
CASE COMMENT: SIVASANKARAN V. SANTHIMEENAL (2021)

Priyanka Priyadarshini, BBA LLB, SOA National Institute of Law (SNIL)

CITATION: Civil Appeal No. 4984-4985 of 2021

BENCH: Justice Sanjay Kishan Kaul and Justice Hrishikesh Roy

DATE OF JUDGEMENT: 13 September 2021

INTRODUCTION

The Supreme Court of India clarified the extent of its extraordinary powers under Article 142 of the Constitution in the case of Sivasankaran v. Santhimeenal (2021), a major matrimonial dispute. The issue stemmed from the parties' long-standing marital discord; they had been living apart for a while, and mediation and reconciliation had not worked.

When the statutory requirements under the Hindu Marriage Act, 1955, were not strictly met, the Court's main concern was whether it could use Article 142 to dissolve a marriage on the grounds of irretrievable breakdown. The court ruled that it may use its plenary jurisdiction to grant a divorce in order to achieve "complete justice" in extraordinary situations where the marriage has become totally unworkable and continuing would further injustice or hardship to either party.

This ruling confirmed that the Supreme Court has the authority to grant a divorce outside of the strict parameters of statutes when the marriage is irreparably broken, and its continuation would not be beneficial.

FACTS OF THE CASE

On 07.02.2002, the appellant (husband) and respondent (wife) were married. According to the appellant, the respondent was coerced into this marriage against her will and fled the wedding hall that same evening. She allegedly refused to do anything when he and his relative convinced her to return. On February 25, 2002, the appellant filed for divorce under Section 13(1) (i-a) of

the Hindu Marriage Act, citing cruelty, because the marriage was in limbo.

The respondent submitted a petition for the restoration of marital rights. She claimed that after leaving the marriage hall because the appellant and his family began to harass her mentally and demand a dowry, she was removed from her company and that the appellant refused to live with her.

After the appellant filed for divorce, the Trial Court granted the divorce after almost five years. The appellant remarried within six days of the Trial Court's decision. The respondent appealed to the Additional District Judge, who overturned the divorce decree and allowed the petition for the restoration of conjugal rights. The appellant then appealed to the Madras High Court, which upheld the Trial Court's divorce decree on 14.09.2018. As this legal battle lasted for 15 years, it affected the validity of the appellant's second marriage.

The respondent filed a Revision Petition with the High Court. They argued that neither the Trial Court nor the High Court has the authority to grant a divorce based on the irreparable breakdown of marriage. The High Court accepted this petition, so the appellant went to the Supreme Court.

The Apex Court, in the case of *Sukendhu Das v. Reetha Mukherji* (2017), noted that it can dissolve a marriage if it believes, based on the facts and circumstances of the case, that the marriage cannot be salvaged and is beyond repair. This authority comes from Article 142 of the Constitution.

The respondent argued that both parties must agree before using the authority granted by Article 142. The Court, finding this argument without merit, did not accept it. If both parties had consented, the case would not have reached the Court. The Court will only use its power under Article 142 when there is a disagreement, such as when one party wants a divorce and the other opposes it.

This Court recognised the lower court's findings that there was no significant evidence to grant a divorce on the grounds of cruelty. However, it noted that the situation has changed, and recent events need a careful examination of the issue.

The respondent filed a Writ Petition requesting disciplinary action against the appellant, who worked as an Assistant Professor at Government Arts College in Karur. She also submitted

several RTIs asking for information about the appellant. Additionally, she filed another Writ Petition for information she had previously requested. She demanded that disciplinary proceedings be initiated against the appellant at his workplace. A witness stated that she insulted the appellant in front of his students and threatened him with physical harm.

It was determined that filing multiple cases is mental cruelty. After carefully considering the facts and circumstances, the court decided that this is a situation involving an irreparable marriage. Cruelty would be a valid reason for divorce in favour of the appellant.

ISSUES

1. Whether the Supreme Court of India can use its powers under Article 142 of the Constitution to dissolve a marriage due to irretrievable breakdown, even though this reason is not included in the Hindu Marriage Act, 1955?
2. Whether a lack of mutual consent between the parties stops the Supreme Court from granting a divorce using its special authority under Article 142?
3. Whether the marriage in this case had become completely unworkable, emotionally dead, and beyond repair, justifies the use of Article 142 to achieve full justice?
4. Whether the future actions of the parties, such as prolonged separation and multiple lawsuits, could be taken into account when deciding on the divorce?

RULES APPLIED

1. Section 13(1) (i-a) of the Hindu Marriage Act, 1955

It states that any marriage, whether performed before or after this Act began, can be ended by a divorce decree. This applies if either the husband or the wife files a petition, claiming that the other spouse has treated them with cruelty after the marriage was solemnised.

