# ROLE OF A DECREE IN VOID MARRIAGES: THROUGH THE LENS OF HINDU MARRIAGE LAW*

**(Detailed Case Commentary on MM. Malhotra v. Union of India[1])**

*-Samhitha Sharath Reddy and P.Vasishtan**

## I FACTS OF THE CASE

1. The Appellant was appointed to the permanent Commission as a Pilot Officer in the Logistics Branch of Indian Air Force on 14.4.1973. Prior to his posting at Nagpur from, 17.11.1990 he was posted at Trivandrum since 28.10.1987. During tenure of his service in the Indian Air Force, the appellant was posted at Leh in Laddakh, Nal in Rajasthan and few other places.

2. The appellant was married to Mrs. Roopa Malhotra as per Hindu rites, in the year of 1973. The Registration for the same was done with the Registrar of Marriage in the year 1974.

3. Things were going amicably till the year of 1992, when Mrs. Roopa Malhotra filed a complaint with the Chief of Air Staff against the mis-deeds of the appellant and prayed for maintenance as well as appropriate action against him.

4. It was the claim of her, that during the time in 1990, when the appellant was in Trivandrum, he had developed illicit relations with one Miss Anna Suja John. When Mrs. Roopa Malhotra opposed to the said relations, she was beaten brutally and tortured mercilessly. The reason for such behaviour was reported to be that of the presence of Miss Anna Suja John.

5. Further, in 1991, it is stated that Miss Anna Susan John came to Nagpur and started staying with the appellant and Mrs. Roopa Malhotra at their residence at Nagpur. Again, there was vehement objection by the complainant for which she was again tortured very badly by the appellant.

6. Unable to bear the torture, she sought an interview with the then Air Marshal I.G. Krishna and narrated her plight to him. However, before she could make an official complaint, the brother of the appellant came for mediation and asked her not to file a complaint as it would spoil the career of the appellant. In return, the brother of the appellant gave his assurance that

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[1] M.M. Malhotra vs Union of India and Ors, 2005 (8) SCC 351 (Supreme Court 2005).

Miss Anna Susan John would no longer live with the appellant and in furtherance of that, the complainant refrained from filing a case initially.

7. However, the situation never improved despite the assurance given by the appellant's brother. The appellant continued to live with Miss Anna Suja John and the complainant grew more aggravated. Further, the complainant noticed that when she had gone to the appellant's house in Kanpur, Miss Anna Suja John along with her child was present and residing there with full knowledge of the appellant and the appellant's brother. So, she now realised that she had been cheated by the brother and the appellant.

8. Also, the appellant in that scenario reportedly had abused the complainant and also used filthy language in front of Miss Anna Suja John towards the complainant.

9. It is noted that the appellant and Miss Anna Suja John were living like husband and wife during their time at Kanpur and in the presence of the complainant; they were cohabiting and leaving the appellant alone in a separate room. It was here that the appellant told the complainant that he was married to Miss Anna Suja John.

10. The same behaviour of the appellant reportedly continued in Nagpur as well. The complainant was unwilling to give up on the marriage and she tried her best to keep their marriage intact. However, the appellant's behaviour worsened.

11. The appellant stopped providing basic amenities to the complainant and also lived away from the complainant in a place away from the allotted residence for an air force officer. This physical and mental torture continued to increase alarmingly and the life of the complainant reportedly became hell and therefore she filed a complaint to the Chief of Air Staff about the aforementioned scenarios.

12. Accordingly, in furtherance of the complaint so submitted by the complainant, a Court of Enquiry was initiated against the appellant by the concerned authority.

13. Based on the enquiry, it was the opinion of the Chief of Air Staff that the trial of the officer by the Court Martial is inexpedient but the retention of the services of the Officer is undesirable. Thereafter, a show-cause notice was issued to the appellant as to why he should not be dismissed or removed from service under Section 19 of the Air Force Act, 1950 read with Rule 16 of the Air Force Rules, 1969.

## II ISSUES

1. Is the present marriage a case of plural marriage?
2. Is the marriage before the decree of annulment being issued, valid?
3. Does the Order issued by the Central Government hold true on the basis of the facts of the instant case?

Since our area of study is restricted only to that of the Hindu Marriage Act, the analysis and the issues dealt with will only be those that are in relation to that of the Hindu Marriage Act. Other issues will merely be mentioned and not dealt with in detail.

