

Thursday, June 10, 2010

CABINET APPROVES THE MARRIAGE LAWS (AMENDMENT) BILL, 2010 TO AMEND THE HINDU MARRIAGE ACT

The Union Cabinet has approved the introduction of a Bill, namely, the Marriage Laws (Amendment) Bill, 2010 to further amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954, to provide therein irretrievable break down of marriage as a ground of divorce.

The Bill would provide safeguards to parties to marriage who file petition for grant of divorce by consent from the harassment in court if any of the party does not come to the court or wilfully avoids the court to keep the divorce proceedings inconclusive.

At present, various grounds for dissolution of marriage by a decree of divorce are laid down in section 13 of the Hindu Marriage Act, 1955. The grounds inter alia include adultery, cruelty, desertion, conversion to another religion, unsoundness of mind, virulent and incurable form of leprosy, venereal disease in a communicable form, renouncement of the world and not heard as being alive for a period of seven years or more. Section 27 of the Special Marriage Act, 1954 also lays down similar grounds.

However, section 13-B of the Hindu Marriage Act and Section 28 of the Special Marriage Act provide for divorce by mutual consent as a ground for presenting a petition for dissolution of marriage. The said sections inter alia provide that a petition for dissolution of marriage by mutual consent, if not withdrawn before six months after its presentation or not later than 18 months, then, the court may, on being satisfied after making inquiry, grant decree of divorce by mutual consent. However, it has been observed that the parties who have filed petition for mutual consent suffer in case one of the parties abstains himself or herself from court proceedings and keeps the divorce proceedings inconclusive. This has been causing considerable hardship to the party in dire need of divorce.

Incidentally, it may be pertinent to point out here that such a legal proposition has been recommended by the Law Commission of India in its 217th report on 'Irretrievable Breakdown of Marriage – Another Ground for Divorce'. Further, the Hon'ble Supreme Court, in the case of Ms. Jorden Diengdeh Vs. S.S. Chopra reported in AIR 1985 SC 935 and in the case of Naveen Kohli Vs. Neelu Kohli reported in AIR 2006 SC 1675, has observed and recommended that irretrievable breakdown of marriage should be incorporated as another ground for grant of divorce.