2025:DHC:8888-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 15.09.2025
Judgment pronounced on: 09.10.2025

\+ MAT.APP.(F.C.) 222/2025

[redacted] .....Appellant

Through: Mr. Peeyoosh Kalra and Mr. Ashok Kumar Nagrath, Advocates.

versus

[redacted] .....Respondent

Through: Ms. Meghna Nair and Mr. Yashwant Singh Baghel, Advocates.
Mr. Prosenjeet Banerjee, *Amicus Curiae* along with Ms. Anshika Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Appeal is filed under Section 19 of the Family Courts Act, 1984, read with Section 28 of the **Hindu Marriage Act, 1955**[1], impugning the **Judgment dated 04.10.2024**[2] passed by the learned **Principal Judge, Family Court, Saket (District-South),**

[1] HMA
[2] Impugned Judgement

New Delhi[3], in HMA No. 1299/2024, wherein both parties were arrayed as Petitioners.

2. By the Impugned Judgment, the learned Family Court dismissed the joint petition filed by the parties herein, Husband and Wife, under Section 7 of the HMA, which sought a decree declaring their alleged marriage dated 30.01.2024 as null and void, along with a declaration that the certificate dated 02.02.2024 issued by the **Office of District Magistrate, Shahdara District, Delhi**[4], and the certificate dated 30.01.2024 issued by the **Arya Samaj Mandir Vivah Bandhan Trust (Regd.), Delhi**[5], are null and void.

3. The principal ground on which the parties sought the relief was that the statutory requirements of Section 7 of the HMA were not satisfied at the time of the alleged marriage, and consequently, no valid marriage subsisted between the parties in the eyes of the law. It was thus contended that, due to non-compliance with Section 7, the rites and ceremonies performed did not give rise to a legally binding Hindu marriage. For convenience of reference, Section 7 of the HMA is reproduced below:

> "**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."

4. At the very outset, it appears to us that the joint

[3] Family Court
[4] District Magistrate
[5] Arya Samaj Mandir

Petition/Application[6] before the learned Family Court, or the present Appeal arising therefrom, appears to be a novel and ingenious method devised with the intent of circumventing the statutory rigours set out in the HMA. It seeks to create a new genre of void marriages over and beyond what has already been provided for in the Act.

5. Shorn of unnecessary details, the facts germane to the institution of the present Appeal, as pleaded by the parties, may be summarized as under:

(a) The parties, with mutual consent, decided to marry each other. Since the Husband resides in London, United Kingdom, the parties were compelled to expedite the marriage-related ceremonies and rituals due to time constraints, and also to facilitate the process of the Wife obtaining a visa for the United Kingdom.

(b) In this backdrop, the parties first performed a pre-engagement ceremony (*Roka*) on 16.11.2023. Owing to the limited time available, they subsequently decided to solemnize their marriage at the Arya Samaj Mandir. The marriage ceremony was accordingly performed on 30.01.2024, in the presence of a few family members, and a marriage certificate dated 30.01.2024 was issued by the Arya Samaj Mandir.

(c) On the strength of the said marriage certificate, along with supporting evidence such as photographs and affidavits, the parties proceeded to have their marriage formally registered on 02.02.2024 at the Office of the District Magistrate, Shahdara, New Delhi.

[6] Petition

(d) It is further averred in the Petition before the learned Family Court that the parties had intended to perform a more elaborate marriage ceremony, with full rites, rituals, and customs, scheduled for 20.04.2024. However, prior to this date, serious differences arose between them, as a result of which they mutually decided, on 07.02.2024, to discontinue further preparations for the wedding. Consequent upon this decision, the parties filed a joint petition under Section 7 of the HMA before the learned Family Court on 25.07.2024.

(e) The learned Family Court, *vide* the Impugned Judgment dated 04.10.2024, dismissed the joint petition preferred by the parties.

(f) Aggrieved thereby, the parties have preferred the present Appeal before this Court.

6. During the course of the hearing before us, learned Counsel for the Appellant submitted that under Section 7 of the HMA, a Hindu marriage attains validity only upon being duly *solemnised*. Such solemnisation, as per Section 7(1), must be in accordance with the customary rites and ceremonies of either party. Further, under Section 7(2), where such rites and ceremonies include the performance of *Saptapadi*, that is, the taking of seven steps jointly by the bride and groom before the sacred fire, the marriage becomes complete and binding upon the taking of the seventh step.

