they found out that, a decree had been passed in favour of the 1st respondent.

Subsequently, the appellants filed the present appeal on 04.08.2023, seeking leave to appeal along with a prayer for condonation of delay of 428 days.

The respondent No. 1 objected to the condonation of delay, citing the pendency of multiple proceedings. Further, that leave to appeal should have been granted only after condonation of delay.

After hearing both sides, the Court concluded that the law of limitation must be applied differently to parties who were kept outside the original legal proceedings. The Court noted that the prescribed periods for approaching courts are a matter of public policy, aimed at discouraging laches and acquiescence on the part of litigants. Additionally, that these timeframes serve the salutary objective of instilling discipline in non-vigilant litigants and ensuring that causes of action is given a 'shelf-life'.

However, the Court pointed out that public policy demands relaxation of prescribed timelines in appropriate exigencies. The Court cited examples such as legal disabilities covered under sections 6 and 7 of the Limitation Act, where parties are physically or mentally unable to approach a court. It also mentioned the relaxation of statutory timelines during the Covid-19 pandemic as an instance of courts adapting to unusual circumstances.

“The Limitation Act, 1963 is for the salutary objective of inculcating discipline in non-vigilant litigants. It is also for the purpose of ensuring that a cause of action has a shelf-life in the sense of



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

being kept alive and relevant for filing a Suit or proceeding in a Court of law. Public policy however also demands that the prescribed timelines be relaxed in appropriate exigencies. The Limitation Act makes room for such exigencies in the form of legal disabilities where a party is physically or mentally unable to approach a Court – sections 6 and 7 of the Limitation Act.”

Lastly, the bench noted, that when considering a plea for condonation of delay raised by a non-party to a lis, Courts are merely to appreciate whether or not 'sufficient cause' was made out for filing the Appeal. The Court found that the appellants had shown sufficient cause for the delay. It noted that they were unaware of the original suit and the decree, and filed their appeal promptly upon learning of these facts. The Court also considered that the original suit was decreed without a full trial, further limiting the appellants' opportunity for timely action.

Thus, in the peculiar circumstances, the Court allowed the i.A for condonation of delay, holding, that such a relief should be granted as a 'matter of right' (*ex debito justitiae*) to the petitioner/appellant

1963 లిమిటేషన్ యాక్ట్ లోని సెక్షన్ 6, 7 ప్రకారం లీగల్ ప్రొసీడింగ్ లో పాల్గొనని వ్యక్తి అసమర్థతను 'లీగల్ డిజేబిలిటీ'తో సమానమని తెలంగాణ హైకోర్టు అభిప్రాయపడింది.

అప్పీల్ దాఖలులో 428 రోజుల జాప్యాన్ని క్షమించాలని కోరుతూ అప్పీల్ దావాలో దాఖలు చేసిన ఐఏలో జస్టిస్ మోషుమి భట్టాచార్య, జస్టిస్ ఎం.జి.ప్రియదర్శినిలతో కూడిన డివిజన్ బెంచ్ ఈ ఆదేశాలు జారీ చేసింది. ట్రయల్ కోర్టు ముందు దావాలో తాము మొదట భాగస్వాములు కాదని, అందువల్ల ప్రొసీడింగ్ గురించి తమకు తెలియదని పిటిషనర్/పిటిషనర్లు వాదించారు.

పార్టీయేతర వ్యక్తి అసమర్థతను పరిమితి చట్టంలోని 6, 7 సెక్షన్ల కింద చట్టపరమైన వైకల్యంతో సమానం చేయవచ్చు, ఎందుకంటే పరిజ్ఞానం లేకపోవడం నిర్దేశిత కాలపరిమితిలో చట్టపరమైన పరిష్కారాన్ని కోరే పార్టీయేతర హక్కును దెబ్బతీస్తుంది. జాప్యాన్ని క్షమించమని పార్టీయేతరుల అభ్యర్థనను పూర్తిగా భిన్నమైన మూసలో అంచనా వేయాలని కూడా చెప్పవచ్చు. అప్పీలేట్ ఫోరమ్ ను సంప్రదించడంలో ఒక పక్షం శ్రద్ధగా ఉండాలని ఆశించబడుతున్నప్పటికీ, పార్టీయేతర వ్యక్తిని అదే పరిమితి మరియు ఆశించిన ప్రవర్తన ద్వారా ఉంచలేము. ప్రతివాది సెం.1 దాఖలు చేసిన దావా విచారణ మరియు/లేదా పోటీ లేకుండా తీర్పు ఇవ్వబడిందని కూడా గుర్తించుకోవాలి. అందువల్ల పిటిషనర్లకు సకాలంలో చర్యలు తీసుకునే అవకాశాన్ని మరింత కుదించారు' అని ధర్మాసనం అభిప్రాయపడింది. నోపథ్యాలు:

ఒక కొనుగోలుదారుడు దాఖలు చేసిన దావా నుండి ఈ కేసు ఉద్భవించింది (1).^{5*} ప్రతిస్పందకుడు) మార్చి 2013 లో అమలు చేయబడిన అమ్మకపు ఒప్పందం యొక్క నిర్దిష్ట పనితీరుకు అమ్మకందారులపై (ప్రతివాది సంఖ్యలు 2-11) వ్యతిరేకంగా. 2021 సెప్టెంబర్లో ఎలాంటి పోటీ లేకుండా ఈ దావాను కొట్టివేసింది.

