



\$~

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

*Judgment reserved on: 24.09.2025*

*Judgment pronounced on: 04.11.2025*

+ MAT.APP.(F.C.) 148/2024, CM APPL. 25296/2024, CM APPL. 35808/2025, CM APPL. 50365/2025 and CM APPL. 50366/2025

[REDACTED] .....Appellant  
Through: Mr. Manoj Singh, Adv.

versus

[REDACTED] .....Respondent  
Through: Mr. Akshat Bajpai, Mr. Shobhit Trehan and Ms. Jayashree Mishra, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL  
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

**JUDGMENT**

**ANIL KSHETARPAL, J.**

1. Through the present Appeal filed under Section 19 of The Family Courts Act, 1984 [hereinafter referred to as 'the Act'], the Appellant assails the correctness of the judgment dated 09.02.2024 [hereinafter referred to as 'Impugned Judgment'] passed by the learned Family Court.
2. The Appellant preferred an application under Order VII Rule 11 CPC, seeking rejection of the Respondent's petition under Section 13(1)(i)(b) of the Hindu Marriage Act, 1955 [hereinafter referred to as



‘HMA’], contending that the proceedings were not maintainable in view of the statutory exclusion contained in Section 2(2) of the HMA.

### **BRIEF FACTUAL MATRIX:**

3. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

4. The Appellant/Husband is employed as an Assistant Executive Engineer in the Irrigation Department of the State of Andhra Pradesh. The Respondent/Wife is an Indian Administrative Service (‘IAS’) Officer belonging to the Uttar Pradesh Cadre.

5. The marriage between the Appellant and the Respondent was solemnized on 02.02.1998. The factum of solemnization of marriage remains undisputed in the present matter. On 13.03.1999, a child was born out of the said wedlock. The Appellant has asserted in his Affidavit, Examination in Chief dated March 2023 that the parties was performed **in accordance with the rites and customs prevalent in the Lambada (Banjara) Community**, and not strictly as per Hindu religious ceremonies. He deposed as follows:

*“4. Deponent states that he being Assistant Executive Engineer with Irrigation Department in the State of Andhra Pradesh got his marriage solemnized with Petitioner, who was then 18 years old on 02.02.1998 at Ramagundam then in the state of Andhra Pradesh as per customary rites and ceremonies of the tribal community of Lambadis (Banjara) without ‘Saptapadi’ and with an exception that some rites/ customs of the community being also followed in Hindu marriages.*

*.....*  
 14. I say that deponent’s marriage with Petitioner was solemnized in accordance with customary rites/ tradition/ principles prevailing in Lambadis ‘Banjara’ community with an exception that some rites/ customs of the community being followed in Hindu marriages too



which undeniably cannot take away status of a subject tribe of the 'Lambadis' community as the tribe in question is not 'Hinduised' yet are still following their customary law/ rites and customs. ”

(Emphasis Supplied)

6. On the other hand, the Respondent has asserted in her Affidavit, Examination in Chief that the said marriage was performed in accordance with **Hindu rites and ceremonies**. The deposed are as follows:

“8.....my marriage with the Respondent was solemnized according to the Hindu Customary rites and rituals following all the traditions. During the marriage ceremony, I was wearing a red dress and 'Bichiya' (a toe ring) in my toe fingers, which is the symbolical image of a Hindu bride. The Respondent applied 'Alta' (Red dye or 'maharam' on my foot, tied a nuptial garland i.e. a 'mangalsutra' around my neck and finally we took the 'saatpheras' in front of the sacred fire, in presence of all our relatives family and the Hindu priest who was there for the solemnization of the marriage.....

9. That the Lambada tribal community has been sufficiently hinduised and are not completely separate from Hindu culture or traditions.”

(Emphasis Supplied)

7. In view of the aforesated facts, as corroborated from the respective contentions of the parties, the primary issue in dispute pertains to the mode and validity of the alleged solemnization of marriage. The Respondent asserts that the marriage was performed in accordance with Hindu rites and ceremonies, whereas the Appellant contends that it was solemnized in accordance with the customary practices prevalent among the Lambada community.