2. Section 13B of the Hindu Marriage Act, 1955

It talks about divorce by mutual consent.

3. Article 142 of the Constitution of India

It states that the Supreme Court, in its jurisdiction, can issue any necessary decree or order to achieve complete justice in any case or matter before it. Any decree or order issued will be enforceable throughout India in a manner specified by laws made by Parliament. Until such laws are created, it will be enforceable as prescribed by the President through an order.

KEY JUDICIAL PRECEDENT APPLIED

1. Sukendhu Das v. Reetha Mukherji (2017)¹

The Supreme Court of India held that it can grant divorce under Article 142 when it is clear that the marriage has completely broken down and there is no chance of the parties living together again. It explained that in rare and exceptional situations, the Court can end the marriage to ensure fairness and justice, even if the usual legal grounds for divorce are not fully proved.

CONTENTIONS

Appellant's Contentions: -

1. The appellant argued that the marriage had completely fallen apart and that reconciliation was impossible since the parties had been living separately for a long time.
2. He claimed that the respondent had filed several criminal and civil cases, writ petitions, and RTI applications against him. This led to mental cruelty and harassment.
3. It was also argued that the ongoing legal battles and aggressive behaviour of the respondent made the marital relationship impossible and emotionally draining.
4. The appellant asked the Supreme Court of India to use its powers under Article 142 to dissolve the marriage. This request aimed to achieve complete justice, despite not fully meeting the legal grounds set by the Hindu Marriage Act.

¹ Sukendhu Das v. Reetha Mukherji, (2017) 13 S.C.C. 42 (S.C. India).

Respondent's Contentions: -

1. The respondent opposed the divorce. They argued that the lower courts did not have the authority to end the marriage due to irretrievable breakdown, since this is not a legal ground under the Hindu Marriage Act.
2. She argued that the Supreme Court should not use its powers under Article 142 without mutual consent from both parties.
3. The respondent argued that the appellant did not show evidence of cruelty, so the divorce should not be granted.
4. She also wanted to protect her financial and marital rights. She opposed any effort to end the marriage without making sure she was secure.

SUMMARY OF THE JUDGMENT

The Supreme Court of India granted the appellant a divorce decree and allowed the appeal through the use of its extraordinary authority under Article 142 of the Constitution. The Court held that even if the statutory grounds under the Hindu Marriage Act, 1955, are not strictly proven, the Court may still dissolve a marriage in extraordinary circumstances to achieve full justice.

The Court dismissed the respondent's argument that Article 142 cannot be invoked without mutual consent. It explained that the Court can still grant relief even if there is no consent because this power is typically used when one party wants a divorce and the other party is against it.

After reviewing the facts, the Court found that there was no cohabitation, the parties had been living apart since their marriage, and the marital bond had completely broken down and was irreparable. The respondent's subsequent actions, such as submitting numerous complaints and proceedings, were also deemed to constitute mental cruelty.

As a result, the Court determined that the marriage had irretrievably failed and that there would be no benefit to continuing the relationship. Therefore, the Court granted the appellant a divorce and dissolved the marriage to ensure full justice for all parties.

ANALYSIS

The judgment of the Supreme Court of India shows a forward-thinking and practical attitude toward marital disputes. The Court acknowledged that in today's society, we must consider the emotional and psychological aspects of marriage along with legal rules. By using Article 142, the Court made sure that technical details in the Hindu Marriage Act did not stand in the way of achieving true justice.

A key aspect of this decision is the focus on the irretrievable breakdown of marriage. The Court recognised that making people stay in a marriage with no chance of recovery only extends their mental pain. This approach supports individual dignity, personal freedom, and mental health, which are vital parts of justice in marriage issues.

The Court also clarified that mutual consent is not a necessary condition for granting a divorce under Article 142. This is important because many marital disputes involve one party opposing divorce due to anger or emotional issues. Recognising repeated litigation and harassment as mental cruelty provides stronger protection against the misuse of legal remedies.

However, the judgment also highlights the need for changes in the law. Since irretrievable breakdown is not a legal reason for divorce yet, reliance on constitutional powers may create uncertainty. This case supports the idea that lawmakers should officially add irretrievable breakdown as a reason for divorce to ensure consistency and clarity in matrimonial law.

CONCLUSION

The judgment of the Supreme Court of India shows a practical and fair approach in matrimonial law. The Court ruled that when a marriage has completely fallen apart, and there is no chance for reconciliation, it should not force the parties to stay in that relationship. By using Article 142, the Court ensured that full justice was served, even beyond the strict limits of the law.

The decision also clarified that mutual consent is not required for granting a divorce under Article 142. Prolonged separation and harassment can be considered mental cruelty. Overall, the case supports the idea that the law should protect dignity and mental well-being. It also shows the need for lawmakers to recognise the irretrievable breakdown of marriage as a valid reason for divorce.