## III JUDGEMENT

The Honourable Court, in this Case, has for the most part taken upon itself the role of defending the points as raised by the defendant. Even though there may have been some snags in the way in which the Union had acted, the court found it to be trivial and not so significant as to take away the argument's basis in itself. This particular Judgement is usually considered to be one of the landmark judgments that were given out with matters relating to the case of Hindu Marriages and the concept of Void marriages as under the Section 11 of the Hindu Marriage Act.

The main course of the judgment can be effectively divided into three segments. Of the three segments as presented by the court, we will only be dealing with the first segment in detail and depth as it is the most relevant part of the judgment to the concept of Family Law and the Hindu Marriage Law in itself. The remaining two segments would be touched upon and only the opinion of the court that may be found to be intertwined with the realm of Hindu Marriage Law would be dealt with. This is primarily because the remaining two segments to a large extent only talk about the executive order and the questions thereof regarding such an order as passed which is completely irrelevant to the course of the study in the instant case. So we shall now deal with the judgment itself.

### 1. The Issue with Relation to the Concept of Plural Marriage in the Eyes of The Hindu Marriage Act.

This is the first and probably the most important issue that the court tackles as the way in which the aforementioned issue would be tackled will have an obvious bearing on the decision as a whole in the instant case. The primary issue in the instant case, as established by the petitioner, is that the concept of plural marriage doesn't exist in the case of the marriage between him and Miss Anna Suja John. This particular argument is based on the contention that the earlier marriage between him and the complainant was not valid in the eyes of law and therefore it would indicate that his marriage now would be considered to be only a fresh marriage and not a case of plural marriage as claimed. The crux of the issue was as to whether the void marriage was void ab intio or if it required the order by a court in order for the marriage to be declared as null, void and non-existent.

To this extent, the court went on to give much significance to talk about this particular issue as it had formed the basis of the order and the decision itself. The decision to this issue was three fold.

However, the question remains as to whether the order by a court is required for the marriage to be declared as void under Section 11 of the Hindu Marriage Act. To that extent, the case deals with the point in so much as referring to two other sections of the Hindu Marriage Act, the first of which we will endeavour to discuss in this part. The case is that of Section 12 of the Hindu Marriage Act which speaks about voidable marriages.

The court establishes that, the issue of a voidable marriage is significantly different when compared to that of a void marriage as it has restrictions upon the rights presented to a party in the marriage. Though the voidablity section does not include Section 5(i), it is being used in order to refer to the requisites of an order being passed under this section. It is the opinion of the court that, the

"Cases covered by this section are not void ab initio and unless all the conditions mentioned therein are fulfilled and the aggrieved party exercises the right to avoid it, the same continues to be effective." [2]

However, contrary to this point, marriages under Section 11, as held by the court are marriages that are "void ipso jure, that is, void from the very inception and have to be ignored as not exiting in law at all if and when such a question arises".[3] Therefore what can be culled out from these points is that, void marriages are void ab initio whereas in case of voidable marriages, the marriage remains effective until the time arises when the marriage contravenes the provisions as presented. Keeping that as a valid base, it is the opinion of the court that, such a marriage does not require any kind of formal declaration by the court and that the marriage goes back to such a position

[2] *Supra* note 10
[3] *Supra* note 10

where there was no marriage at all and to that extent, in the instant case, there was no requirement for the appellant to get an order stating that hiss earlier marriage was void and therefore this would add to the point that, the subsequent marriage of the appellant would not be a case of plural marriage at all.

It is therefore the opinion of the court as under this justification that the void marriage does not require an order to be necessarily passed by the court to that extent.

***The Alternative Section argument*** —

In addition to the previous argument, and to an extent to support the stance of the previous argument, the court specifies an alternative section in the Hindu Marriage Act that also deals with the case of void marriages and requirement of an order, indirectly. Though the primary objective of the section is different, the words as picked up by the court lay emphasis on the stance taken up by the court itself. The aforementioned section is Section 16 of the Hindu Marriage Act which relates to the legitimacy of children of void and voidable marriages. The section inter alia, states that the children borne out of a void marriage would be considered as legitimate,

While in the case of children borne out of voidable marriage, the primary case revolves around the date of passing of the decree by the court. This would mean that, in the case of Void marriages, there is no need for the order or decree to be passed by the court, in order to declare the marriage as void. To that extent, the court takes up the objective of the legislature and says that "legislature has considered it advisable to uphold the legitimacy of the paternity of a child born out of a void marriage; it has not extended a similar protection in respect of the mother of the child. The marriage of the appellant must, therefore, be treated as null and void from its very inception." [4]

This would therefore go on to prove the point of the court yet again that, there is no requirement for the order to be passed for the declaration of the marriage as void and that the marriage in the instant case that had to be nullified would have been null and void from its very inception which in turn would go on to justify the stance of the appellant that his marriage is not the case of a plural marriage.