8. Now moving forward, the impugned order passed by the Learned Family Court is in the following manner:

“15.....This court based on the evidence led in the present matter cannot declare that Lambada Community, a notified Schedule Tribe, has or has not been Hinduised. Such a declaration



is beyond the purview of the present petition as well as of the preliminary issue framed here.

16. Nevertheless, there is some sporadic glimpse of evidence about the way their marriage was performed and based on preponderance of probability a somewhat concrete view can be formed as to whether or not marriage was performed in accordance with Hindu rites and finding that there exist no definition of the word "Hindu" in any of the Statutes, had held that if members of Tribes are Hinduized, the provision of HSA would be applicable and members of tribe who voluntarily chooses to follow Hindu customs, tradition, rites cannot be kept out of the provisions of Hindu Acts. Similarly, if parties belonging to Schedule Tribe chooses to marry in accordance with Hindu rites and custom, their marriage would be governed by the Hindu marriage Act, 1955.

19. On the other hand respondent deposed that no such satpadi was taken at the time of marriage and marriage was performed as per customs prevalent in the community, however he did not elaborate on as to what exactly was done in the marriage or how exactly his marriage was performed or what act were performed to solemnize the marriage.

20. Petitioner had deposed that in her marriage photographs and video cassette (of marriage) were got prepared by the respondent and same would be in possession of the respondent. Respondent sought to undermine the importance of non-production of the photographs and video cassette (of the marriage) by claiming that petitioner had not given any notice under Order 12 Rule 8 CPC. In his cross examination, however, respondent admitted that photographs Ex PW1/3 were of his marriage though after admitting the same he went on to explain that said photographs were taken after the marriage as they went through Hindu customs. He showed his unawareness about he or his family members being in possession of the marriage photographs and video cassette (of marriage) having been prepared in his marriage nor did he assert that he or his family was not in possession of photographs and video cassette.

21. More photographs of marriage and video cassette could have thrown more lights the way marriage between the parties was performed but he did not produce the same and therefore an adverse inference is liable to be drawn against the respondent as he kept away best evidence. Further, to avoid inference from photographs Ex PW1/3 that marriage between the parties was held according to Hindu rites and ceremony, he after admitting the photographs Ex PW1/3 went on to explain that said photographs were taken after the marriage as they went through Hindu customs.



He did not lead any evidence to prove that photographs Ex PW1/3 were taken after marriage while going through Hindu customs. In his above explanation there is at least an admission on his part that rituals/customs reflected from the photograph Ex PW1/3 were part of Hindu customs and they went through Hindu customs but he attempted to connect its performance after marriage. In the absence of any proof that said photographs were taken after marriage it can reasonably be concluded that photographs Ex PW1/3 were taken during marriage and parties did go through Hindu marriage rituals/customs including those reflected from the photographs. Further, petitioner had specifically deposed that mangalsutra was tied to her neck. Respondent deposed that mangalsutra to the bride but on his own he did not depose whether or not he tied mangalsutra to the petitioner as claimed by the petitioner.

.....

23. Although it could not be proved by either parties that they were or were not following Hindu rites and customs, yet it has been held herein above on the basis of preponderance of probability that their marriage was performed according to Hindu rites and ceremonies, therefore, her marriage can be dissolved only in accordance with the provision of the Hindu Marriage Act, 1955.

.....

