JUDICIAL SEPARATION

· One step before granting a divorce

Meaning: Judicial Separation means suspension of Conjugal Rights for some time i.e., one year. Section 10 of the Hindu Marriage Act deals with judicial separation. This section lays down:

Section 10(1) — 'Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree of Judicial Separation on any of the ground specified in sub-section (1) of Section 13, and in the case of a wife also on any of the grounds specified in sub-section(2) thereof, as grounds on which a petition for divorce might have been presented.

Section 10(2)- 'Where a decree for judicial separation has been passed, it shall no longer be obligatory for the petitioner to cohabit with the respondent, but the court may on the application by petition of either party and on being satisfied of the truth of the statements made in such petition rescind the decree if it considers it just and reasonable to do so.'

- During the period of Judicial Separation, the parties to the marriage have no
 obligation to live together or cohabit with each other. During the course of judicial
 separation either party may be entitled to get maintenance from the other if the
 situation so warrants. But, during this period the husband or the wife would not
 acquire the competence to marry fresh. The right of fresh marriage would be
 available to them only after the dissolution of marriage.
- Section 10 provides that either party to marriage may present a petition praying for a
 decree of judicial separation on any of the grounds specified in sub-section (1) of
 Section 13 and in case of wife also on any of the grounds specified in sub-section(2)
 thereof, as grounds on which a petition for divorce might have been presented.

Under the Marriage Laws(Amendment Act), 1976, the section has been completely overhauled. The grounds of Judicial Separation are virtually the same which have been provided to be grounds of divorce under Section 13(1) and (2) of the Act and accordingly the judicial separation, under the amended Act of 1976, can be obtained under following grounds:

- Before 1976, the grounds available for Judicial Separation were:
 - i) Desertion
 - ii) Cruelty
 - sis) Leprosy
 - iv) Venereal Disease
 - v) Insanity or Unsoundness of Mind
 - vi) Adultery.
- After the Amendment Act of 1976, the ground available for Divorce and Judicial Separation are common as detailed below.

Grounds available for both Husband and Wife:

- Adultery
- ii) Cruelty
- iii) Desertion
- iv) Conversion

Report On Judicial Separation

R Bogdan

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The Law Journal Reports, 1858 The Law Journal Reports Henry D. Barton, 1807 **Report of the Royal** Commission on Divorce and Matrimonial Causes [with Minutes of Evidence, and Appendices to the Minutes of **Evidence and Report**] Great Britain. Royal Commission on Divorce and Matrimonial Causes, 1912 A Digest of the Reported Decisions of the Courts of Common Law, Bankruptcy, Probate, Admiralty, and Divorce John Mews, 1884 The Law Journal Reports ,1940 The Law Times Reports ,1861 Western Weekly Reports, 1916 British Columbia reports ,1911 **The Law Reports** Great Britain. Court of Chancery, 1869 **Reports of Cases Decided in the Court of Probate** M. Swabey, 2023-02-20 Reprint of the original first published in 1871 The publishing house Anatiposi publishes historical books as reprints Due to their age these books may have missing pages or inferior quality Our aim is to preserve these books and make them available to the public so that they do not get lost Reports of Cases Decided in the Court of Probate Great Britain. Court of Probate, Maurice Charles Merttins Swabey, Thomas Hutchinson Tristram, 1860 The Law Reports ,1902 Reports of Cases Decided in the Court of Probate and in the Court for Divorce and Matrimonial Causes ... Great Britain. Court of Probate, 1860 The Saskatchewan Law Reports, 1927 The Law Times Reports of Cases Decided in the House of Lords, the Privy Council, the The Times Law Reports, 1886 Court of Appeal ... [new Series]. ,1861 Gazette Law Reports .1920 Appendices to the Minutes of Evidence and Report Great Britain. Royal Commission on Divorce and Matrimonial Causes, 1912 The Digest of English Case Law Containing the Reported Decisions of the Superior Courts John Mews, 1898 The Indian Law Reports, Allahabad Series ,1911

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