

BHARATI VIDYAPEETH DEEMED UNIVERSITY, PUNE



NEW LAW COLLEGE,

ERANDAWANE, PUNE411038

INTRA CLASS MOOT COURT COMPETITION ON FAMILY LAW

SEPTEMBER 2015

SPECIAL ENDEAVOUR FOR:

B.A. LL.B. 2nd YEAR (5 YEAR COURSE)

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MOOT COURT PROBLEM

Mr. Sunil and Ms. Saina both were belonging to IAS batch 2000. They were good friends. They decided to convert that friendship into marital relationship. Accordingly, with the consent of the parents they got married under Special Marriage Act, 1954 in the year 2004. Sunil was an orthodox person and had high belief in mythology and in Hindu God. He had firm belief that to attain Moksha man needs a son, therefore, he was insisting for having a son from the marriage. During the matrimonial life of 5 years Saina was employed as IAS officer. She took matrimonial leave and delivered two babies, one Geeta in 2006 and Second Seeta in 2009. Due to absence of male child there were quarrels and altercations between Husband and Wife. This resulted into divorce between them by mutual consent.

During this difficult period, Saina was transferred to Delhi. She met Mr. Ram a smart, handsome, and efficient IAS officer who expressed his love and desire to marry with her. As he was already married she waited for divorce. Immediately after divorce they got married. Soon after the marriage Saina was busy with her postings and heavy administrative work. Therefore, she unilaterally took decision not to have children within 5 years of marriage. She was not taking proper care and giving love and affection to her husband. Mr. Ram tried his level best to persuade the matter. But, he could not succeed. Saina told Seeta and Geeta that Mr. Ram is not their father. She always avoided Mr. Ram to have pleasure of Seeta & Geeta's company as their Father.

In 2012 Saina was transferred from Delhi to Mumbai. She shifted with her daughters to Mumbai and Mr. Ram continued in Delhi. The behaviour of Saina did not change. She was also dominant and abusive on phone and in person whenever she was meeting Mr. Ram. As Mr. Ram was alone in Delhi and no one to take care of him, he hired a domestic servant, Prabha aged 17 yrs for daily persuades. As maid servant was asked to stay in the house, she was taking care of Mr. Ram. This leads to development of live in relationship between them.

In June 2013, when Saina visited Delhi she came to know about the relationship as Prabha was pregnant. Being aggrieved with misconduct and extramarital affair Saina served notice of divorce.

Wife filed divorce petition in Family Court, Delhi on the ground of irretrievable breakdown of marriage. Family Court dismissed the said petition. Against decision of Family Court wife filed appeal in Delhi High Court on the same ground. High Court dismissed the appeal as there is no specific provision under existing laws. Then wife filed Special Leave Petition in Supreme Court stating that divorce should be granted on irretrievable breakdown of marriage.

Meanwhile, Prabha who was in live in relationship with Mr. Ram, filed separate suit for maintenance under Domestic Violence Act' 2005 against Mr. Ram. Her petition was rejected by Family Court, Delhi on the ground that she was in live in relationship with the married person. Being aggrieved with the decision of Family Court, Prabha filed appeal in the Delhi High Court claiming the maintenance under The Domestic Violence Act, 2005. High Court dismissed the appeal. Against order of High Court Prabha filed Special Leave Petition in Supreme Court.

Hence both Petitions are before Supreme Court. Supreme Court in its discretion clubbed both matters and called for final hearing.

Kindly argue the matter before Supreme Court as per relevant provisions in the light of Supreme Court and High Court judgments. Parties are free to frame issues relevant to the case.

LAST DATE OF REGISTRATION: 14/9/2015

LAST DATE OF MEMORIAL SUBMISSION: 23/9/2015 till 4.00 p.m.

DATE OF FINAL LIST OF SELECTED MEMORIALS: 25/9/2015, 4.00 p.m.

DATE OF INTRA CLASS MOOT COURT COMPETITION: 28/9/2015