25. In the facts and circumstances where on the basis of preponderance of probability it stands proved that marriage between the parties were held in accordance with Hindu rites and customs; where it has been undisputed that parties have been socially and educationally advanced and apparently assimilated in the mainstream of the society and no longer living in close knit thanda (settlement); where no specialized court exist in their tribe with proper procedures to deal with request for divorce etc.; where codified laws provide for better protections to parties against any unregulated practices from being adopted and where relegating parties to customary court would be antithetical to codified provision, this Court rules that present petition between the parties is maintainable and not hit by Section 2(2) of the Hindu Marriage Act under which objection was raised following which issue under consideration was and treated as preliminary issue. ”

(Emphasis Supplied)



**Submissions on behalf of the Appellant:**

9. Learned counsel for the Appellant has made the following submissions:

- i. Primarily, both the parties to the present proceedings are members of the Scheduled Tribe community known as "*Lambadis (Banjara)*", which stands duly notified as a Scheduled Tribe at Serial No. 29, Part I of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 [C.O. No. 22]. The said notification was issued by the President of India in exercise of the powers conferred under Clause (1) of Article 342 of the Constitution of India, as applicable to the erstwhile State of Andhra Pradesh.
- ii. The marriage between the parties was solemnized in the State of Andhra Pradesh within the "*Lambadi (Banjara)*" community, in accordance with the customary rites, traditions, and principles prevailing among the said tribe. It is further submitted that although certain symbolic elements resembling Hindu marriages, such as the setting of an altar, the wearing of a red-coloured attire, and the adornment of a turmeric-smeared necklace, were observed, the ceremony of 'Saptapadi' was not performed, as the Lambadi (Banjara) community does not follow the 'Saptapadi' ritual. The said community, being a Scheduled Tribe not yet fully Hinduised, continues to adhere to its distinct customary laws, rites, and practices governing marriage and other social institutions.



iii. Having regard to the traditions and customs prevailing within the “Lambadi (Banjara)” community in relation to their social, religious, and cultural life, it is evident that the said community has not been sufficiently Hinduised, inasmuch as they do not adhere to Hindu customs and practices in matters of social life, including the solemnization of marriage. The customary practice among the Lambadis excludes the performance of ‘*Saptapadi*’, which forms an essential rite under Hindu law. In view of the averments made in the evidence by way of affidavit and the documents placed on record by the Appellant, it stands established that the parties, being members of the Lambadi tribe, solemnized their marriage in accordance with tribal customs and not in conformity with Hindu rituals or ceremonies.

iv. It is pertinent to submit that the ‘Lambadi (Banjara)’ tribe continues to adhere to its distinct customary traditions and has not undergone the process of Hinduisation by adopting the customs and practices ordinarily followed by Hindus. This is evident from the admitted position that the said community has been notified as a Scheduled Tribe and not de-notified thereof. Consequently, in view of the express provision contained in Section 2(2) of the Hindu Marriage Act, 1955, which excludes from its purview members of Scheduled Tribes unless otherwise notified by the Central Government, the parties hereto are governed by their customary law in matters relating to solemnization and dissolution of marriage. Accordingly, the validity and dissolution of the marriage in question are required



to be examined with reference to the customary practices prevalent within the Lambadi (Banjara) community, and not under the provisions of the Hindu Marriage Act, 1955.

v. The Appellant, in his examination-in-chief, elaborated upon the customs and rites pertaining to the socio-political and religious life of the Lambadi (Banjara) tribe, and cited in detail the literature, research work, and documentary material available in relation to the social and religious practices of the said community, including the customs and rites observed in connection with marriage among the Lambadis.

vi. Upon being shown the photograph, the Respondent claimed that the tying of '*Mangalsutra*' and the wearing of '*Bichiya*' constitute essential components of a Telugu Hindu marriage ceremony. However, during her cross-examination, the Respondent admitted that she had neither produced the original photograph nor the book from which the said photograph was taken. She further acknowledged that no evidence, either in the form of photographs or any other material, had been placed on record to establish the performance of the '*Saptapadi*' ceremony. The Respondent also denied the existence and observance of the customary practices prevalent among the Lambadi (Banjara) community, despite the same being well-recognized and commonly followed by members of the said tribe.

vii. It is further submitted that the assertions made by the Appellant in his examination-in-chief regarding the customs and rites observed by the Lambadi (Banjara) tribe remained



unrebutted, as the Respondent did not cross-examine the Appellant on these material aspects.