పిటిషనర్లు తాము ముందుగానే భూమిని కొనుగోలు చేశామని, తమ ఆధీనంలో ఉన్నామని పేర్కొన్నారు. 2023 జూలైలో, ప్రతివాది నెం.1 డిక్రీని అమలు చేయడానికి మరియు ఆస్తి నుండి వారిని ఖాళీ చేయించడానికి దూకుడుగా చర్యలు తీసుకున్నప్పుడు మాత్రమే, 1 కు అనుకూలంగా ఒక డిక్రీ జారీ చేయబడిందని వారు పేర్కొన్నారు.⁵ ఉత్తరవాది.

అనంతరం 04.08.2023న అప్పీలుకు అనుమతి కోరుతూ పిటిషనర్లు 428 రోజుల జాప్యాన్ని క్షమించాలని కోరుతూ పిటిషన్ దాఖలు చేశారు.

బహుళ ప్రొసీడింగ్స్ పెండింగ్ లో ఉన్నందున జాప్యాన్ని క్షమించడంపై ప్రతివాది నెం.1 అభ్యంతరం వ్యక్తం చేశారు. అంతేగాక, ఆలస్యాన్ని క్షమించిన తర్వాత అప్పీలుకు అనుమతి ఇవ్వాలి.

ఇరు పక్షాల వాదనలు విన్న తర్వాత, అసలు చట్టపరమైన చర్యలకు వెలుపల ఉంచిన పక్షాలకు పరిమితి చట్టాన్ని భిన్నంగా వర్తింపజేయాలని హైకోర్టు తీర్మానించింది. న్యాయస్థానాలను ఆశ్రయించడానికి నిర్ణీత కాలవ్యవధి ప్రజా విధానానికి సంబంధించిన అంశమని, కక్షిదారులను నిరుత్సాహపరచడానికి ఉద్దేశించినదని సుప్రీంకోర్టు పేర్కొంది. అదనంగా, ఈ కాలపరిమితి అప్రమత్తంగా లేని కక్షిదారులలో క్రమశిక్షణను పెంపొందించడానికి మరియు కార్యాచరణకు 'షెల్-లైఫ్' ఇచ్చేలా చూడటానికి ఉపయోగపడుతుంది.

అయితే, తగిన సందర్భాల్లో నిర్దేశిత కాలపరిమితిని సడలించాలని పబ్లిక్ పాలసీ కోరుతుందని సుప్రీంకోర్టు అభిప్రాయపడింది. లిమిటేషన్ చట్టంలోని సెక్షన్ 6, 7 కింద న్యాయపరమైన వైకల్యాలు, పార్టీలు శారీరకంగా లేదా మానసికంగా కోర్టును ఆశ్రయించలేకపోవడం వంటి ఉదాహరణలను కోర్టు ఉదాహరించింది. కోవిడ్ -19 మహమ్మారి సమయంలో చట్టబద్ధమైన కాలపరిమితిని సడలించడం కోర్టులు అసాధారణ పరిస్థితులకు అనుగుణంగా మారడానికి ఒక ఉదాహరణగా పేర్కొంది.

'అప్రమత్తంగా లేని కక్షిదారుల్లో క్రమశిక్షణను పెంపొందించడమే లక్ష్యంగా 1963 పరిమితి చట్టం ఉంది. దావా వేయడానికి లేదా కోర్టులో ప్రొసీడింగ్ చేయడానికి ఒక చర్య యొక్క కారణాన్ని సజీవంగా ఉంచడం మరియు సంబంధితంగా ఉంచడం అనే అర్థంలో షెల్ లైఫ్ ఉండేలా చూడటం కూడా దీని ఉద్దేశ్యం. అయితే నిర్దేశిత కాలపరిమితిని తగిన సందర్భాల్లో సడలించాలని పబ్లిక్ పాలసీ కోరుతోంది. ఒక పక్షం శారీరకంగా లేదా మానసికంగా కోర్టును ఆశ్రయించలేనప్పుడు చట్టపరమైన వైకల్యాల రూపంలో అటువంటి అత్యవసర పరిస్థితులకు పరిమితి చట్టం అవకాశం కల్పిస్తుంది - పరిమితి చట్టంలోని సెక్షన్లు 6 మరియు 7.'

చివరగా, ఒక లిస్ కు పక్షం కాని వ్యక్తి లేవనెత్తిన జాప్యాన్ని క్షమించాలని కోరుతూ చేసిన అభ్యర్థనను పరిగణనలోకి తీసుకునేటప్పుడు, అప్పీల్ దాఖలు చేయడానికి 'తగిన కారణం' ఇవ్వబడిందా లేదా అని కోర్టులు అభినందించాలని ధర్మాసనం పేర్కొంది. జాప్యానికి పిటిషనర్లు తగిన కారణాన్ని చూపించారని హైకోర్టు గుర్తించింది. అసలు దావా, డిక్రీ గురించి తమకు తెలియదని, ఈ వాస్తవాలు తెలుసుకున్న వెంటనే అప్పీల్ దాఖలు చేశామని పేర్కొంది. పూర్తి విచారణ లేకుండానే అసలు దావాను కొట్టివేశారని, పిటిషనర్లు సకాలంలో చర్యలు తీసుకునే అవకాశాన్ని మరింత పరిమితం చేశారని సుప్రీంకోర్టు అభిప్రాయపడింది.

