

Top 20 landmark Judgements on family law that every law student should know

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Family Law Judgements

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1. Sushil Kumari Dang v. Prem Kumar

Here, a petition for restitution of conjugal right is filed by the husband and the husband accuses his wife for adulterous conduct. Following which he filed another petition for judicial separation which shows the extent of his sincerity and the interest in keeping the wife with him. So, the Delhi High Court set aside the decree of restitution granted by the lower court.

2. Yousuf v. Sowramina

It was held that at times, the determination of the question whether in fact a marriage has broken down or not is left to the courts. At other times, the legislature lays down the criterion of breakdown of a marriage and if that is established, the courts have no option but to dissolve the marriage.

3. Chand Dhawan v. Jawaharlal Dhavvan

The Supreme Court in this case makes it manifest that claim of maintenance under Section 25 is awardable when the marriage is “diseased or broken” as an ancillary or incidental remedy to the strained marital status due to passing of a decree for restitution of conjugal rights, or of judicial separation in favour of or against her or of nullity or divorce with or without her consent.

4. Ankush Narayan v. Janabai

Court held that on adoption by a widow, the adopted son becomes the son of the deceased adoptive father and the position under the old Hindu law as regards ties in the adoptive family is not changed.

5. Lily Thomas v. Union of India

The Supreme Court of India held that if any members of a legislative council (MLC), member of the legislative assembly (MLA) or members of Parliament (MP) who was convicted of a crime and awarded a minimum of two-year imprisonment, he/she shall lose membership of the House with immediate effect.

6. Sitabai v. Ramachandra

If the husband is not under such disqualification except the exceptions mentioned in the relevant act the wife cannot adopt even with the consent of the husband whereas the husband can adopt with the consent of the wife.

7. Guradas v. Rasaranjan

Adoption is made when the actual giving and taking had taken place and not when the religious ceremony is performed like Datta Homam. For a valid adoption, it would be necessary to bring on records that there has been an actual giving and taking ceremony.

8. Harvinder Kaur v. Harmander Singh Choudhary

In this case, the court rejected the plea that personal law was discriminatory towards Gender inequality in India. It also observed that introduction of Constitutional law into the home (referring to personal laws) was most inappropriate.

9. Jijabai v. Pathan Khan

Where the father and mother had fallen out and the mother was living separately for over 20 years and was managing the affairs of her minor daughter the apex Court observed though the father was alive but he was not taking any interest in the affairs of the minor and should be treated as if non-existent, and, hence, the mother is the natural guardian of the minor's person as well as property.

10. Muhammad Usman v. Sainaba Umma

The Court has held that Section 2(9) is a residuary ground where courts have an area of discretion and freedom to dissolve the marriage. Where the court is satisfied that marital relations between have actually been broken down beyond reasonable doubt, the Court may include any reason or ground for giving relief to wife.

11. Aykut v. Aykut

The Court has powers to declare a marriage null and void on the ground that the consent of either party was obtained by force or fraud.

12. Mohd Ahmed Khan v. Shah Bano begum

Muslim personal law was challenged in this petition. The Supreme Court ruled in favour of Shah Bano and granted her alimony which the Muslim community felt as an encroachment on Muslim Sharia law. The decision of the case led to the formation of the All India Muslim Personal Law Board in 1973.

13. Thirumal v. Rajamma

Probably in the case of non-Hindus and non-Muslims, the high courts have inherent jurisdiction to provide the relief. Persons belonging to any community are free to enter into separation agreements under the general law of contract.

14. M.E. Querashi v. Hazraba

The husband's retraction of the charge before the commencement of the proceeding nullifies the ground. On the question whether husband's retraction after the filing of the suit will have the same effect, judicial opinion is divided.

15. Sitabai v. Ramchandra

So there may be relationship by implication in the other cases also. The Supreme Court has also held that a son adopted by the widow of the deceased coparcener will also be a coparcener with the surviving coparceners of the deceased husband.

16. Sarla Mudgal Union of India

The Court held that if a Hindu converts to Muslim and then have a second marriage, he can not do so, irrespective of the fact that polygamy is allowed in Islamic Law.

17. Jijabai v. Pathankhan

Under the modern Hindu law father is the natural guardian of his minor legitimate children though mother is entitled to custody of the child upto the age of five. Mother is the natural guardian of her illegitimate children and after the death of the father of her legitimate children.

18. R. Virupakshaiah v. Sarvamma & Anr

Property inherited by a Hindu from his father, father's father or father's fathers' father, is ancestral property.

19. Dipo v. Wassan Singh & Others

A person who has to inherit property from his immediate paternal ancestors up to 3 lines, holds it in coparcenary and to other relations he holds it and is entitled to hold it, as his absolute property. Hence, the property inherited by a person from any other relation becomes his separate property.

20. Chanmuniya v. Virendra Kumar Singh Kushwaha

Considering Sec 7 of the Hindu Marriage Act, 1955 the marriage performed in absence of customary rites and ceremonies of either parties to marriage is not valid. And Mere intention of the parties to live together as husband and wife is not enough. Further, there is no scope to include a woman not lawfully married within the expression of 'wife' in Section 125 of the Code should be interpreted to mean only a legally wedded wife.
