

COURSE NAME -	LAW
CLASS-	LL.B-2 ND SEM
SUBJECT-	FAMILY LAW-II
TOPIC-	THE SPECIAL MARRIAGE ACT 1954

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INTRODUCTION

India is a country with divergent cultural gaiety and religious affinity of people living together exhibiting 'unity in diversity'. Institution of marriage and value oriented family system are signifying features of Indian culture.

The Special Marriage Act 1954 was enacted to provide a special form of marriage by any person in India and all Indian nationals in foreign countries irrespective of the religion either party to the marriage may profess.

Conditions relating to solemnization of special marriages

u/s 4 of the act the following conditions are necessary:

That neither party has a spouse living at the time of marriage

That neither party is incapable of giving a valid consent to the marriage due to unsoundness of mind.

That neither party has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children.

That neither party has been subject to recurrent attacks of epilepsy or insanity.

That the bridegroom has completed the age of 21 years and the bride the age of 18 years at the time of marriage.

That the parties are not within the degrees of prohibited relationship. However where a custom governing at least one of the parties permits a marriage between them, such marriage may be solemnized

REGISTRATION OF MARRIAGE

Notice of intended marriage u/s -5

A notice has to be given in writing in the form given below to the Marriage Officer of the District in which at least one of the parties to the marriage has resided for a period of not less than 30 days immediately proceeding the date on which such notice was given.

Marriage Notice Book and publication u/s 6

- (1) The marriage Officer shall keep all notices given under Section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at al reasonable times, without fee, by any person desirous of inspecting the same.
- (2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.
- (3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

Objection to marriage U/S - 7

(1) Any person may, before the expiration of 30 days from the date on which any such notice has been published, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained, if necessary, to the person making the objection and shall be signed by him or on his behalf.

Procedure on receipt of objection(Sec-8)

(1) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of 30 days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court.

Declaration by parties and witnesses U/S -11

Before the marriage is solemnized the parties and three witnesses shall, in the presence of the Marriage Officer, sign a declaration in the form specified in the Third Schedule to this Act, and the declaration shall be countersigned by the Marriage Officer.

Place and form of solemnization U/S-12

(1) The marriage may be solemnized

-at the office of the Marriage Officer, or

-at such other place within a reasonable distance there from
as the parties may desire,

-and upon such conditions and the payment of such
additional fees as may be prescribed.

(2) The marriage may be solemnized in any form which the
parties may choose to adopt:

Provided that it shall not be complete and binding on the
parties, unless each party says to the other in the presence of
the Marriage Officer and the three witnesses and in any
language understood by the parties,--"I, (A), take thee (B), to
be my lawful wife (or husband)

Certificate of marriage U/S-13

(1) When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses.

(2) On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be **conclusive evidence** of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied with

CONSEQUENCES OF MARRIAGE UNDER THE S.M. ACT 1954

SEC.19.Effect of marriage on member of undivided family

.—The marriage solemnized under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family.

SEC.20.Rights and disabilities not affected by Act

.—Subject to the provisions of section 19, any person whose marriage is solemnized under this Act, shall have the same rights and shall be subject to the same disabilities in regard to the right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850 (XXI of 1850) applies.

SEC.21.Succession to property of parties married under Act

.—Notwithstanding any restrictions contained in the Indian Succession Act, 1925 (XXXIX of 1925), with respect to its application to members of certain communities, succession to the property of any person whose marriage is solemnized under this Act and to the property of the issue of such marriage shall be regulated by the provisions of the said Act and for the purposes of this section that Act shall have effect as if Chapter III of Part V (Special Rules for Parsi Intestates) had been omitted therefrom.

However if two persons who are Hindus get married under this Act the above provision does not apply and they are governed by the Hindu Succession Act.

THANK

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