అందువలన, ప్రత్యేక పరిస్థితులలో, పిటిషనర్/అప్పీలుదారునికి అటువంటి ఉపశమనం 'హక్కు విషయం'గా (ఎక్స్ డెబిట్ జస్టిటియా) మంజూరు చేయాలని పేర్కొంటూ, జాప్యాన్ని క్షమించడానికి కోర్టు ఐఎను అనుమతించింది.

2. Translate the following Telugu to English

(1*15=15Marks)

1908 సివిల్ ప్రొసీజర్ కోడ్ లోని 7వ నిబంధన 11 ప్రకారం దావా వేసే స్పష్టమైన హక్కును పిటిషనర్ వెల్లడించాలని, కేవలం ఒక చర్యకు సంబంధించిన భ్రమ లేదా మరుగున పడకూడదని పేర్కొంటూ పిటిషన్ తిరస్కరణను తెలంగాణ హైకోర్టు సమర్పించింది.



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:90524394631 rkjudicialacademy@gmail.com

"చర్య యొక్క కారణం" అనే పదం పిటిషనర్ యొక్క తీర్పు హక్కుకు మద్దతు ఇవ్వడానికి, ఒకవేళ ప్రయాణించినట్లయితే, వాది నిరూపించడానికి అవసరమైన ప్రతి వాస్తవాన్ని సూచిస్తుంది. మరో మాటలో చెప్పాలంటే, చర్య యొక్క కారణం అనేది పిటిషనర్ క్లెయిమ్ చేసిన ఉపశమనానికి అర్హత పొందడానికి వాది నిరూపించడానికి అవసరమైన భౌతిక వాస్తవాల మూటను కలిగి ఉంటుంది. చర్య యొక్క కారణాన్ని నిర్ధారించడానికి, ప్లేయింట్ లో చేసిన అభ్యంతరాలను పూర్తిగా చదవాలి - మరియు విడిగా కాదు - మరియు సరైనవిగా భావించాలి. సరళంగా చెప్పాలంటే, పిటిషనర్ తన వాదనను ప్లేయింట్ లో చేసిన వాదనలపై రుజువు చేయాలి మరియు తదుపరి పేర్కొన్న ఉపశమనం చర్య యొక్క కారణంతో నిజమైన సంబంధాన్ని కలిగి ఉండాలి. 17 MB, J & MGP, J CCA. 2024 యొక్క నెం.62 ప్లేయింట్ స్పష్టమైన సూహకులను బహిర్గతం చేయాలి - ఒక చర్య యొక్క భ్రమ లేదా మరుగుజ్ఞు కాదు" అని జస్టిస్ మాఘమి భట్టాచార్య, జస్టిస్ ఎంజి ప్రియదర్శినిలత్ కూడిన డివిజన్ బెంచ్ పేర్కొంది.

విభజన ఉపశమనం కోరుతూ దాఖలైన పిటిషనర్ పిటిషన్ ను తోసిపుచ్చుతూ ట్రయల్ కోర్టు ఇచ్చిన ఉత్తర్వులపై దాఖలైన సిటీ సివిల్ కోర్టు అప్పీల్ లో ఈ ఆదేశాలు జారీ అయ్యాయి.

ఓ ఇంటి ఆస్తికి సంబంధించి కుటుంబ కలహాల చుట్టూ ఈ కేసు తిరుగుతోంది. చిన్న కుమారుడైన భజరంగ్ అగర్వాల్ తన తల్లి (ప్రతివాది నెం.1), తన ఇద్దరు అన్నలపై (ప్రతివాదులు నెం.2, 3) దావా ఆస్తిని విభజించాలని, తన పెద్ద సోదరుడికి అనుకూలంగా తన తల్లి అమలు చేసిన గిఫ్ట్ సెటిల్మెంట్ డీడ్ చెల్లదని డిక్లరేషన్ ఇవ్వాలని దావా వేశాడు. తన తండ్రి కొనుగోలు చేసిన సూట్ ఆస్తి ఉమ్మడి కుటుంబ ఆస్తి అని, సహ యజమానిగా తనకు మూడింట ఒక వంతు వాటాకు అర్హుడని పిటిషనర్ వాదించారు.

వీలునామాను రద్దు చేసి గిఫ్ట్ డీడ్ ను అమలు చేయాలని తన పెద్ద సోదరుడు తమ తల్లిని అనవసరంగా ప్రభావితం చేశాడని అతను వాదించాడు. ఆస్తిని విభజించాలని, గిఫ్ట్ డీడ్ ను రద్దు చేయాలని పిటిషనర్ కోరారు.

మరోవైపు 1988లో రిజిస్టర్డ్ సేల్ డీడ్ ద్వారా తన సొంత నిధులతో వివాదాస్పద సూట్ ప్రాపర్టీని కొనుగోలు చేసినట్లు పిటిషనర్ తల్లి వాదించారు. 1992లో భర్త చనిపోవడంతో 2022 ఆగస్టులో ఆమె సొంతంగా ఆస్తులను నిర్వహించారు.

సూట్ ఆస్తికి తల్లియే పూర్తి యజమాని అని, దానిని తనకు నచ్చిన రీతిలో అమ్ముకునే స్వేచ్ఛ ఆమెకు ఉందని వాదించారు.