[4] *Supra* note 10

To support its stance even further the court specifies that case of Smt. Yamunabai Anantrao Adhav v/s Anantrao Shivram Adhav and Anr. On which we can deliberate more in the critical analysis of the judgment itself.

a) ***Morality intertwined with Section 11.***

Even though the court had held that, the case of the appellant was not a case of the plural marriage in the current situation, the court did not however dismiss the order of the union on that basis, because of the fact that, even though the appellant was protected by the Section 11 of the Hindu Marriage Act, his protection effectively ends there. The main case that the court is concerned with here is the conduct of the appellant in the instant case.

Firstly, even if it is held that the appellant was not liable to be held for plural marriage and given that his stand is vindicated then that would now mean that, the appellant was living with the complainant in the same house while being married to Ms. Anna Suja John. This would then show the moral conduct of the appellant in the instant case. The appellant would be seen to be as someone who had kept someone in his house in the subsistence of his marriage with Ms. Anna Suja John. This was something that was pointed out by the learned counsel for the respondents and that which was considered by the court to be "moral misconduct". As a result the court refrained from granting a relief for the appellant.

Secondly, it was quite clear from the facts of the case that the appellant had treated the complainant with cruelty and torture and also deprived her of basic amenities in the extreme case. This was considered by the court to be an act that showcased the appellant's acts of moral turpitude. To that extent, such acts were held by the court to be covered under the broad scope of Section 45 of the Air Force Act that talks about Unbecoming conduct by an officer. This would then mean that, the court holds the appellant liable for his actions and therefore his mere acquittal from the scheme of plural marriage does not invalidate the order of compulsory retirement as given by the Air Force itself. Also, the court makes a reference to Section 46 of the Air Force Act that talks about some forms of disgraceful conduct which includes within itself in clause a that, "(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind" which would therefore go on to prove that, the acts of the appellant as held by the court could also be classified as disgraceful conduct and therefore would not grant relief to the appellant on this ground.

Therefore from the three-fold analysis, the opinion of the court is quite clear regarding certain issues. It is the opinion of the court that, in the instant case, there is an obvious issue of void marriage and that the appellant would not be liable for plural marriage as there was no requirement

whatsoever for the appellant to get a decree passed to prove that the previous marriage was void. A void marriage under Section 11 would mean that the marriage is void ab initio and therefore, there was no need for the decree to be passed to make such a marriage to be declared as void. This was the main opinion of the court as presented by it, in the instant case.

**2. Procedural Aspects**

This particular part of the judgment is totally irrelevant to the context of analysis in the instant case. However, it would be a flaw to leave out such sections of the judgment merely for the purpose of it being out of the scope of the subject under study. To delve deep into the intricacies of this however, would be doing an act of injustice to the broader scope of that subject. To that extent, we are going to aim at understanding just the stance of the court to this regard in as simple as terms that would be deemed as possible.

The Court holds that, the contention of the parties with regards to the procedural defects does not hold true in the instant case as it by itself is fundamentally flawed and does not have a proper standpoint to it. To justify their stance, the court takes up the aid of certain provisions of the Air Force Act where it specifies that departmental proceedings can be chosen over court martial when the matter is deemed fit. Along with that, the court uses the precedent set by the same forum in a case that dealt with a similar provision but under the Army Act. Holding both the cases together, the court consequently held that, similar to the Army Act sections that were held valid, this particular section that the Air Force had employed to use its due proceedings also holds valid. Therefore as conclusion the Court held that the appellant's stand that the departmental proceeding was invalid was something that had to be rejected.

So the case of the flaw in proceedings as set up against the respondents by the appellants was set aside by the court due to the fact that it was fundamentally flawed.

**3. So was the punishment accorded upheld by the Court?**

Yes. Again, this section of the judgment merely touches upon the aspects of the Hindu Marriage Act which we shall be discussing. Other than those said aspects, the other parts of the judgment would focus on the moral turpitude in the acts of the appellant and as to why it would amount to gross indecency and moral misconduct which we would see just for the sake of the judgment being the one under study.