7. It was the specific contention of learned Counsel for the Appellant that in the present case, no *Saptapadi* ceremony ever took place between the parties. Both parties have categorically affirmed this factual position on oath before the learned Family Court and this Court. According to the Appellant, this singular fact is sufficient to

determine that no valid marriage came into existence under Section 7 of the HMA.

8. Learned counsel further argued that no independent corroboration was necessary once both parties were *ad idem* on the non-performance of *Saptapadi*. He emphasized that the so-called marriage was merely a device adopted by the parties to expedite the visa process of the Wife, Ms. Divya Goglani, for travelling abroad. In the absence of the requisite rites, rituals, and ceremonies, the mere execution of affidavits, photographs, and the procurement of documentation could not, in law, confer validity upon what was described as a marriage.

9. It was further submitted that the ceremony conducted at the Arya Samaj Mandir on 30.01.2024 was not intended to be the actual marriage ceremony. The parties had mutually agreed that their real marriage, in accordance with Hindu rites and customs, was to take place later on 20.04.2024. However, due to irreconcilable differences in opinion, temperament, habits, likes and dislikes, the proposed social marriage functions, such as booking of the venue and other associated rituals, were cancelled, and on 07.02.2024, both parties entered into an understanding not to proceed further.

10. Learned Counsel also highlighted that the parties never cohabited as husband and wife, which is another factor negating the existence of a valid marriage. The marriage certificate issued by the Arya Samaj Mandir, it was argued, is insufficient to establish compliance with Section 7 of the HMA. Likewise, registration of the marriage on 02.02.2024 under Section 8 of the HMA cannot cure the absence of solemnisation, since registration is only a mode of proof of

a valid Hindu marriage and not a substitute for the essential ceremonies themselves.

11. In support of these submissions, learned Counsel for the Appellant placed strong reliance on the judgment of the Hon'ble Supreme Court in ***Dolly Rani vs. Manish Kumar Chanchal***[7], wherein the Apex Court had considered similar issues relating to solemnisation of Hindu marriages and the evidentiary value of marriage certificates in the absence of customary rites.

12. The learned Family Court, while passing the Impugned Judgment, examined these very arguments at length, including the reliance placed on ***Dolly Rani*** (*supra*). The relevant portion of the Impugned Judgment is extracted herein below:

> "**10.** In the aforesaid case, the Hon'ble Supreme Court observed that since the marriage ceremony had not been performed in accordance with Section 7 of the Act, then the registration of such marriage u/s 8 would not confer any legitimacy to such a marriage. The registration of a marriage u/s 8 of the Act is only to confirm that the parties have undergone a valid marriage ceremony in accordance with Section 7 of the Act. In other words, a certificate of marriage is a proof of validity of Hindu marriage only when such a marriage has taken place and not in a case where there is no marriage ceremony performed at all.
>
> **11.** The aforesaid order was passed by the Hon'ble Supreme Court under Article 142 of the Constitution. The power of Hon'ble Supreme Court under this Article is meant to supplement the existing legal framework - to do complete justice between the parties. It is conceived to meet the situations which cannot be effectively and appropriately tackled by the existing provisions of law. The Article provides that the Hon'ble Supreme Court in exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any 'cause' or 'matter', which would include any proceeding pending in any court. Even the Hon'ble High Court and Tribunals do not have similar powers in absence of analogous provisions. Subordinate courts also in India cannot exercise any such power as provided under Article 142. Article 142 of the Constitution grants Hon'ble Supreme Court

[7] (2025) 2 SCC 587

the exclusive power to pass necessary orders for doing complete justice in any cause or matter pending before it. This power is supplemental in nature and intended to fill gaps in the law. This means the Apex Court can take a wide range of action to ensure that justice is served including dissolving a marriage on the ground of its 'irretrievable' breakdown', while no such power is available to the family courts.

12. The petitioners in the present case have not approached the court u/s 11 of Hindu Marriage Act, under which the family court is empowered to grant a decree of nullity.

13. The law of Estoppel would also be relevant in the present context which is a legal principle that prevents a person from denying or asserting something that is contrary to what they have previously stated or agreed to, when such statement or agreement has been relied upon by another party.

14. Once a party has represented certain facts on the basis of which they have received some favorable order / document, that person is later on prevented from denying the fact which they previously represented as true (though it might be inconvenient / uncomfortable to them). This law basically prevents inconsistent behaviour and promotes fairness and justice and upholds the integrity of legal proceedings.