తన వాదనలో, కోర్టు ప్లేయింట్ లో చేసిన ప్రకటనలను క్షుణ్ణంగా పరిశీలించింది. మొదటిది, హిందూ వారసత్వ చట్టం, 1956 లోని సెక్షన్ 14 (1) ప్రకారం ఒక మహిళ స్వతంత్రంగా ఆస్తిని కలిగి ఉండటానికి అర్హత కలిగి ఉందని స్పష్టం చేసింది.

రెండవది, 2022 ఆగస్టు 16 నాటి విల్ డీడ్లో సహ అనేక సందర్భాల్లో పిటిషనర్ తన తల్లి ఆస్తిపై పూర్తి యాజమాన్యాన్ని అంగీకరించారు.

అందువల్ల, ప్లేయింట్ లో పరస్పర విరుద్ధమైన ప్రకటనలు ఉన్నాయని, అదే సమయంలో తల్లి యాజమాన్యాన్ని అంగీకరించడం మరియు ఆస్తిని ఉమ్మడి కుటుంబ ఆస్తిగా పేర్కొనడం జరిగిందని కోర్టు పేర్కొంది.

అంతేకాక, రద్దు చేసిన డీడ్ మరియు రిజిస్టర్డ్ గిఫ్ట్ సెటిల్మెంట్ డీడ్లపై పిటిషనర్ చేసిన ఫిర్యాదు 16.08.2022 నాటి విల్ డీడ్ను పిటిషనర్ అంగీకరించడానికి స్పష్టంగా విరుద్ధంగా ఉంది, ఇక్కడ ప్రతివాది నెం.1 సూట్ షెడ్యూల్ ఆస్తిపై తన సంపూర్ణ యాజమాన్యాన్ని నిర్వహించడాన్ని ప్రకటించింది.

పిటిషనర్ తమ తీర్పు హక్కుకు మద్దతు ఇవ్వడానికి అవసరమైన అన్ని భౌతిక వాస్తవాలను చర్యకు కారణం కలిగి ఉండాలని కోర్టు నొక్కి చెప్పింది. ఈ కేసులో ప్లెయింట్ పరస్పర విధ్వంసకర చర్యలకు కారణాలను ఏర్పాటు చేసిందని పేర్కొంది.

టి.అరివందందం వరెస్ టి.వి.సత్యపాల్, ఐటిసి లిమిటెడ్ వరెస్ డెల్టా రికవరీ అప్పీలేట్ ట్రిబ్యూనల్, దహిబెన్ వరెస్ అరవింద్ భాయ్ కళ్యాణ్ జీ భానుశాలి (గ్రజా) సహా అనేక సుప్రీంకోర్టు తీర్పులను కోర్టు పునరుద్ధాటించింది. ప్లెయింట్ స్పష్టంగా ఇబ్బందికరంగా, అర్హత లేని చోట ఆర్డర్ 7 రూల్ 11 సీపీసీని ప్రయోగించవచ్చని పేర్కొంది.

"ప్రస్తుత కేసులో, చర్య యొక్క కారణాలు పరస్పరం వినాశకరమైనవి మరియు పిటిషనర్ ఉపశమనాలకు చేరుకునే సమయానికి నశించిపోతాయి. పిటిషనర్ వేడిగా, చల్లగా ఎగిరి తన వైఖరిని మార్చుకున్న ప్రయత్నానికి ఇదొక ఉదాహరణ. దావా షెడ్యూల్ ఆన్లైన్ స్వీయ-ఆర్డ్రించిన ఆన్లైన్ అంగీకరించడం నుండి గిఫ్ట్ సెటిల్మెంట్ డీడ్ ద్వారా ప్రతివాది నెం.2కు ఆ ఆన్లైన్ బదిలీ చేసే ప్రతివాది నెం.1 యొక్క హక్కును ప్రశ్నించడం వరకు. ఏదేమైనా, పిటిషనర్ ఏమి చెప్పదలుచుకున్నాడో దాని వ్యక్తీకరణతో సహా, వాదికి స్పష్టత లేదు. విల్ డీడ్, విల్ డీడ్ రద్దు, గిఫ్ట్ సెటిల్మెంట్ డీడ్లను అమలు చేసిన ప్రతివాది నెం.1 (బాధిత పక్షంగా) కు విరుద్ధంగా ప్రతివాదులను ఒక సమూహంగా సూచించేంత వరకు ప్రకటనలు అస్పష్టంగా ఉన్నాయి."

ప్లెయింట్ తిరస్కరణ ఉత్తర్వులను సమర్థిస్తూనే, సూట్ ఆఫ్ డిమండ్ కుటుంబ ఆఫ్ అని ప్రకటించడం, గిఫ్ట్ డీడ్ ను రద్దు చేయాలని కోరుతూ వీలునామా రద్దు చేసిన పత్రాన్ని రద్దు చేయాలనే అభ్యర్థన వంటి కీలక ప్రార్థనలు ఈ వ్యాజ్యంలో లేవని కోర్టు పేర్కొంది.

The Telangana High Court has upheld the rejection of a plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908, emphasizing that a plaint must disclose a clear right to sue and not merely an illusion or mirage of a cause of action.

"The expression "Cause of Action" has been described to mean every fact which would be necessary for the plaintiff to prove, if traversed, in order to support the plaintiff's right to judgment. In other words, cause of action consists of a bundle of material facts which are necessary for the plaintiff to prove in order to entitle the plaintiff to the relief claimed. For ascertaining cause of action, the averments made in the plaint must be read in its entirety - and not in isolation - and must be held to be correct. Simply put, the plaintiff must prove its case on the averments made in the plaint and further the relief claimed must have a real nexus with the cause of action pleaded. 17 MB, J & MGP, J CCCA.No.62 of 2024 The Plaint must disclose a clear Right to Sue – not an Illusion or Mirage of a Cause of Action," the Division Bench of **Justice Moushumi Bhattacharya and Justice M. G. Priyadarsini** noted.