So, to the first aspect it deals with, the court acknowledges the fact that there remains a question as to whether the order passed by the respondent would hold well given the fact that the concept of plural marriage has been significantly struck down. To that extent, it could be implied and derived that the court once again reiterates its stance regarding its position on the void marriages and holds that, the first marriage being void ipso jure, the subsequent marriage of the appellant would not be a case of plural marriage but would only have the status as a fresh marriage would have to that regard.

***Issue 1***: No. It is the opinion of the Honourable court that the subsequent marriage of the appellant with Ms. Anna Suja John is not a case of plural marriage as it was proven beyond doubt that his first marriage was void which would therefore mean that it was void ipso jure thereby making the subsequent marriage a valid marriage.

***Issue 2***: Yes. It was the opinion of the Honourable court that there is no need for a decree to be passed and to be so obtained by the appellant in order for him to be eligible for subsequent marriage. A void marriage under the Section 11 of the Hindu Marriage Act would be void from its inception and therefore it would not be necessary for the court to give such a decree to invalidate the marriage.

***Issue 3***: Yes. Based on the provisions and the case referred to by the Union in the instant case, it was the opinion of the court that the basis of the order was more than just the case of plural marriage and that on grounds of the actions of the appellant that were unbecoming of his position, it was therefore held that the order of compulsory retirement would be considered to be valid in the eyes of law.

These are therefore the broad sections as dealt with by the court. The crux of the judgment was that, the marriage would have to be considered to be valid and there was no need for an order to be passed to that regard.

## IV CRITICAL ANALYSIS

This case holds quite some importance in the context of the void marriages as under the provisions of the Hindu Marriage Act of 1955. It dealt with a key issue with regards to the void marriages and tried to deal with whether the decree was required for void marriage. To that extent, it would be proper to endeavour to analyse the judgment strictly within the scope of it under the Hindu Marriage Act. So, we shall now analyse the judgment purely upon the provisions it has as under

the Hindu Marriage Act and find out as to whether the analysis would produce something fruitful out of doing it.

Similar to a number of Judgements given, this one, when analysed, has its highs and lows. So here is an attempt to critically analyse this Judgement in the instant Case and bring out the highlights found in the same. In furtherance of that, I would divide my analysis into a number of branches based on which my analysis is going to be done.

1. **Statutory Basis and its Correctness to that Regard:**

**Section 11 of the Hindu Marriage Act** goes that,

**S.11. Void marriages.** —

Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto 11 [against the other party], be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses

(i), (iv) and (v) of section 5.

A bare reading of the section would not necessarily throw light on whether there was a requisite for the order to be passed by court to declare a marriage to be void under the Section 11 of the Hindu Marriage Act. However, based on judicial interpretation and intervention, it has been continually held by the courts that there was no requirement of a court order in order to determine whether a marriage is void as under the broad provisions set up by Section 11. It is now imperative to analyse whether the different studies and texts on Section 11 of the Hindu Marriage Act support the same claim and whether the court in the instant case has taken a standing that can be seen as statutorily correct.

Within the context of void marriages as under the Halsbury's Laws of India which is considered to be an authoritative text, it has been stated that , "Where a marriage is void for contravention of any of the conditions, it is void ab initio and void even in the absence of any reference. It is a marriage that will be regarded as not taken place and may be so treated by both the parties to it without any necessity of any decree annulling it."[5], which would further vindicate the fact that there was no requirement of any kind of decree to be passed. Also, included in the same text, "A void marriage is void ab initio and a decree of nullity is not necessary to bring it to an end"[6]

[5] Halsbury, *Halsbury's Laws of India*, Volume 26 P.194 , Lexis Nexis, New Delhi
[6] *Id.* at 197

Again looking at the contents of another authoritative text that would be the Indian Law of Marriage and Divorce , it has been discussed regarding the concept of void marriages that, "Where a marriage is void the courts regard the marriage as never having taken place and no status of matrimony as ever having been conferred."[7] This was something that was reiterated in the case of R v/s Algar.[8]

Again, when seen it was continually reiterated that the void marriage is non-existent in the eye of law. A declaration to that effect would therefore not be mandatory. However, when we look at the text provided by the book of Mayne's Treatise on Hindu Law and Usage, the provisions of the Section 11 has been further analysed with a deeper context. It has been specified in the text, inter alia, that "…Though section 11 of the Hindu Marriage Act, 1955 gives an option to either of the parties to a void marriage to seek a declaration of invalidity and/or nullity of such marriage, the exercise of such option cannot be understood to be in all situations voluntarily. Situations may arise when recourse to a court for a declaration regarding nullity of a marriage claimed by one of the spouses to be a void marriage, will have to be insisted upon in departure to the normal rule…As such until the invalidation of the marriage between the parties is made by a competent court…"[9] It could therefore be implied from the text that, in certain cases like in cases of dispute it would be mandatory to approach the court and get a decree of nullity even in the case of void marriages covered under the ambit of Section 11 of the Hindu Marriage Act. However, such discretion would only be in select cases and whether it must be necessitated to all cases would be discussed in another part of the analysis. This stance of the text however would put forward something that was not specified in the instant case as well in other texts.