15. Section 115 of the Evidence Act is as under:

> *'When one person has, by his declaration, act of omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he Nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing'.*
>
> **Illustration: -**
>
> *A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.*
>
> *The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.*

Estoppel may be described as a rule by which a person will not be allowed to plead the contrary of a fact or state of things which he formerly asserted by words or conduct. In plain words, a person shall not be allowed to say one thing at one time and the opposite of it at another time. The Estoppel extends not only to a man's own declarations and acts hut also to those of all persons through whom he claims. SIR EDWARD COKE defined Estoppel thus: An Estoppel is where ***'a man's own act*** **or** ***acceptance***

stopeth or closeth up his mouth to allege or plead the truth'. It means that a man is estopped from denying or withdrawing his previous assertion or from going back upon his own act, even if it be to tell the truth. The principle is that it would promote fraud and litigation if a man is allowed to speak against his own act or representation on the faith of which another person was induced to do something. Thus, estoppel has been stated to be a rule of evidence which in certain circumstances precludes a person from establishing real facts and compels him to abide by a conventional set of facts ***(Meherally Vs. Sukerwhanoobai, 7 Bom LR 602).*** The principle of estoppel is based on the maxim ***'allegans contractor non est audiendus'*** i.e. a party is not to be heard to allege the contrary. A person cannot approbate and reprobate. The object of estoppel is to prevent fraud and to secure justice by promotion of honesty and good faith. The rule of estoppel is considered valuable for elicitation of truth and promotion of justice by precluding a party from proving a state of things inconsistent with his former representation or action.

16. Since on the representation of the parties the Marriage Officer issued a marriage certificate, the concerned SDM was summoned. On behalf of the Marriage Office, District ***Shahdara***, DC Office, Nand Nagri, New Delhi Smt. Sarita appeared who stated that the parties applied for online registration of their marriage and uploaded documents i.e. age proofs, affidavit, address proof of both the parties, Arya Samaj Certificate, Marriage photograph and the documents pertaining to two witnesses. They produced all the original documents along with marriage certificate dated 30.01.2024 issued by Arya Samaj Mandir, Vivah Bandhan Trust and Marriage Photograph and after satisfaction of the competent authority marriage certificate was issued on 02.02.2024. **In the affidavit submitted by both the parties before the Registration Authority, para 5 specifically states that the parties got married on 30.01.2024 at Arya Samaj Mandir, Vivah Bandhan Trust, Regd. At D-178, School Block, Nathu Colony, Shahdara, Delhi-93 according to Hindu rites and ceremonies.**

17. Now the issue before the Court is, can the parties be allowed to take U turn and say that the ***marriage*** was not performed in accordance with Hindu rites and ceremonies as Saptapadi was not performed. During the course of arguments the court raised its concern that if the parties are allowed to go volte-face and claim that there was no valid marriage despite furnishing of marriage certificates by the concerned authorities, would it not open up the pandora box and impinge upon the sanctity of marriage where marriages are proved through such documents in the court of law. Marriage Certificate was issued by Arya Samaj Mandir, Vivah Bandhan Trust Regd certifying that the marriage between the

petitioners have been solemnized according to Hindu Vedic rites and customs and on the strength of the certificate, affidavits, marriage photograph furnished before the SDM, certificate of marriage was issued. The registration of marriage and the certificate of marriage issued by Mandir and the District Magistrate (Marriage Officer) is treated as conclusive proof of marriage in the thousands of litigations pending before the Family Court. If the relief sought in the present case is granted, it will have ramifications and cascading effect on other cases pending as the parties to a marriage instead of approaching the court for divorce, may challenge the validity of marriage and seek such declaration from the Family Court. Since the court was of the opinion that it might open up flood gates for such issues. Ld. Counsel for the petitioners relied upon a pronouncement made by Hon'ble High Court of Madras in **K. Gnaniah Nadar Vs. Power Grid Corporation of India, Rep by its Chief Manager and Others 2023 SCC Online Mad 1212: (2023) 2 Writ LR 47.** However, the facts are not applicable to the present case as it was a petition under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus regarding payment of compensation in respect of a property.