The order was passed in a City Civil Court Appeal, filed against the order passed by the Trial Court, rejecting the plaint of the appellant herein, filed seeking the relief of partition.

The case revolved around a family dispute concerning a house property. The appellant, Bajranglal Agarwal, who was the youngest son, filed a suit against his mother (respondent No. 1) and his two elder brothers (respondents No. 2 and 3) for partition of the suit property and for a declaration that a Gift Settlement Deed executed by his mother in favor of his eldest brother was null and void. The appellant



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

argued that the suit property, having been purchased by his father, was joint family property and that he, as a coparcener, was entitled to a one-third share.

He contended that his eldest brother had unduly influenced their mother to cancel the Will and execute the Gift Deed. The appellant sought partition of the property and cancellation of the Gift Deed.

The mother of the appellant, on the other hand, contended, that she had purchased the disputed suit property with her own funds, through a registered Sale Deed in 1988. After her husband's death in 1992, she solely managed the properties on her own and in August 2022.

Thus, the court noted that the plaint contained contradictory statements, simultaneously accepting the mother's ownership and claiming the property as joint family property.

“Moreover, the appellant's complaint against the Deed of Cancellation and the registered Gift Settlement Deed is clearly contrary to the appellant's acceptance of the Will Deed dated 16.08.2022 where the respondent No.1 unequivocally declared her absolute ownership of the suit schedule property.”

The court emphasized that a cause of action must include all material facts necessary for the plaintiff to prove to support their right to judgment. It observed that the plaint in this case set up mutually destructive causes of action.

The court relied on several Supreme Court judgments, including T.Arivandandam Vs. T.V. Satyapal, ITC Ltd. Vs. Debts Recovery Appellate Tribunal and Dahiben Vs. Arvindbhai Kalyanji Bhanushali (Gajra) to reiterate, the principle that a plaint must disclose a clear right to sue, not just an illusion of a cause of action. It held that Order VII Rule 11 CPC could be invoked where a plaint is manifestly vexatious and meritless.

“In the present case, the plaintiff has filed a vexatious Suit where the causes of action are mutually-destructive and are extinguished by the time the plaint reaches the reliefs. This is an instance of a try-one'sluck plaint where the plaintiff has blown hot and cold and reversed his

stand; from accepting the suit schedule property being a self-acquired property to questioning the right of the respondent No.1 to transfer the said property in favour of respondent No.2 by way of the Gift Settlement Deed. The plaint, in any event, lacks clarity, including in the articulation of what the plaintiff intends to say. The statements are vague to the extent of referring to the defendants as a group as opposed to the defendant No.1 (as the aggrieved party) who executed the Will Deed, the Cancellation of the Will Deed and the Gift Settlement Deed.”

While upholding the order of rejection of plaint, the Court also noted that the plaint lacked crucial prayers, such as a declaration that the suit property was joint family property, and a prayer to cancel the Deed of Cancellation of the Will, while seeking cancellation of the Gift Deed.

3. write an essay on the following

(2*20=40 Marks)

1. Examine the recognition of live-in relationships under Indian law and the rights of couples involved in such arrangements. Analyze the judicial approach towards live-in relationships and their evolving status in Indian society.

Introduction

In modern India, live-in relationships—a cohabitation arrangement where a couple lives together without being married—have become a subject of legal and societal discourse. While such relationships are common in Western societies, in India, they represent a significant shift in social norms due to the traditionally marriage-centric cultural framework. The increasing prevalence of live-in relationships has compelled the judiciary to address legal rights and protections for individuals in such relationships, despite the absence of clear legislative recognition.

This essay will explore the legal standing of live-in relationships in India, examine the rights of couples involved, and analyze the evolving judicial approach towards these arrangements. We will also consider how live-in relationships reflect changing societal attitudes, supported by key case laws that have shaped their legal recognition.

1. Legal Recognition of Live-In Relationships in India

The Indian legal framework does not explicitly recognize live-in relationships in any specific statute, such as the Hindu Marriage Act, 1955, or the Special Marriage Act,



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

1954, both of which deal with formal marriages. However, the judiciary, through various landmark rulings, has accorded certain protections to individuals in live-in relationships by interpreting the Constitution and other relevant laws.

1.1 The Constitution and Fundamental Rights

Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, has played a pivotal role in the recognition of live-in relationships. The Supreme Court has frequently held that the right to life under Article 21 encompasses the right to live with dignity, including the right to privacy and personal choices in relationships.

In the landmark case of **S. Khushboo v. Kanniammal (2010)**, the Supreme Court held that live-in relationships, though unconventional, are not illegal, and living together falls under the right to life. The court observed that morality and immorality cannot be determined by societal norms but must be understood within the legal framework, and no legal action can be taken solely based on moral disapproval.

1.2 Protection Under the Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA), does not explicitly mention live-in relationships. However, the judiciary has interpreted the definition of "domestic relationship" under Section 2(f) of the Act to include live-in relationships. This ensures that women in such arrangements have access to legal remedies in cases of domestic abuse, providing them with protection, maintenance, and rights similar to those enjoyed by married women.