To that extent, when we compare the statutory provisions for the Section 11 of the Hindu Marriage Act and the relevant case laws that produce binding judgments on it, it is therefore proper to conclude that for a void marriage, there is no necessity of a decree to be passed in order for the person to hold it as void. The void marriage under Section 11 would be a marriage void ipso jure and therefore, consequently, a further marriage of the appellant in the instant case would not be a case of plural marriage as it would then have no proper basis.

Therefore, the court's view in the instant case would also be seen as holding true as it specifies very clearly, that the appellant has not committed an act of plural marriage as it is a given that, his

[7] Kumud Desai, *Indian Law of Marriage and Divorce*, 147 ( 9th Edition,2014), Lexis Nexis, New Delhi
[8] R v/s Algar , 1953 2 all ER 1381 at 1383
[9] Mayne, *Mayne's Treatise on Hindu Law and usage*, 248 (17th Edition, 2014) Bharat Law House, New Delhi

earlier marriage was a void marriage. To this extent, on a purely statutory basis, the judgment holds good and proper in the instant case.

## 2. Originality of the Judgment:

This would be a key area of analysis because; this particular case has been regarded as one of the significant cases in the concept of void marriages as under the Section 11 of the Hindu Marriage Act. The fact that it was a significant case and an equally significant ruling it is to be seen and analysed with respect to the amount of originality in the judgment. By originality we only mean to see whether the judgment was the first of its kind or whether it was a derivative judgment to that regard. So, let's analyse this aspect of the judgment.

The prominent area of discussion in the instant case is regarding whether there was a need for decree to be passed. To that extent, the court goes on to point out various sections of the Hindu Marriage Act and also speak upon it for about two pages of the judgment. However, in the end of such a discussion, the court provides a case law, Smt. Yamunabai Anantrao Adhav v/s Anantrao Shivram Adhav and Anr,[10] which when analysed, gives us the broad view as to whether the ruling was derived.

The Case specified by the court is a judgment passed by the same court, the Supreme Court, by a two-judge bench in the year 1988. This judgment deals with this particular topic as to whether the decree was required in case of a void marriage at all. To that extent, it was the opinion of the court in that case that, "The marriages covered by s. 11 are void-ipso- jure, that is, void from the very inception, and have to be ignored as not existing in law at all if and when such a question arises. Although the section permits a formal declaration to be made on the presentation of a petition, it is not essential to obtain in advance such a formal declaration from a court in a proceeding specifically commenced for the purpose."[11] Therefore, the court in the instant case has derived its judgment mainly from the case of Smt. Yamunabai.

However, the problem here is that, the very fact that the honourable court in the instant case derived the spirit from the earlier judgment is completely alright but the court has proceeded further and lifted the entire segment, verbatim from the previous judgment, without laying emphasis on its own stance or by using its own words.

[10] Smt. Yamunabai Anantrao Adhav v/s Anantrao Shivram Adhav and Anr , 1988 AIR 644
[11] *Id.*

(Emphasis to be laid on Para 3 of that judgment). Everything included in the instant case with regards to the case of Void marriage has been lifted line by line from the precedent judgment. Such a way of ruling is bad and shows the lack of effort of the court to that extent. Why a lack of effort, we would see subsequently. Therefore, the quotient of originality is severely reduced because of the process of shop-lifting the points and also restricts the significance of the judgment only to the part where the court held that a plural marriage would not be existent if a party to a void marriage essentially remarries.

So, now we move on to why we say that there has been a lack of effort. The precedent judgment by a two-judge bench was ruled in 1988. As is evident from the facts of the case, the fact that there was no decree passed, lead to a lot of chaos and confusion and the complainant stood to lose a lot out of the case. This was all because of the fact that the times have changed since the precedent case, and the world has turned into a more and more complicated place to live in. Like the facts of the instant case where the complainant ended up suffering because no decree was required, throws light on the necessity of making it mandatory for the decree to be asked for and obtained even in the case of void marriages. The court could have proceeded such that it could have made such a process as necessary and made the justice deliverance better. However, the lack of effort of the court towards effecting a change, led to a lazy and lethargic judgment where the points have been taken completely from the precedent judgment. This would act as a deterrent to the concept of void marriages itself and it results in injustice being done to specific parties in the case.