18. Section 7 of Hindu Marriage Act deals with ceremonies of Hindu Marriage. On reading of Section 7 it becomes clear that a marriage may be solemnized in accordance with customary rites and ceremonies of either party thereto. And where such rites and ceremonies include the saptapadi, the marriage becomes complete and binding when the seventh step is taken. The Act thus gives saptapadi a statutory recognition, but it does not make saptapadi an obligatory one. Section 7 in fact does not prescribe any special ceremony to be gone through for a Hindu marriage. A Hindu marriage is both a sacrament and a contract. The sacrament consists of (1) invocation of sacred fire and (2) saptapadi wherein the bridegroom and the bride jointly take seven steps before the sacred fire. There can be a marriage acceptable in law according to the customs which do not insist on performance of such rites. Ceremony means, according to the Act, customary rites and ceremonies of either party to the marriage.

19. When a marriage is performed and marriage certificate is issued to certify such marriage having been performed as per rites and customs, the court will presume that it was a valid marriage and that necessary ceremonies were performed. A person who challenges the marriage has to rebut both these presumptions. **If the parties to a marriage seek to get a marriage declared as null and void by a decree of nullity they are to approach the court u/s 11 of the Hindu Marriage Act while a declaration may be sought by a third party to the marriage.**

20. Section 5 lays down certain conditions for a valid marriage. Section 11 clearly lays down that any marriage shall he null and void and may be declared so by a court, on presentation of a petition by either party against the other, if any one of three conditions specified in Section 5 Clause (i), (iv) & (v) is violated the court can pass a decree of nullity of marriage declaring it to be void. These three conditions are as under:

(1) Neither party should have a spouse living at the time of marriage [Section 5 (i)] a bigamous marriage is prohibited under Section 5.

(2) The parties should not be within the degrees of prohibited relationship, unless their custom so permits [Section 5 (iv)] a marriage hit by the rule of prohibited degrees are penal under Section 17 & 18.

(3) The parties should not be sapindas of each other, unless their custom permits such a marriage [Section 5 (v)] marriages between sapindas void under Section 11.

21. Void marriages are wholly non existing marriage without any effect. It is therefore, not obligatory for a spouse to obtain a decree of nullity, however, when such a decree for nullity is sought by the parties to the marriage, such a decree can be issued by a Family Court only under the provisions of Hindu Marriage Act. The only provision which exists in the Hindu Marriage Act for declaring a marriage null and void is Section 11 of Hindu Marriage Act and the parties are required to lead evidence to prove that the marriage was void ab initio. There is no evidence on record to prove that saptapadi was not performed. No oral or documentary evidence brought on record to prove the same. Except for the averment made in the petition, there is nothing to prove that saptapadi was not performed and this averment also is in conflict with the affidavits furnished before Marriage Registrar. Except for the self serving or bald averment there is nothing more on record and is further impinged by the law of estoppel. The only requirement of the ceremony called the Saptapadi gamana is that seven steps should be taken round the nuptial fire and that it is on taking of the seven steps that the bride and the bridegroom becomes united in the marriage. In view of the affidavits given by the parties, certificates issued by the mandir and the competent office of Registrar there is presumption of valid marriage and since the petitioners are challenging the validity of marriage they are to rebut that presumption. The petitioners have failed to establish any circumstances by which such presumption was rebutted.

22. **Accordingly, the joint petition** for a decree of declaration that the marriage dated 30.01.2024 is not valid in the eyes of law and consequently granting a decree of declaration that the certificate dated 02.02.2024 issued from the Office of District

> Magistrate, Shahdara District, Delhi and certificate dated *30.01*.2024 issued by Arya Samaj Mandir, Vivah Bandhan Trust (Regd.) Delhi are null and void, **is dismissed.** However, the parties shall be at liberty to approach the appropriate forum or file appropriate petition for such declaration or nullity of marriage."

13. On a careful consideration of the Impugned Judgment, we find ourselves in emphatic agreement with the conclusions arrived at by the learned Family Court. For the sake of clarity, we propose to examine the present Appeal under various heads, as set out hereinafter.

A. General Scheme of HMA with respect to Void Marriages, Annulment on grounds of Voidability and Decree of Divorces:

14. It is evident to us that the HMA contains no provision that enables a party to seek a declaration that a marriage is invalid *ab initio* on the ground that it was never solemnised in accordance with Section 7 of the HMA. All provisions in the HMA that deal with declarations, whether relating to a marriage being void, voidable, or grounds for divorce, are applicable only to those marriages that have been solemnised.