**Submissions on behalf of the Respondent:**

10. *Per contra*, learned counsel for the Respondent has made the following submissions:

- i. This issue arose from the preliminary objection raised by the Appellant in his Written Statement, contending that both parties belonged to the Lambada tribal community and were therefore excluded from the operation of the HMA in terms of Section 2(2). Both parties led evidence on this issue and were duly cross-examined. Upon appreciation of the evidence, it stood established that the marriage in question was solemnized according to Hindu rites and ceremonies, and hence could only be dissolved under the provisions of the HMA.
- ii. It is submitted that the Respondent categorically stated her religion as *Hindu* in her Descriptive Roll form submitted to the *Lal Bahadur Shastri National Academy of Administration* ('LBSNAA'). The said declaration serves as a clear and unequivocal admission of her religious identity, thereby affirming that the marriage between the parties falls within the ambit of the HMA.
- iii. The Respondent also placed reliance on expert literature and research evidencing that the Lambada tribal community has undergone a process of "Hinduisisation", particularly with respect to marriage ceremonies, which are now performed largely in accordance with Hindu rites and rituals.



iv. Further, in her Evidence by way of Affidavit, the Respondent deposed that the marriage was solemnized according to Hindu customs and traditions. She specifically stated that she wore a red bridal dress, applied alta on her feet, wore bichiya, tied a Mangalsutra, and performed Saptapadi around the sacred fire. The Respondent further deposed that, owing to the financial condition of her father, all marriage arrangements were made by the Appellant's family. She produced one photograph of the marriage obtained from a publication written about her with the Appellant's consent. She also deposed that all other photographs and videos of the ceremony were in the Appellant's possession.

v. Most pertinently, during cross-examination, the Appellant further admitted that the photograph produced was from their marriage ceremony and that "the photographs were taken after the marriage as we go through Hindu customs," thereby reinforcing the Respondent's stand.

vi. The Respondent placed reliance upon the judgment of the Hon'ble Supreme Court in ***Labishwar Manjhi v. Pran Manjhi & Ors.***<sup>1</sup>, wherein it was held that if parties belonging to a Scheduled Tribe choose to marry in accordance with Hindu rites and customs, their marriage would be governed by the provisions of the HMA.

vii. In the present case, the Respondent clearly deposed that in her marriage *Mangalsutra* was tied, *bichiya* was worn, *alta* was applied, and *Saptapadi* was performed before the sacred fire in the presence of a priest. The Respondent's testimony on these

---

<sup>1</sup>(2000) 8 SCC 587.



essential Hindu marriage ceremonies was not rebutted in cross-examination. On the contrary, the Appellant's focus remained on asserting that the Lambada community was not Hinduized, without contradicting the performance of these rites.

### **Findings & Analysis:**

11. The principal question that arose for consideration before the Learned Family Court was whether the parties, being members of the "Lambada (Banjara)" community, had assimilated Hindu rites and customs to such an extent that the provisions of the HMA would be applicable to their marriage. This Court has further undertaken a detailed analysis of the matter by dividing the issues into four principal components.

#### **I. Applicability of Section 2(2) of the Hindu Marriage Act, 1955:**

12. The Appellant primarily contended that the Section 2(2) of the HMA expressly provides that the Act shall not apply to members of Scheduled Tribes unless the Central Government, by notification, directs otherwise. Thus, the question of applicability hinges upon whether the parties have adopted Hindu rites and customs to such an extent that their marriage can be said to have been solemnized under Hindu law.

13. It is a well-settled proposition of law that the essentials of a valid marriage under the HMA are to be ascertained in light of Section 7 of the said Act, which governs the manner of solemnization of a Hindu marriage. The provision read as under:



***“7. Ceremonies for a Hindu marriage.—(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. (2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.”***

(Emphasis Supplied)

14. Relying upon the aforesaid provision, the key essential is Ceremonies performed by *Saptapadi*. It is settled law that the Act thus grants statutory recognition to Saptapadi but does not make it mandatory for the validity of every Hindu marriage. The presumption of a valid marriage is not displaced merely because of the absence of direct evidence regarding *Saptapadi*.

