

Topic assigned

**Disposal of Property
U/Sec. 27 Hindu
Marriage Act, 1955**

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Section 27 Hindu Marriage Act, 1955

- **Definition-**

This Section comprises of three things-

- In any proceedings.
- **Any property presented** at or about the time of marriage
- Such property may belong jointly to both the husband and wife

1. In any Proceeding

- **Any proceeding means-**

Proceedings initiated under sections 9 to 13 of Hindu Marriage Act, 1955.

Vijay Kumar V. Kamla, AIR 1988 JK 39

(expressed Contrary view)

- It was held that Section 27 does not cover proceedings for restitution of conjugal rights,
- as it is a proceeding to reconcile the matter and to save the breaking the marriage.

2- Any property presented at or about the time of marriage

- At or about-
 - It indicate **property given prior to the marriage** and also include **property given after the marriage.**
 - It involves the concept of 'Stridhana'

- Many ancient law givers have given their version of stridhana.

Manu says-

- What was given before the nuptial fire,
- What was given on the bridal procession,
- What was given in token of love,
- What was received from a brother, a mother, or a father

are considered as the six fold separate property of a married woman.

KATYAYANA as cited in *Mitakshara* says-

- What was given (to a woman)
- by the father, the mother, the husband, or brother, or
- Received by her before the nuptial fire

3- Joint Property

- **Balkrishna Ram Chandra Kadam v. Sangeeta Balkrishna Kadam, (1997) 7 SCC 500: AIR 1997 SC 3562**
- In this case Honble Supreme Court explained the concept of section 27 of the Act.
- **Firstly**, “at or about the time of marriage” –
 - not the only property which is given to the wife at the time of marriage.
 - It includes the property given to the parties before or after marriage also, so long it is relatable to the marriage.
- **Secondly**, the court can pass a decree about the property that falls under section 27 of the Act, *i.e.* the property which is joint.

Arun Kumar Vs. Smt. Indira

AIR 2005 Allbd. 406

- All properties given in connection with the marriage either at the time of marriage or before the marriage or after the marriage can be dealt with under Section 27 of the Act.

Dr. Suraj Prakash vs. Mohinder Pal Sharma, AIR 1988 Punj 218

- No order under Sec. 27 can be made with respect to the exclusive property of wife, viz. Ornaments, clothes etc.
- Order can be passed only with respect to joint property viz. Furniture, almirah, sewing machine, ceiling fan etc.

Hemant Kumar Agrahari v. Lakshmi Devi (2003) 52 ALR 166 (All)

- Gift given at 'tilak' are also property given at or about the time of marriage and covered under the provisions of S. 27 of the Act.

Urmila Rani Vs. Raj Kishan Gupta 1995 Supp (4) SCC 602

- An application under Section 27 of the Act
- **Even if filed long after two years** after the filing of the divorce petition and when the evidence of parties in the divorce petition was over and the **case was due for final arguments, is maintainable.**

Pratibha Rani vs. Suraj Kumar

AIR 1985 SC 628

Held that-

- The position of Stridhana of a Hindu married woman's property during coverture is absolutely clear and unambiguous.
- She is the absolute owner of such property and can deal with it in any manner she likes.
- Husband and in laws being trustees of such property are bound to return the same if and when demanded by married woman.

1996 AIHC 2693 (Punj)

- Application for disposal of property is not maintainable after decree of divorce i.e. termination of main proceeding.

AIR 1983 J&K 86

- Order under Sec. 27 has to be made in the decree of the main proceeding and not by a proceeding separately

Vishwas Narhari Vs. Varda Vishwas (2009) 4 SCC 229

In the event of any issue raised by the litigating spouses claiming right, title or interest exclusively or jointly over any property, the Family court would decide such issue.

Renu Vs. Rakesh Kannoja

AIR 2013 Utt. 1

Return of Streedhan under Sec. 27-

- Efforts were made by the petitioner to prove that her streedhan was lying with the respondent- husband.
- The list of articles enclosed with the petition were not signed by the respondent- husband or his parents, therefore such list cannot be taken cognizance by the court, as the same has also not been proved.
- Application under Section 27 of the Hindu Marriage Act, 1955, cannot therefore, be allowed.

Thank You