15. Reference may be made to Sections 11, 12 and 13 of the HMA, all of which commence with the prefatory phrase: "*Any marriage solemnised…*". Section 13(2) of the HMA also applies to marriages that are solemnised. Section 13A deals with "judicial separation" and relates to such proceedings that are instituted for the purposes of dissolution and for which, as has already been explained hereinbefore, the prefatory requirement of the existence of a "marriage solemnised" is essential. Section 13B too, is only in respect of marriages that have been solemnised.

16. This leads us to the inescapable conclusion that the statutory scheme of the HMA only provides reliefs in the form of a declaration of a marriage as being "Void", decree of annulment as being voidable on the grounds mentioned in Section 12 or a decree of dissolution on the grounds set out in Section 13(1) or (2) or a decree by mutual consent under Section 13B of the HMA as also for a decree of "judicial separation" only if there is an existing solemnised marriage.

17. In this view of the matter, since the HMA does not provide for a remedy where the case set up is that no valid marriage ever came into existence owing to non-fulfilment of Section 7 requirements, the parties herein cannot invoke the jurisdiction of courts under the HMA to seek such relief. To our mind, such a Petition was not even maintainable before the learned Family Court.

B. Non-Solemnisation of Marriage and Section 11:

18. A careful reading of Section 11 of the HMA makes it abundantly clear that the relief sought in the present case does not fall within its ambit. Section 11 empowers a court to grant a decree of nullity only where a marriage, though duly solemnised, is in contravention of the essential conditions prescribed under Clauses (i), (iv), or (v) of Section 5 of the HMA. It follows, therefore, that two indispensable requirements must coexist for the application of Section 11; *first*, there must be a solemnised marriage; and *second*, such a marriage must offend against the statutory prohibitions relating to subsistence of a spouse *[Section 5(i)]*, prohibited degrees of relationship *[Section 5(iv)]*, or *sapinda* relationships *[Section 5(v)]*, as specified in Section 5 and no other.

19. We also take note of the language of Section 5, which clearly

sets out the conditions required for a valid Hindu marriage. Relevant portion of Section 5 of the HMA is reproduced below for reference:

> "**5. Conditions for a Hindu marriage-** a marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely; -
> (i) neither party has a spouse living at the time of the marriage;
> ****
> (iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;
> (v) the parties are not *sapindas* of each other, unless the custom or usage governing each of them permits of a marriage between the two;"

20. A conjoint reading of Sections 5 and 11 of the HMA makes it abundantly clear that the remedy of nullity under Section 11 is strictly confined to situations where a marriage, though duly solemnised in accordance with law, contravenes the specific prohibitions contained in the above clauses of Section 5. Section 11 thus presupposes a solemnised marriage. The learned Family Court rightly concluded that the Petition before was not a valid one. We have already held that such a petition was, in fact, not maintainable.

C. Estoppel:

21. We further note that the learned Family Court correctly held that even assuming the petition to be maintainable, the same was barred by the principle of estoppel. For clarity, Section 121 of the **Bharatiya Sakshya Adhiniyam, 2023**[8] (*which corresponds to Section 115 of the Indian Evidence Act, 1872*) is reproduced below:

> "**121. Estoppel:**
> When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his

[8] BSA

> representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing."

22. A plain reading of Section 121 of the BSA makes it abundantly clear that the principle underlying the provision is that of estoppel, which embodies fairness, consistency, and good faith. Where a party, either through words, conduct, or even by deliberate silence and omission, has intentionally created or encouraged a belief in the mind of another regarding a particular state of affairs, and the other party, acting upon such belief, has altered their position or taken steps in reliance thereon, the law precludes the former from subsequently denying or disputing that state of affairs.

23. This rule is rooted in equity and aims to prevent a party from approbating and reprobating to the detriment of another. It ensures that no party derives an unfair advantage by shifting its stand or contradicting its own prior representation, thereby upholding the sanctity of judicial proceedings between the same parties.

24. In the present case, both parties had themselves submitted sworn affidavits before the competent authority, making unequivocal admissions that their marriage had been *solemnised* in accordance with Hindu rites and ceremonies. In addition, they produced supporting documents, including proof of age, affidavits, address proof, marriage photographs, and witness documents. On the basis of these averments and materials, a marriage certificate was duly issued in their favour by the competent authority.

25. Consequently, any prayer now seeking a declaration that such a marriage, as well as the marriage certificates obtained on the basis of the documents, voluntarily executed, is squarely barred by the doctrine

of estoppel embodied in Section 121 of the BSA.