In **D. Velusamy v. D. Patchaiammal (2010)**, the Supreme Court clarified that live-in relationships akin to marriage could be covered under the PWDVA. The court laid down essential conditions for a relationship to be considered a "relationship in the nature of marriage," which include:

- The couple must present themselves as akin to spouses.

- They must be of legal age to marry and unmarried at the time of cohabitation.
- They must have voluntarily cohabited for a significant period.
- The relationship must not be purely for sexual purposes.

This judgment provided a legal framework for recognizing live-in relationships that resemble marriage and ensured protection for women in such arrangements.

2. Rights of Couples in Live-In Relationships

Live-in relationships, being outside the purview of formal marriage, traditionally lacked legal safeguards. However, judicial pronouncements have evolved to provide a basic set of rights to individuals in such arrangements, ensuring protection against exploitation, particularly of women and children.

2.1 Rights of Women

Women in live-in relationships now enjoy several legal protections under Indian law, thanks to judicial intervention. The Supreme Court has recognized that women in such relationships are vulnerable to exploitation and may suffer abuse similar to that faced by married women.

In the case of **Indra Sarma v. V.K.V. Sarma (2013)**, the Supreme Court elaborated on the rights of women in live-in relationships. It recognized that a live-in relationship could give rise to rights akin to those in marriage, particularly for women, if the relationship meets certain conditions (such as cohabitation over a significant period). The judgment further expanded the scope of the PWDVA to ensure that women in such relationships receive protection, maintenance, and other legal rights.

2.2 Rights of Children Born Out of Live-In Relationships

The legal status of children born out of live-in relationships has also been addressed by Indian courts. Historically, children born out of wedlock were stigmatized and faced legal disadvantages, particularly in terms of inheritance rights. However, in the case of **Tulsa v. Durghatiya (2008)**, the Supreme Court ruled that a child born from a live-in relationship could not be considered illegitimate if the relationship was long-term and akin to marriage. The child is entitled to inheritance rights under Section 16 of the Hindu Marriage Act, 1955, which legitimizes children born out of void or voidable marriages.



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

This judgment reflects a progressive stance aimed at protecting the rights of children, ensuring they are not penalized for the relationship choices of their parents.

2.3 Inheritance and Property Rights

While inheritance rights in live-in relationships are not as well-defined as in formal marriages, the courts have taken steps to protect the property interests of individuals, particularly women, in live-in relationships. In **Vidya Devi v. Prem Prakash (2019)**, the Himachal Pradesh High Court recognized that the woman in a live-in relationship could claim property rights if the relationship had the characteristics of marriage. However, there is no uniform statute governing property distribution in live-in relationships, and each case is decided on its facts and circumstances.

3. Judicial Approach Toward Live-In Relationships

The judiciary has played a crucial role in shaping the legal recognition of live-in relationships in India. The courts have been cautious in balancing societal concerns with the rights of individuals in non-traditional relationships. While they have refused to directly equate live-in relationships with marriage, they have extended certain rights to protect individuals, especially women and children.

3.1 Judicial Activism in Protecting Fundamental Rights

Judicial activism has been instrumental in recognizing live-in relationships under Article 21 of the Constitution. In cases like **Lata Singh v. State of UP (2006)**, the Supreme Court upheld the right of two consenting adults to live together without being married, stressing that live-in relationships are not unlawful and fall under personal liberty.

The courts have also emphasized that societal disapproval cannot be a reason to infringe upon fundamental rights. In **Navtej Singh Johar v. Union of India (2018)**, the Supreme Court decriminalized consensual same-sex relationships, citing the right to privacy and individual autonomy. This judgment reflects the broader judicial

approach of respecting personal choices in relationships, including live-in arrangements, regardless of societal stigma.

3.2 Differentiating Between Marriage and Live-In Relationships

While extending certain legal protections, the judiciary has consistently clarified that live-in relationships are distinct from formal marriages. In **SPS Balasubramanyam v. Suruttayan (1992)**, the Supreme Court noted that a presumption of marriage could be drawn if a couple cohabited for a long time, unless proven otherwise. However, this presumption is context-specific, and live-in relationships cannot automatically confer all the rights available to married couples under personal and statutory laws.

The court's reluctance to equate live-in relationships with marriage underscores its cautious approach. It recognizes the need for legal protection without undermining the institution of marriage, which holds a unique position in Indian society and law.

4. Evolving Status of Live-In Relationships in Indian Society

Indian society has traditionally placed a premium on marriage as the cornerstone of social and familial structures. Live-in relationships challenge this norm by allowing couples to form intimate bonds without the formalities of marriage. This shift reflects broader changes in attitudes towards personal liberty, privacy, and gender roles.

4.1 Social Acceptance

While live-in relationships are increasingly accepted in urban areas, they continue to face significant resistance in rural and conservative parts of the country. Cultural and religious factors often dictate the acceptance of such relationships, with many viewing them as immoral or contrary to traditional values.

However, the rise in live-in relationships among young professionals and couples in cities indicates a gradual shift in societal attitudes. The judiciary's progressive stance, coupled with changing economic and social conditions, has contributed to the growing normalization of such relationships.

4.2 Impact on Gender Roles and Women's Empowerment

Live-in relationships have also had a transformative impact on gender roles. They offer women greater freedom to exit relationships without the legal and social burdens associated with divorce. However, concerns remain about the long-term security of women in such arrangements, particularly regarding property and inheritance rights.



