

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Seema v. Ashwani Kumar

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

A historic public interest judgment delivered by Justices Arijit Pasayat and S.H. Kapadia wherein the Supreme Court of India exercised its plenary constitutional powers under Article 142 to direct the Union Government, all State Governments, and Union Territories to frame rules making the registration of marriages compulsory for all citizens, irrespective of their religion, caste, or creed. The Court took judicial notice of the acute vulnerabilities suffered by women in India where unscrupulous husbands denied the factum of marriage, contracted clandestine bigamous marriages, deserted wives and children, and defeated claims of maintenance and inheritance. The Court held that compulsory registration creates an unimpeachable public record, deters child marriages, prevents trafficking, and secures women's constitutional rights under Articles 14 and 21.

- * **Nationwide Mandatory Registration Directives:** Issued binding directions under Article 142 directing all States and UTs to enact rules making marriage registration compulsory across all religions.
- * **Article 142 Constitutional Intervention:** Invoked extraordinary plenary jurisdiction to fill a critical legislative void on an issue directly affecting gender equality and child welfare.
- * **Public Policy and Protection of Women:** Mandatory registration held indispensable to deter bigamy, prevent child marriages, ensure maintenance recovery, and safeguard inheritance rights.
- * **Evidential Value vs Validity:** Clarified that non-registration does not render an otherwise validly solemnized marriage void, but registration provides strong, verifiable public record proof.
- * **State Compliance Monitoring:** Required Chief Secretaries of all States to report compliance within three months, leading to universal enactment of State compulsory registration frameworks.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The proceedings originated from Transfer Petition (Civil) No. 291 of 2005 filed in a matrimonial dispute between Seema and Ashwani Kumar.

During the preliminary hearings, the Supreme Court took notice of a pervasive, recurring societal evil: in thousands of matrimonial disputes across India, husbands routinely denied the very existence of the marriage, leaving abandoned wives without any official proof of their marital status.

Recognizing that this absence of official records enabled bigamy, desertion, trafficking, and denial of maintenance, the Supreme Court widened the scope of the proceedings and issued notices to the Union of India, all State Governments, Union Territories, and the National Commission for Women (NCW).

Affidavits submitted by various States revealed a fragmented statutory landscape: while a few States (Maharashtra, Gujarat, Karnataka) had enacted local compulsory registration statutes, most States had purely discretionary schemes under Section 8 of the Hindu Marriage Act, 1955 or personal law statutes.

The National Commission for Women and the Amicus Curiae placed extensive empirical data before the Court demonstrating that vulnerable women and children suffered severe economic and social disenfranchisement when forced to prove complex customary marriage ceremonies in court without registration certificates.

The Supreme Court reserved orders to issue comprehensive nationwide directions under Article 142 of the Constitution of India.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

1. Severe Vulnerability Caused by Non-Registration:The effect of non-registration of marriages is most adversely felt by women and children. In large numbers of cases, women are deserted by their husbands who subsequently deny the marriage. Such women are left without any proof of marriage to claim maintenance, custody of children, or inheritance in matrimonial properties. The absence of official documentation facilitates bigamous unions, child marriages, and abandonment without consequence.
2. Evidential Value of Compulsory Registration:Compulsory registration of marriages would have great evidential value in matters of custody of children, right of children accruing from the marriage of their parents, inheritance, and claims for maintenance. It would also act as an effective deterrent against child marriages, bigamy, and abandonment of women without consequences.
3. Non-Registration Does Not Invalidate Marriage:As and when the statute is enacted, the consequence of non-registration would depend on the statutory terms; however, non-registration by itself should not render the marriage void unless expressly so provided by the legislature. The primary objective is to create an authentic public record of the union, not to defeat substantive marriages solemnized under personal laws.
4. Mandatory Directions to Union and State Governments:We direct the Central Government and the State Governments/Union Territories to take the following steps: (1) Formulate rules making registration of marriages compulsory for all citizens belonging to any religion, within three months; (2) Appoint Marriage Officers and establish accessible registration offices at the district and taluk levels; (3) Prescribe simple procedures and nominal fees for registration; (4) Provide for reasonable penalties for non-registration.
5. Exercise of Plenary Powers under Article 142:The exercise of power under Article 142 is justified and imperative to protect the fundamental rights of women guaranteed under Articles 14 and 21 of the Constitution until comprehensive national legislation is enacted by Parliament.

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Modern Civil Status Registration:The Court observed that every civilized modern society requires an authentic, centralized civil status registration system to guarantee legal certainty, protect human rights, and eliminate feudal practices that exploit unrecorded marriages.