D. Judgment in *Dolly Rani* (*supra*) and its Applicability:

26. We now proceed to examine the reliance placed upon the judgment of the Hon'ble Supreme Court in ***Dolly Rani*** (*supra*) and its applicability to the facts and circumstances of the present case.

27. At the outset, we observe that the case set up by the parties herein has been tailor-made to fit the facts of the present dispute to the decision in ***Dolly Rani*** (*supra*).

28. It is a well-settled principle of law that courts are ordinarily reluctant to entertain petitions where ingenious or clever drafting is employed as a device to circumvent statutory provisions or to secure a relief that is otherwise not available in law.

29. Judicial process cannot be permitted to be misused by artful pleadings which, in form, appear to be legally sustainable but, in substance, are designed to achieve an outcome that the law expressly prohibits or does not recognise. The courts have consistently held that justice must be founded on substance rather than form, and that litigants cannot, by disguising the true nature of their claim through skilful language or stratagem, invite the court to grant what the statute itself denies. To allow such petitions would not only undermine the legislative intent but also erode the sanctity of judicial proceedings by rewarding ingenuity over legality.

30. A close reading of ***Dolly Rani*** (*supra*) makes it abundantly clear that the judgment was rendered in the peculiar factual setting of that particular case and cannot be mechanically extended to cover matters resting on entirely different foundations. Specifically, in that case, the parties were before the Court in proceedings under Section 13(1)(ia)

of the HMA, seeking divorce. During the pendency of a transfer petition before the Hon'ble Supreme Court, the parties mutually decided to prefer a joint application under Article 142 of the **Constitution of India**[9], praying for a declaration that their marriage was invalid.

31. It is significant to emphasize that Article 142 of the Constitution is a unique and exceptional provision which vests in the Hon'ble Supreme Court extraordinary, plenary, and unfettered powers to pass such decrees or orders as may be necessary to do complete justice between the parties before it. This jurisdiction is *sui generis*, conferred solely upon the Apex Court, and is incapable of being replicated, assumed, or exercised by any other court.

32. The framers of the Constitution, in their wisdom, entrusted this extraordinary power only to the Hon'ble Supreme Court, recognizing its pivotal role as the final arbiter of law and justice in the country. The exercise of this jurisdiction is not circumscribed by statutory limitations, but it is guided by considerations of equity, fairness, and the imperative to prevent injustice. Consequently, no subordinate court can arrogate to itself such extraordinary constitutional authority.

33. Viewed thus, we find that reliance upon ***Dolly Rani*** (*supra*) by the parties is wholly misconceived. The petition before the learned Family Court, as well as the present appeal, is fundamentally misplaced inasmuch as it seeks to draw sustenance from a judgment delivered in entirely distinct circumstances and under constitutional powers that are not available to courts subordinate to the Hon'ble Supreme Court.

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[9] Constitution

34. We are of the firm belief that the Judgment in ***Dolly Rani*** *(supra)* is being sought to be misused and converted into a regular means of separation of parties by bypassing the statutory mandate, and it is the bounden duty of Courts to disabuse such notions or resulting attempts.

35. We next turn to the attempt on the part of the Appellants to persistently contend that the Judgment in ***Dolly Rani*** *(supra)* would apply *omni vi* to the facts in hand. We have already distinguished the facts of the case in hand from the facts in ***Dolly Rani*** *(supra)*.

36. We consider it necessary to expound a little on the scope of a Judgment of the Hon'ble Supreme Court in exercise of its plenary powers under Article 142 to disabuse the notion that the same can be treated as *stare decisis*, vertically.

37. Unlike Article 141, which lays down the law of the land, decisions of the Hon'ble Supreme Court, in exercise of their power under Article 142, are intended to do complete justice as between the parties, meaning thereby that the same is in exercise of the equitable jurisdiction exercisable under Article 142. This distinction is clearly brought out in the feted judgment of the Hon'ble Supreme Court in ***State of Punjab Vs. Rafiq Masih***[10], which reads as under:

> "12. Article 142 of the Constitution of India is supplementary in nature and cannot supplant the substantive provisions, though they are not limited by the substantive provisions in the statute. It is a power that gives preference to equity over law. It is a justice-oriented approach as against the strict rigours of the law. The directions issued by the Court can normally be categorised into one, in the nature of moulding of relief and the other, as the declaration of law. "Declaration of law" as contemplated in Article 141 of the Constitution: is the speech express or necessarily implied by the highest court of the land. This Court in **Indian**