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

Conclusion

Live-in relationships in India represent a complex intersection of law, society, and individual autonomy. While they remain unconventional, the judiciary has taken significant steps to ensure that individuals in live-in relationships, especially women and children, are not left without legal protection. By interpreting existing laws, such as the Domestic Violence Act, the courts have provided a legal framework that acknowledges the realities of modern relationships while balancing societal concerns.

The evolving legal status of live-in relationships reflects broader changes in Indian society, including greater acceptance of personal freedom and changing gender dynamics. However, the absence of specific legislation governing live-in relationships continues to create ambiguity, and there is a need for comprehensive legal reforms to ensure that the rights of individuals in such relationships are adequately protected.

As societal norms evolve, the legal framework must adapt to accommodate diverse relationship structures, ensuring justice and equality for all, irrespective of whether they choose to marry or live together outside the formal institution of marriage.

2. Discuss the concept of irretrievable breakdown of marriage and its treatment in Indian courts. Evaluate the arguments for and against making it a statutory ground for divorce, and explore how this reform could impact the divorce process.

Irretrievable Breakdown of Marriage: Concept and Treatment in Indian Courts

Introduction

Marriage, as a social institution, is traditionally seen as a sacred and lifelong commitment. However, when the relationship between spouses reaches a point where it is beyond repair, continuing the marriage can cause more harm than good. The concept of **irretrievable breakdown of marriage** is based on the idea that if a marriage has broken down to the extent that there is no possibility of reconciliation, forcing the

spouses to continue in the marriage serves no purpose. This doctrine allows courts to grant a divorce without assigning blame or fault to either party, solely based on the fact that the marriage has become unworkable.

Although irretrievable breakdown of marriage is not yet a statutory ground for divorce in India, the judiciary has, over time, recognized its significance in cases where reconciliation is impossible. In this essay, we will explore the concept of irretrievable breakdown of marriage, its treatment in Indian courts, the arguments for and against its statutory recognition, and the potential impact of such a reform on the divorce process.

1. Concept of Irretrievable Breakdown of Marriage

The irretrievable breakdown of marriage occurs when the marital relationship between spouses has reached a point where it can no longer be restored, despite attempts at reconciliation or counseling. It signifies the end of the marital relationship not because of a specific act of wrongdoing, such as adultery or cruelty, but because the relationship itself has deteriorated beyond repair.

The concept has been adopted in several jurisdictions around the world, such as the UK, the US, Australia, and New Zealand, as a ground for granting divorce. It reflects a shift from the traditional fault-based divorce system, where one party must prove the other's misconduct (e.g., cruelty, adultery, desertion), to a no-fault divorce system where the emphasis is placed on the breakdown of the relationship itself.

2. Judicial Treatment of Irretrievable Breakdown in Indian Courts

Though irretrievable breakdown of marriage is not yet a formal ground for divorce under Indian personal laws, courts in India have often invoked this doctrine in cases where the marriage has irreparably collapsed.

2.1 Role of the Supreme Court in Recognizing Irretrievable Breakdown

The Supreme Court of India has, on several occasions, invoked its powers under **Article 142** of the Constitution to grant divorces on the ground of irretrievable breakdown of marriage. Article 142 empowers the court to pass any decree or order necessary to do complete justice in a case.

One of the earliest and most significant cases in this regard is **Naveen Kohli v. Neelu Kohli (2006)**. In this case, the court acknowledged that the marriage between the



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

parties had irretrievably broken down due to continuous litigation and hostility between them. The court observed that forcing the parties to stay married in such circumstances would only prolong their suffering. It recommended that the ground of irretrievable breakdown of marriage be included in statutory law, stating that when a marriage is beyond repair, no purpose is served by keeping the legal bond intact.

In another case, **K. Srinivas Rao v. D.A. Deepa (2013)**, the court granted divorce on the ground of irretrievable breakdown after examining the continuous mental cruelty inflicted by one spouse on the other, leading to a complete collapse of the relationship. The court emphasized that a prolonged separation between the spouses, coupled with hostility, indicated that the marriage was beyond salvage.

2.2 Judicial Use of Article 142

While the Supreme Court has utilized its extraordinary powers under Article 142 to grant divorces in cases of irretrievable breakdown, lower courts and high courts do not possess similar powers. This means that while the Supreme Court has recognized and applied the principle, other courts are bound by the statutory grounds provided under personal laws like the **Hindu Marriage Act, 1955**, and the **Special Marriage Act, 1954**, which do not explicitly include irretrievable breakdown as a ground for divorce.

In **Manish Goel v. Rohini Goel (2010)**, the Supreme Court observed that irretrievable breakdown could not be granted as a ground for divorce by high courts or lower courts. This limitation has led to inconsistencies in how irretrievable breakdown cases are handled in different courts.

3. Arguments in Favor of Making Irretrievable Breakdown a Statutory Ground for Divorce

There are several compelling arguments for including irretrievable breakdown as a statutory ground for divorce in Indian law:

3.1 No-Fault Divorce System

The introduction of irretrievable breakdown as a statutory ground would shift Indian divorce law from a fault-based system to a no-fault system. In the current fault-based framework, one spouse must prove the other's misconduct (e.g., cruelty, adultery, desertion) to obtain a divorce. This adversarial process often exacerbates hostility and can lead to further emotional trauma for both parties. A no-fault divorce system would allow couples to part ways amicably if they mutually agree that the marriage has broken down beyond repair, reducing unnecessary litigation and bitterness.