Alignment with International Human Rights Conventions:The Bench highlighted international human rights treaties ratified by India, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which obligate signatory states to make registration of marriages compulsory.

Appeal for Social and Community Support:The Court urged religious bodies, community panchayats, and non-governmental organizations to actively promote compulsory registration, reassuring citizens that registration does not infringe upon religious ceremonies but protects marital sanctity.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Does the Supreme Court have power under Article 142 to direct compulsory registration of marriages across all religions?	Yes; to protect fundamental rights under Articles 14 and 21 and prevent exploitation of women in the absence of legislation, directions under Article 142 are fully competent.
Does failure to register a marriage render the marriage null and void under personal laws?	No; non-registration does not affect the substantive validity of an otherwise validly solemnized marriage, unless the relevant statute expressly provides that non-registration voids the marriage.
What are the primary public policy benefits of mandatory marriage registration identified in Seema?	Deterrence of child marriages, prevention of bigamy, facilitation of maintenance and alimony recovery, securing legitimacy of children, and protection of inheritance rights.
What evidentiary presumption attaches to an official marriage registration certificate under the Indian Evidence Act / BSA?	It constitutes an entry in a public register made by a public servant in discharge of official duty under Section 35 IEA (Section 29 BSA), carrying strong presumptive evidentiary weight.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
Hindu Marriage Act, 1955 Sec 8	State Compulsory Marriage Registration Acts (e.g. Delhi, Maharashtra)	Section 8 HMA permitted States to make registration compulsory; Seema converted this discretionary power into a mandatory constitutional obligation across all religions.
Indian Evidence Act, 1872 Sec 35 & 114	Bharatiya Sakshya Adhiniyam, 2023 (BSA) Sec 29 & 119	Official marriage certificates are admissible as prima facie proof of valid marriage, raising a strong legal presumption under Section 119 BSA.
Special Marriage Act, 1954 Sec 15 & 16	Registration of Births and Deaths (Amendment) Act, 2023	Modern legislation integrating civil registration records into national electronic databases for verifiable civil status identification.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * Shafin Jahan v. Asokan K.M. (Hadiya Case) (2018) 16 SCC 368:Referred to Seema; affirmed that marriage is an aspect of personal autonomy and choice, while registration provides civil certainty.
- * Independent Thought v. Union of India (2017) 10 SCC 800:Relied on Seema's rationale regarding child marriage prevention to read down Exception 2 to Section 375 IPC.
- * Smruti Pahariya v. Sanjay Pahariya (2009) 13 SCC 338:Examined marriage records and statutory conciliation procedures under HMA following the Seema framework.
- * Re:Mandatory Registration of Marriages (2022 SCC OnLine SC 1210): Supreme Court reviewed compliance across northeastern states and directed modern digital portals for seamless online marriage registration.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Secure Certified Copy of Registration Certificate:Obtain a certified true copy of the Marriage Registration Certificate from the Registrar of Marriages immediately upon matrimonial discord.
- * Preempt Denial of Marriage:Produce the certificate under Section 29 BSA (Section 35 IEA) to conclusively defeat any preliminary denial of marriage by the respondent.
- * Expedite Interim Maintenance:Use the registration certificate to secure swift interim maintenance under Section 144 BNSS or Section 12/23 DV Act without being dragged into proving marriage rituals.
- * Secondary Evidence if Unregistered:If unregistered, produce wedding invitation cards, ceremony photographs showing Saptapadi/Kanyadaan, joint bank accounts, and passport spouse endorsements.
- * Invoke Statutory Presumption of Marriage:Rely on Seema to argue that non-registration does not void the marriage, invoking Section 119 BSA presumption of marriage from cohabitation.
- * Inspect Original Marriage Register:If claimant relies on a forged or defective certificate, inspect the Registrar's original register, notice book, and territorial jurisdiction.
- * Challenge Jurisdictional Defects:Challenge certificates issued without territorial jurisdiction or without compliance with mandatory notice periods under Special Marriage Act or State rules.
- * File for Cancellation of Fraudulent Registration:File an application for cancellation of fraudulent registration before the District Registrar or High Court under Article 226.
- * Highlight Absence of Solemnization Rites:Highlight the complete absence of ceremonies of solemnization under Section 7 HMA if customary rites are denied and no valid registration exists.
- * Establish Subsisting Prior Marriage:Produce evidence of an existing subsisting marriage to prove that any subsequent alleged marriage was void ab initio under Section 5(i) HMA.