[10] (2014) 8 SCC 883

> **Bank v. ABS Marine Products (P) Ltd. [(2006) 5 SCC 72], Ram Pravesh Singh v. State of Bihar [(2006) 8 SCC 381 : 2006 SCC (L&S) 1986]** and in **State of U.P. v. Neeraj Awasthi [(2006) 1 SCC 667 : 2006 SCC (L&S) 190]** has expounded the principle and extolled the power of Article 142 of the Constitution of India to new heights by laying down that the directions issued under Article 142 do not constitute a binding precedent unlike Article 141 of the Constitution of India. They are direction issued to do proper justice and exercise of such power, cannot be considered as law laid down by the Supreme Court under Article 141 of the Constitution of India. The Court has compartmentalised and differentiated the relief in the operative portion of the judgment by exercise of powers under Article 142 of the Constitution as against the law declared. The directions of the Court under Article 142 of the Constitution, while moulding the relief, that relax the application of law or exempt the case in hand from the rigour of the law in view of the peculiar facts and circumstances do not comprise the ratio decidendi and therefore lose its basic premise of making it a binding precedent. This Court on the qui vive has expanded the horizons of Article 142 of the Constitution by keeping it outside the purview of Article 141 of the Constitution and by declaring it a direction of the Court that changes its complexion with the peculiarity in the facts and circumstances of the case."

38. Numerous other judgments of the Hon'ble Supreme Court have repeated this principle and consequently, the attempt of the Appellants to canvass the Judgment of the Hon'ble Supreme Court as a binding precedent cannot be accepted. ***Dolly Rani*** (*supra)* was the result of a joint application filed, seeking the exercise of the Hon'ble Supreme Court's powers under Article 142, which finally came to be granted at Para 40 of the Judgment leading to the quashing of the other proceedings pending before the parties therein, as well as the grant of reliefs in exact terms as those sought in the underlying Matrimonial Petition.

39. Neither can the facts of the present case be transposed into Judgment of ***Dolly Rani*** *(supra)*, nor *vice versa*, nor can the Judgment of ***Dolly Rani*** *(supra)* be held to be conclusively binding on this

Court.

E. Arguments of the Ld. Amicus Curiae:

40. The learned ***Amicus Curiae***[11] has, to a large extent, supported the arguments made by the parties herein and advanced arguments similar to those made by the learned counsel for the Appellant.

41. He has, in particular, however, disagreed with the Impugned Judgment of the learned Family Court insofar as it held that the petition before the Court was not filed under Section 11 of the HMA and which was the only provision under which the reliefs sought could have been pursued.

42. The learned Amicus has argued that Section 11 could be invoked for the reliefs sought in this case, particularly on the ground that a joint petition is permissible if Section 11 is read in conjunction with Section 23(1)(c) of the HMA. We do not believe that, for the present purposes, we need to examine this aspect.

43. As discussed in the preceding paragraphs, no petition under any provision of the HMA is maintainable solely on the ground that the requirements of Section 7 have not been fulfilled, jointly or otherwise.

44. Our view finds further reinforcement in the deeply rooted understanding that marriage, in Indian society, is not merely a civil contract between two individuals but is regarded as a sacred and solemn sacrament, carrying profound social, cultural, and moral significance. The institution of marriage is accorded a place of sanctity, binding not only the parties but also their families and the larger community.

45. In this backdrop, provisions of the HMA, which permit the

[11] Amicus

separation of a married couple through the various means as envisaged by the statute, *inter alia*, annulment of marriage through a decree of nullity, divorce etc., must necessarily be construed in a strict and limited manner. Such relief can be invoked only on the specific grounds expressly provided by the statute, to allow broader or liberal interpretations would risk trivialising the sanctity of marriage and undermining the legislative intent of preserving its stability, dignity, and permanence except in clearly defined circumstances.

F. Lack of Evidence:

46. We next address the issue of the apparent lack of evidence in support of the contentions advanced by the Appellant. The Appellants have not examined the *Pandit* who allegedly performed the marriage nor the individual who signed the marriage certificate issued by the Arya Samaj Mandir. It is well settled that a party approaching the Court must place before it all relevant material necessary to substantiate their case.

47. Mere assertions by the parties are insufficient in matters of this nature. As previously observed, a Hindu marriage is considered a sacrament and not merely an informal understanding between two individuals. It cannot be treated lightly or with disregard, as appears to be the case in the present matter.