15. The aforesaid deposition reflects that *Mangalsutra* was tied in marriage and photographs and video for the same were not produced by the Appellant to substantiate further.

16. The legislative intent underlying Section 7 of the Act is to acknowledge, respect and preserve the plurality of customs and rituals observed among various Hindu communities across India. The provision underscores that a Hindu marriage is not confined to a uniform or codified set of ceremonies, but that it draws its validity from the recognized customs of the community or parties concerned, provided such customs are ancient, certain, continuous, and uniformly observed. The section thereby ensures that the sanctity of marriage as a sacramental union is maintained while simultaneously safeguarding the autonomy of communities in preserving their traditional matrimonial practices. Thus, Section 7 does not prescribe any



particular form of ceremony as a *sine qua non* for a valid marriage, but rather confers legal recognition on the diversity of Hindu matrimonial customs, provided that the essential requirement of solemnization.

17. The essentials of a valid Hindu marriage under Section 7 may be summarized as follows:

- i. *Performance of Customary Rites and Ceremonies*
- ii. *Intention to Enter into a Marital Union*
- iii. *Saptapadi, where applicable*
- iv. *Proof of Solemnization*

18. In this view, the determination in the present case as to whether the marriage between the parties satisfies the essentials prescribed under Section 7 of the Hindu Marriage Act, 1955, hinges upon the evidence adduced to establish that the ceremonies performed were those recognized either under Hindu law or under the customary practices of the Lambada (Banjara) community, which, as demonstrated, have assimilated essential elements of Hindu solemnization. For this purpose, this Court has relied upon the testimony of the Appellant recorded during the cross-examination dated 16.09.2023, wherein the Appellant deposed as follows:

*"In our customary marriage, we do not tie mangalsutra to the bride.*

.....

*Ques. Is it correct all the marriage photographs and video cassette of the wedding were kept by you and your family?*

*Ans. I am not aware."*



19. In this view, this Court further relies upon the judgment of this Court in *Vinod Kumar v. Ms. Geeta*<sup>2</sup>, wherein it was held as under:

*"10. Learned counsel for the Respondent has rightly pointed out that a heavy burden lay on the Appellant to prove that the essential ceremony of Saptapadi was not performed. However, as rightly recorded by the learned Family Court, the Appellant did not examine any witness to substantiate this plea. Moreover, in the facts of the present case, the presumption of a valid marriage comes into play, which further weakens the Appellant's contention.....*

....

*13. The burden of proof being on the Appellant to establish that no Saptapadi was performed, an adverse inference cannot be drawn against the Respondent for not producing the marriage album to demonstrate the ceremonies. Even assuming such an album were produced, it cannot conclusively establish whether Saptapadi was performed."*

## **II. Determination of Whether the Parties Were Hinduised:**

20. In her testimony, the Respondent deposed that the marriage was solemnized according to Hindu customary rites and rituals, wherein she wore a red bridal dress and *bichiya* (toe rings), symbolic of a Hindu bride. The deposition is as follows:

*"Thereafter, on the same day, my marriage with the Respondent was solemnized according to the Hindu Customary rites and rituals following all the traditions. During the marriage ceremony, I was wearing a red wedding dress and 'Bichiya' (a toe ring) in my toe fingers, which is the symbolical image of a Hindu bride. The Respondent applied 'Alta' (Red dye or 'maharam') on my foot, tied a nuptial garland i.e. a 'mangalsutra' around my neck and finally we took the 'saatpheras' in front of the sacred fire, in presence of all our relatives, family and the Hindu priest who was there for the solemnization of the marriage.....*

*.....*  
*Witness is confronted with the said photograph already exhibited as Ex. PW1/3, the said photographs does not show that marriage*

<sup>2</sup> 2025:DHC:7620-DB.



