REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

RAMESHCHANDRA RAMPRATAPJI DAGA V. RAMESHWARI DAGA (2005)

BENCH: Mr. Justice D.M. Dharmadhikari & Mr. Justice H.K. Sema **DECIDED:** December 13, 2004

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Court declaring a marriage null and void under Section 11 HMA has full statutory jurisdiction to grant permanent alimony to the wife under Section 25.

1. Factual Matrix & Background:

In a matrimonial petition, the court passed a decree declaring the second marriage between the parties null and void under Section 11 read with Section 5(i) HMA. The husband contended that since the marriage was declared null from inception, the woman was not a 'wife' and could not claim permanent alimony under Section 25 HMA.

2. Substantive Legal Questions Framed:

Whether a woman whose marriage has been declared null and void under Section 11 of the Hindu Marriage Act is entitled to claim permanent alimony and maintenance under Section 25.

3. Analysis & Ratio Decidendi:

The Supreme Court held that Section 25 of the HMA applies whenever 'any decree' is passed under the Act, which expressly includes a decree of nullity under Section 11. The legislative intent is to protect women from economic devastation even when their marriage is declared void. The court has full jurisdiction to award permanent alimony while declaring a marriage null and void.

4. Principles Enunciated:

- 1. Section 25 HMA applies to decrees of nullity passed under Section 11.
- 2. A woman whose marriage is declared void is eligible for permanent alimony under Section 25.
- 3. The statutory provision prevents women from being abandoned without economic support.

5. Practical Litigation Implications:

- In defending women against nullity petitions under Section 11 HMA, always file a counter-claim or application under Section 25 HMA for permanent alimony.

.....J.
[SUPREME COURT BENCH]

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