48. We further note that there is a clear admission by the parties that the marriage was performed largely for convenience and that all rituals and ceremonies were allegedly discarded solely to obtain a marriage certificate, thereby creating a façade of being married.

49. The Appellant's claim that the *Saptapadi* ceremony was not performed imposes a significant evidentiary burden upon them. It is

well established that the presumption of a valid marriage is not weakened merely due to the absence of direct evidence proving that the *Saptapadi* was performed. In fact, even minimal evidence indicating that the parties went through a form of marriage reinforces the presumption of validity. We are guided by the decision of this Court in ***Vinod Kumar v. Ms. Geeta***[12], 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…….
>
> **11.** It is admitted that the parties have been residing together, although the date of separation is disputed, and a child was born to the parties. When a child is born to such a couple, there arises a strong presumption that the marriage is legitimate. The presumption of a valid marriage is not diminished simply because there is no direct or positive proof of the ceremony of *Saptapadi* having taken place. On the contrary, if there is even some evidence showing that the parties went through a form of marriage, the presumption becomes stronger.
>
> ****
>
> **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."

50. We next turn to the various averments in respect of alleged cancellations etc., or that there were differences of opinion as between the parties that led to the decision to cancel the wedding. Not a shred of evidence has been brought on record by the Appellants to support

[12] 2025:DHC:7620-DB

any of these contentions. In the absence of any evidence to this effect, we find it difficult to accept that there are any *bonafides* in the averments made in the Petition as well as the Appeal.

G. Ingenuity Calculated to Circumvent Statute:

51. We also concur with the observations of the learned Family Court that if petitions or appeals of this nature were to be entertained, they would create a dangerous precedent by offering a novel and impermissible means of circumventing the statutory framework governing matrimonial reliefs under the HMA. Such an approach would effectively bypass the carefully crafted scheme of the HMA relating to divorce, declarations of marriages as void or voidable, and judicial separation.

52. We are firmly of the view that the provisions of the HMA, particularly those concerning declarations of nullity, voidable marriages, divorce, and judicial separation, must be strictly construed and applied. The petition and now appeal before us, which seeks to carve out a remedy wholly outside the statutory framework, though ingenious, is not only legally untenable but also depreciable.

H. International Effect:

53. We also take judicial notice of the fact that in most countries, a government-issued marriage certificate is considered a valid document evidencing the existence of a marriage. The certificate usually forms a vital part of any VISA application for the purpose of immigration, and while applying for Spouse VISAs.

54. The manner in which the Appellants herein have chosen to go about the entire business of conducting, admittedly, a "sham

marriage" purely for the purpose of "convenience" and to ensure the procurement of an early VISA has been disparaged in ***Dolly Rani*** *(supra)* as well.

55. To permit marriages to be disavowed in the manner as sought to be done in the present would be to lend this Court's imprimatur to an act, which from the very inception appears to be tainted by *malafide*.

56. Not only would, in our opinion, permitting the present Appeal or upholding even the maintainability of the underlying Petition be an affront to our Statutory scheme, but it could well become the chosen route of such of the ingenious, who seek documentation in support of their nefarious intent, and thereafter, the interference of the Judicial system to validate this *malafide*.

57. We believe that quite apart from the fact that the same would bring into disrepute the system of Marriage registration and the consequential disbelief in jurisdictions worldwide to India's manner of grant of registrations and Governmental documentation, Courts would also then have to necessarily become parties to such an abuse of the system, owing to the necessary corollary of the need for an invalidation of the certificates themselves, lending themselves vulnerable to the taint of disrepute.

CONCLUSION:

58. In light of the facts, circumstances, and settled principles of law, we are of the considered opinion that the present appeal is devoid of merit and is liable to be dismissed.

59. We are further constrained to observe that both, the petition before the learned Family Court and the present appeal before us, are the product of sheer ingenuity, a complete misadventure, and a

misguided attempt to turn the settled law on its head. Courts cannot lend approval to such devices that undermine the sanctity of the statutory scheme and established judicial principles.

60. Accordingly, we find no infirmity or error in the Impugned Judgment 04.10.2024 passed by the learned Family Court. For the reasons already discussed, the present appeal is dismissed in its entirety.

61. The present appeal, along with pending application(s), if any, stands disposed of in the aforesaid terms.

62. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 09, 2025/v/sm/va