*was solemnised according to Hindu rites and customs. What do you have to say?*

*Ans. The said photograph shows "Mangalsutra tied by the respondent and Bichiya being worn by respondent to the petitioner in the marriage ceremony which are crucial parts of solemnizing Telugu Hindu marriage ceremony. It is correct that I have not placed on record the copy of the book published by respondent."*

(Emphasis Supplied)

21. The Respondent further relied upon expert literature and ethnographic studies demonstrating that the “Lambada (Banjara) community”, though historically a Scheduled Tribe, has undergone a gradual process of Hinduisation. It was shown that their social and religious ceremonies, particularly those pertaining to marriage, have assimilated significant elements of Hindu rituals. It is evident to say that ‘the present system is an admix of Lambada and Hindu systems’. For this purpose, this Court places reliance upon the *International Journal of English Literature and Social Sciences*, Vol. 6, Issue 4, published in July–August 2021, titled **“Impact of Urbanization on the Lambada Tribe in Telangana.”** The relevant portion is reproduced as under:

“The most important symbol of marriage, the mangalsutra, is tied by the groom to the bride’s neck and jilakarabellam (a paste of cumin seeds and jaggery) is placed on the head of the bride according to the Telgu tradition.”

(Emphasis Supplied)

22. This Court is further placing reliance upon the Hon’ble Supreme Court judgment of **Labishwar Manjhi (supra)**, wherein it has been held that:

*“6. In view of such a clear finding, it is not possible to hold that Sub-section 2 of Section 2 of Hindu Succession Act excludes the present parties from the application of the said Act. Sub-section*



2 only excludes members of any Scheduled Tribe admittedly as per finding recorded in the present case though the parties originally belong to the Santhal Scheduled Tribe they are Hinduised and they are following the Hindu traditions. Hence, we have no hesitation to hold that Sub-section 2 will not apply to exclude the parties from application of Hindu Succession Act. The High Court fell into error in recording a finding to the contrary. In view of this, the widow of Lakhiram would become the absolute owner by virtue of Section 14 of the said Act, consequently the gift given by her to appellant Nos. 2 and 3 were valid gift, hence the suit of respondent No. 1 for setting aside the gift deed and inheritance stand dismissed.”

(Emphasis Supplied)

23. In view of the aforesaid findings, the reliance is also placed upon the judgment of this Court in *Satprakash Meena v. Alka Meena*<sup>3</sup>, wherein it is held that:

“47. The word ‘Hindu’ is not defined in any of the statutes. It is in view of the fact that there is no definition of Hindu, that the Supreme Court has held in Labishwar Manjhi (supra) that if members of Tribes are Hinduised, the provisions of the HMA, 1955 would be applicable. The manner in which the marriage has been conducted in the present case and the customs being followed by the parties show that as in the case of Hindus, the marriage is conducted in front of the fire. The Hindu customary marriage involves the ceremony of Saptapadi which has also been performed in the present case. The various other ceremonies, as is clear from the marriage invitation are also as per Hindu customs. If members of a tribe voluntarily choose to follow Hindu customs, traditions and rites they cannot be kept out of the purview of the provisions of the HMA, 1955. Codified statutes and laws provide for various protections to parties against any unregulated practices from being adopted. In this day and age, relegating parties to customary Courts when they themselves admit that they are following Hindu customs and traditions would be antithetical to the purpose behind enacting a statute like the HMA, 1955. The provisions of exclusion for example under Section 2(2) are meant to protect customary practices of recognised Tribes. However, if parties follow Hindu customs and rites, for the purpose of marriage, this Court is inclined to follow the judgment of the Supreme Court in Labishwar Manjhi (supra) to hold that the parties are Hinduised and hence the HMA, 1955 would be applicable. Moreover, nothing has been placed before

<sup>3</sup> 2021:DHC:1989.



