

The Hindu Widow's Remarriage and Property Act, 1989, (1933 A. D.)

JAMMU & KASHMIR

India

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Rule

THE-HINDU-WIDOW-S-REMARriage-AND-PROPERTY-ACT-1989-1933 of 1933

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The Hindu Widow's Remarriage and Property Act, 1989, (1933 A. D.) Act No. 29 of Svt. 1989 [Sanctioned by His Highness the Maharaja Bahadur vide Notification dated 11th April, 1933/30th Chet, 1989 and published in the Government Gazette dated 8th Baisakh, 1990.] Whereas bearing in mind the advance in ideas recently made in Hindu society, the recognition by the majority of Hindus that the incapacity of Hindu widows to contract a second valid marriage is harmful to Hindu society and the progress made all over the world as also in other parts of India towards the enfranchisement of women, we consider that the removal of obstacles to remarriage of Hindu widow in the State of Jammu and Kashmir will lead to the promotion of good morals and to the public welfare ; we, therefore, with the object which we have ever in mind of the amelioration of the condition of our subject of all classes, hereby command as follows:-

1. Short title.

- This Act shall be known as the Hindu Widow's Re-marriage and Property Act.

2. Extent and commencement.

- It shall extend to the whole of the Jammu and Kashmir State and shall come into operation at once.

3. Marriage of Hindu widows legalised.

- No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or berthed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu Law to the contrary notwithstanding.

4. Rights of widow in deceased husband's property to cease on her re-marriage.

- All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same : Provided always that, if in any caste of Hindus, widow re-marriage was permitted prior to the passing of this Act and a widow was not thereby deprived of rights mentioned in this section, its provision shall not operate to deprive her of such rights.

5. Guardianship of children of deceased husband on the remarriage of his widow.

- If, on the re-marriage of a Hindu widow with children, of whom she has not been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children but is the natural guardian or one appointed by a Court, a claim to their guardianship should be made by another person, the matter shall be decided by a petition to the District Judge who shall be guided in retaining the mother as guardian or making another appointment according to the best interests of the minors without reference to the preferential rights of the mother: Provided that, when the said children have not property of their own sufficient for the support and proper education whilst minors, no person other than the mother shall be appointed unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

6. Saving of rights of widow marrying.

- Except as provided in the two preceding sections, a widow shall not, by reason of her remarriage, forfeit any property or any right to which she would otherwise be entitled ; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been a first marriage.

7. Ceremonies constituting valid marriage to have same effect on widow's marriage.

- Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow ; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

8. Consent to re-marriage of minor widow.

- If the widow remarrying is under 16 years of age whose marriage has not been consummated, she shall not be re-married without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also her brothers, of her next male relative.

9. Punishment for abetting marriage made contrary to section 8. Effect of such marriage Proviso.

- All persons knowingly abetting a marriage made contrary to the provisions of section 8 shall be liable to simple imprisonment for any term not exceeding one year, or to fine or to both. And all marriage made contrary to the provisions of this section may be declared void by the District Court: Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

10. Consent to re-marriage of major widow.

- In the case of a widow who is not under 16 years of age, or whose marriage has been consummated, her own consent shall be sufficient to constitute her remarriage lawful and valid.