3.2 Addressing Long-Term Separations

In cases where spouses have been separated for an extended period, but neither can prove fault on the part of the other, they may be trapped in a marriage that no longer exists in substance. Recognizing irretrievable breakdown as a ground for divorce would allow couples who have been living apart for years to dissolve their marriages without having to fabricate allegations of fault.

3.3 Reducing the Burden of Litigation

The current system often results in prolonged legal battles, as one spouse may resist divorce to inflict emotional or financial harm on the other. In such cases, the legal process becomes a weapon rather than a means of resolving marital disputes. By allowing irretrievable breakdown as a ground for divorce, the courts could expedite cases where there is clear evidence that the marriage is beyond saving, thus reducing the burden of litigation on both the judiciary and the parties involved.

3.4 Aligning with Global Trends

Many countries, including the UK, Australia, and the US, have adopted irretrievable breakdown as a valid ground for divorce. In these jurisdictions, the focus is on whether the marriage can be restored, rather than assigning blame to one spouse. Including irretrievable breakdown as a ground for divorce in Indian law would bring it in line with international legal standards and modernize the Indian legal approach to marriage dissolution.

4. Arguments Against Making Irretrievable Breakdown a Statutory Ground for Divorce

Despite the benefits of recognizing irretrievable breakdown, there are several concerns and arguments against making it a statutory ground for divorce in India:



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

4.1 Misuse of the Provision

One of the primary concerns is that the provision could be misused by one spouse to unilaterally dissolve the marriage, leaving the other spouse vulnerable, particularly in cases where one spouse is financially dependent on the other. Without adequate safeguards, irretrievable breakdown could become a tool for exploitation, especially in patriarchal societies where women are often economically disadvantaged.

4.2 Impact on Marital Institution

Opponents argue that allowing irretrievable breakdown as a ground for divorce could weaken the institution of marriage by making divorce easier to obtain. They contend that marriage, being a lifelong commitment, should not be dissolved simply because the relationship has become difficult. Including irretrievable breakdown in divorce law could encourage couples to seek divorce at the first sign of trouble rather than working to resolve their differences.

4.3 Religious and Cultural Resistance

In a country as diverse as India, where marriage is deeply intertwined with religion and culture, making irretrievable breakdown a statutory ground could face resistance from conservative sections of society. For instance, in Hinduism, marriage is considered a sacrament (sanskara), and divorce is frowned upon. Similarly, Islamic and Christian laws have their own distinct provisions for divorce. A uniform statutory ground like irretrievable breakdown may conflict with religious beliefs and customs.

4.4 Potential for Judicial Overreach

There is also a concern that if irretrievable breakdown is made a statutory ground, it could lead to an increase in judicial discretion, which may result in inconsistent rulings. Critics argue that courts should not be in the position to dissolve marriages based on subjective assessments of whether a relationship has broken down. This could potentially undermine the certainty and predictability of divorce law.

5. Potential Impact of Reform

If irretrievable breakdown were to be recognized as a statutory ground for divorce, it could have significant implications for the Indian legal system and society at large.

5.1 Expedited Divorce Process

By allowing couples to seek divorce without the need to prove fault, the legal process would be streamlined, leading to quicker resolutions of divorce cases. This could reduce the burden on the judiciary, which is currently bogged down by long and contentious matrimonial disputes. Couples would no longer need to resort to fabricating allegations or undergoing adversarial proceedings, leading to a more humane divorce process.

5.2 Empowering Individuals in Unworkable Marriages

The reform would empower individuals trapped in unworkable marriages to seek a dignified exit. Women, in particular, would benefit from this change, as they are often the victims of long-standing marital breakdowns but are unable to obtain a divorce due to the lack of sufficient grounds under the current law.

5.3 Reducing Stigma Around Divorce

Recognizing irretrievable breakdown as a legitimate ground for divorce could help reduce the social stigma attached to divorce. By shifting the focus away from fault and misconduct, it acknowledges that some marriages simply fail due to irreconcilable differences, and there is no shame in seeking to end such a relationship.

5.4 Necessity for Safeguards

However, to prevent misuse, it would be essential to incorporate adequate safeguards. For example, the law could require a minimum period of separation before irretrievable breakdown can be invoked, ensuring that divorce is not sought hastily. Additionally, provisions could be made to ensure financial protection for the spouse who may be economically weaker, preventing exploitation.

Conclusion

The concept of irretrievable breakdown of marriage represents a shift towards a more progressive, no-fault divorce system, where the focus is on the viability of the marital relationship rather than assigning blame. Although Indian courts, particularly the



RK JUDICIAL ACADEMY

Institute for Judicial Services Exam

Hyderabad

www.rkjudicialacademy.com | Mob:9052439463 | rkjudicialacademy@gmail.com

Supreme Court, have recognized the importance of this concept, it has yet to be codified as a statutory ground for divorce.

Making irretrievable breakdown a statutory ground for divorce would have significant benefits, including streamlining the divorce process, reducing litigation, and empowering individuals trapped in unworkable marriages. However, it is crucial that such a reform be accompanied by adequate safeguards to prevent misuse and ensure that the rights of vulnerable spouses, particularly women, are protected.

Ultimately, the inclusion of irretrievable breakdown as a ground for divorce would bring Indian divorce law in line with global trends, modernizing the legal framework and making it more responsive to the realities of contemporary marriages.
