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National

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National

Amend Hindu Marriage Act, Court tells Centre

J. Venkatesan

Make breakdown of marriage a ground for divorce

New Delhi: The Supreme Court has given yet another reason for divorce. Since at present "irretrievable breakdown of marriage" is not a ground for divorce under the Hindu Marriage Act (HMA), 1955, it has asked the Centre to suitably amend the Act to make this reason a ground for divorce.

A three-Judge Bench comprising Justice B.N. Agrawal, Justice A.K. Mathur and Justice Dalveer Bhandari pointed out that because of the change in circumstances and for covering a large number of cases where the marriages were virtually dead this concept ought to be pressed into service.

The Bench noted that "irrevocable breakdown of marriage" as a ground for divorce was prevalent in many other countries and "this court would like to recommend the Union of India to seriously consider bringing an amendment in the HMA to incorporate it as a ground for the grant of divorce. A copy of this judgment is to be sent to the Secretary, Ministry of Law and Justice." The Bench said, "Once the parties have separated and the separation has continued for a sufficient length of time and one of them has presented a petition for divorce, it can well be presumed that the marriage has broken down. The court, no doubt, should seriously make an endeavour to reconcile the parties; yet, if it is found that the breakdown is irreparable, then divorce should not be withheld."

In this case, the appellant Naveen Kohli got married to Neelu Kohli in November 1975. From 1994 they started living separately. On a petition Mr. Kohli, the trial court ordered cancellation of the marriage and directed him to pay Rs. 5 lakh to his wife. On an appeal from Ms. Kohli, the Allahabad High Court set aside the decree and Mr. Kohli preferred the present appeal to the apex court. "Once the marriage has broken down beyond repair, it would be unrealistic for the law not to take notice of that fact," the Bench said, granting divorce.

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