Considering all these points on analysis, it could be reasonably held that, based on the originality of the judgment, the significance of the instant case is only to the extent of plural marriage being struck down as a whole and the other parts attached to it have been lifted verbatim from the precedent without paying heed to the needs of the hour. Lack of effort can be said to be quite evident.

### 3. <u>What more could the court have done in the instant case what did the court fail to do in the instant case? :</u>

Given that the court did a considerably good job in the way in which it dealt with the instant case, there were some things that could have been set right by the court in the instant case which was grossly missed out on. As the highest court in the country it must have added a little bit more to the instant case and based on the facts of the case, the court should have been able to make some

additional provisions within its judgment. We shall see a two-fold approach towards the possible additions that would have enhanced the judgment further.

Firstly, the issue as to whether there was a need for a decree to be passed for the case of void marriages under the ambit of section 11 of the Hindu Marriage Act. The court held in accordance with a precedent case that there was no requirement for a decree to be passed. But there is something that the court is blatantly missing out on. In the instant case, the complainant was married to the appellant. But their marriage was void under Section 5 of the Act. However, before the decree was passed, since there was confusion, the husband continually lived with her and Ms. Anna Suja John at the same time. Even though their marriage was void, due to the ambiguity of whether a decree was needed or not, and the husband feeling that there was no need for decree kept the complainant in the same house and lived with her even while he was co-habiting with Ms. Anna Suja John. In this case, clearly, the complainant has suffered and has been subject to psychological damage purely because of the fact that, the decree was not required and husband still kept her at home. Such would be the ambiguity and confusion in a lot of cases that would relate to void marriages. If there was a prerequisite set that, even if a marriage is to be void, a decree of annulment is required, then it would make the case all the more easier and nobody will be the loser or be damaged in the case. This is where the court missed out. It missed out on the deliverance of the greater justice and equitable justice as well. Had it laid down a precedent that the decree of annulment is required, it would have made the case all the more easier and there was no need for anybody to suffer? Given that the court in the instant case may have been trying to save the workload of the court, the justice would always take preference over something as trivial as the workload. So, the court clearly missed out on setting a justified precedent.

Secondly, with regards to the order of the respondents in the instant case, their order was based to a large extent on the concept of plural marriage by the appellant. This order however was upheld by the court in the instant case despite the fact that the plural marriage was set aside. Even though the court was justified in its stance because of the conduct of the appellant, it could have still issued directions to the respondents to be careful about accusing an officer of a crime without proper analysis. In the instant case, it was quite clear that there was no plural marriage, but the respondents failed to acknowledge the facts and blamed the appellant for the crime. A simple line or two from the court would have made the judgment all the more satisfactory. However, the setting aside of the case of the appellant was done amicably well by the court in the instant case.

These are a few things that the court could have done better in the instant case. Though they did lack a bit, the court set up some valid points and some points of significance too. To summarise, the court's decision was significant with respect to the Hindu Marriage Act because:

1. It lays down that there was no decree required for the marriage to be held void under Section `11 of the Hindu Marriage Act. The marriages covered under it are void ipso jure.
2. It lay down that, the subsequent marriage of a person who was a part of a void marriage would not be counted as plural marriage. Also, the subsequent marriage without decree for void marriage being obtained would also not be regarded as a case of plural marriage.

## V CONCLUSION

The case of M.M.Malhotra v. Union of India and Ors, is significant because of the precedent it laid down. It laid down that there was no need for decree in case of void marriages and also that subsequent marriage would not be necessarily plural marriage. Along with this, the significance of the judgment is that, it made sure that, using the provisions of the Act and the loopholes in the law; somebody cannot escape the law itself. Like in the instant case, by claiming relief from plural marriage, the appellant tried to escape liability. However, the court intervened and stamped its authority by saying, despite not being a plural marriage the conduct of the appellant of living with the complainant in spite of the void nature and also the treatment meted out by him towards the complainant would therefore make the order of compulsory retirement valid. This shows the power of the judicial intervention in the instant case. However, on analysis, the case, like any other case for that matter, had its obvious short comings and flaws, and things that could have made it considerably better. Despite all that, the case still holds good as a strong and valid precedent and will be seen as one of the landmark cases for the concept of void marriages as under Section 11 of the Hindu Marriage Act.