*the Court to show that the Meena community Tribe has a specialised Court with proper procedures to deal with these issues. In these facts, if the Court has to choose between relegating parties to customary Courts which may or may not provide for proper procedures and safeguards as against codified statutes envisioning adequate safeguards and procedures, this Court is inclined to lean in favour of an interpretation in favour of the latter, especially in view of the binding precedent of the Supreme Court in Labishwar Manjhi (supra) which considered an identical exclusion under the HSA,1956. ”*

(Emphasis Supplied)

### **III. Admissions by the Appellant:**

24. Such admission assumes considerable evidentiary significance and has been rightly relied upon by the Learned Family Court to conclude that the marriage between the parties was solemnized in accordance with Hindu rites and customs. The Appellant failed to adduce any substantive or corroborative evidence to demonstrate that the marriage was performed exclusively in accordance with the customary practices of the Lambada community. In this regard, reliance is placed upon Section 58 of the Indian Evidence Act, 1872, which stipulates as follows:

***“58. Facts admitted need not be proved.—No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.”***

25. Needless to state, it is a settled proposition of law that if a witness is not cross-examined on a material aspect stated in examination-in-chief, the said portion of testimony remains unchallenged and is liable to be accepted as true.



#### **IV. Social and Cultural Context:**

26. It is well-established that the Marriage under Hindu law is not merely a civil contract but a sacred sacrament (*sanskara*), a spiritual, moral, and social union between husband and wife.

27. In this view, and with respect to the present case, the performance of essential Hindu ceremonies, which include the invocation of the sacred fire, the wearing of *Mangalsutra* and *Bichiya*, and the *Saptapadi*, clearly reflects that the marriage bore all the hallmarks of a Hindu sacrament. The contention of the Appellant that the parties were not Hinduised is, therefore, untenable. It is evident that the Appellant has not substantially shown or deposed that the marriage was performed according to the customs of the Lambada community, neither in the affidavit nor in the cross-examination.

28. The Appellant has further failed to challenge the Respondent's testimony regarding the solemnization of the marriage as per Hindu rites and customs in her examination-in-chief. It is well settled that if correctness of statement in examination-in-chief of a witness remains unchallenged in cross-examination, the Court is justified in drawing inference that correctness of the unchallenged statement is not disputed.

29. It is evident to say that the Marriage, within the framework of Scheduled Tribes, occupies a distinct and autonomous socio-legal space that predates the codification of personal laws such as the HMA. The jurisprudence surrounding tribal marriage recognises that tribal communities constitute a distinct social and cultural order, governed by their own customary laws, traditions, and usages, which are



preserved under Article 13(3)(a) and protected by Article 342 of the Constitution of India<sup>4</sup>. The exclusion carved out under Section 2(2) of the HMA expressly acknowledges that the members of Scheduled Tribes shall not be governed by the provisions of the Act unless the Central Government, by notification, directs otherwise.

## **Conclusion**

30. On a holistic reading of the evidence, the pleadings, and the findings recorded by the Learned Family Court, this Court finds no infirmity in the conclusion that the marriage in question was performed in accordance with Hindu rites and customs and is, therefore, governed by the HMA.

31. The Appellant failed to discharge the burden of proving that the marriage was solemnized exclusively under tribal customary law. The Appellant has also failed to adduce sufficient evidence to establish that the marriage between the parties was not solemnized in accordance with Hindu rites and customs.

32. Consequently, the Learned Family Court was justified in holding that the dissolution of marriage could only be sought under the provisions of the Hindu Marriage Act, 1955.

---

<sup>4</sup>The Constitution of India, under Article 342, empowers the President to specify the tribes or tribal communities deemed to be Scheduled Tribes in relation to a State or Union Territory. Pursuant to this provision, the community known as "Lambadis (Banjara)" was duly notified as a Scheduled Tribe for the State of Andhra Pradesh at Serial No. 29, Part I of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 [C.O. No. 22].



33. In view of the foregoing analysis and reasoning, this Court finds no reason to interfere with the Impugned Judgment passed by the learned Family Court.

34. The present Appeal is accordingly dismissed. All pending applications stand closed.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**  
**NOVEMBER 04, 2025/sp/rgk**