Legal Challenges to Live in Relationship in India and Aboard

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***Abstract*—The Live-in- Relationship is relationship in which two opposite sex persons (Male & Female) are live like husband and wife without having completion of due formalities of marriage. This is the new concept of living like husband and wife in modern society. The time has passed away when the tie of husband wife was considered very pious and secret obligation not only in Hindu religion but almost all religions has established its rigid process, neither husband nor wife where at liberty to be tied and be escape from this liability at their own will, but both were under strict obligation to undergo the religious ceremonies or legal formalities before establishing relation as husband and wife.**

The live in relationship is not the creation of any statutory law or Act but this type of affairs has been legalized through verdict of courts. As society is going to be modernized and using new technology, concurrently his mind set also deviated from old tradition and customs. Similarly, in globalized world personal relation of human being are not confined to the particular country but they have been influenced with culture of other country.

The live in Relationship is the by-product of changing global scenario. The live in relation has not been universally recognized therefore its status depends on state to state and country to country. This variation causes various hurdles to the couples of live in relationship particularly when the relation is breakup or dissolved, that time various legal issues are come before the court to dispose such dispute arising out of dissolution of such relation.

The main object of this research paper to find out and suggest the solutions to dispose the issues arise after breakup of live in relationship.

***Index Terms*—Status, Legal rights, Inheritance, Succession, Disposition, Ceremonies, Legitimacy, Devolution, Uniform.**

I. INTRODUCTION

This research paper aimed to find out the solution of legal issues arised due to non-availability of any uniform law which may answer all critical questions which are generally faced by couple of live in relationship.

Research Methodology-To write this research paper doctrinal research methodology has been applied to find out the answer of research problem.

II. LITERATURE REVIEW

To conclude the research paper author have gone through various court verdict pertaining to guidelines for live in Relationship, Constitutional provisions, particularly article 21 and 14,15 of the constitutional law has been taken in to consideration, Major property and Succession law has been reviewed by the author.

III. HISTORICAL BACKGROUND OF LIVE IN RELATIONSHIP IN INDIA & ABROAD

The Live in relationship was not absolutely and universally recognized in India but was allowed partially in form of Gandharva Vivah in Hindu Community.

इच्छयाऽन्योन्यसंयोगः कन्यायाश्च वरस्य च ।गान्धर्वः स तु विज्ञेयः मैथुन्यः कामसम्भवः ॥

जब कन्या और वर दोनों एक-दूसरे के साथ विवाह की इच्छा रखते हों, तब परस्पर प्रेम एवं सहमति से किया गया विवाह गान्धर्व विवाह कहलाता है। यह संबंध प्रेम पर आधारित माना गया है।[1]

In Holy Granth, Gita defined and described Dharma Karma, Yoga Moksha but nowhere live in relationship is clearly described[2]
In Hindu Community there were four types of marriage recognized in Vedic period viz-a-viz

Brahma, Gandharva Ashur, and Sudra[3]
The Brahma form of marriage father of bridge makes gift of his daughter to bridegroom and in such marriage father of bridge plays active role to decide the marriage. A pious fire is burnt to make home whereas in Gandharva form of marriage father does not play any role, The bridegroom affairs to bridge for marriage. the bridge consents and both male (bridegroom &bridge) and female started living together as husband and wife without undergoing any rituals ceremonies. This form Gandharva is similar form to live in relationship.
In ancient India King Dushyant and Shakuntala lived in relationship. In Mahabharata period Arjun and Subhadra, Urvashi and Maharishi Pururavas [4]
The Mahabharata period mentioned Arjun and Chitaganda story of live in relationship.
In modern India various states recognized live in relationship. It is prevailed in Gujarat in form of Matrikarar. In Kerela Nair community recognized it as Sambansham

[1] Manu Smiriti Chapter 03 Shloka
[2] Chapter 2,3,4,18, of Gita
[3] Manu Smiriti Chapter 3,& 21
[4] Ramdhari singh Dinkar Urvasi

In many tribal communities of Madhya Pradesh particularly in Jhabua. The Chhattisgarh, Baster District could be the example of live in relationship in tribal community.
In codified law of India Neither in Hindu Marriage Act nor Muslim Personal law recognized live in relationship without completion of formalities.
In Hindu community seven steps[5] The Nikah in Muslim Law is essential before conferring status of Husband and Wife.

In England-
In England there is no any specific provisional in any law which may confer automatically legal rights to each other (Husband and Wife) by virtue of couple of live in relationship. Although it is myth of common law marriage.

In America
In America too there is no any specific federal law which may confer all rights of Husband and wife to those who are living in relationship without having formalities of marriage. The concepts of live in relationship are not automatically entitled to enjoy property, succession, inheritance rights of husband and wife. However, couples of such relationship get contracted in form of contractual relation and enjoy rights.

IV. IN INDIA LIVE IN RELATIONSHIP IS RECOGNIZED BY JUDICIARY

In India there is no specific enacted law to regulate the live-in relationship but judiciary on account of judicial activism, has legalized such relations in spite of that there is difference still among High Court of India in this regard. However, the Hon'ble Supreme Court of India has adopted uniform attitude to recognised it.
According to the Hon'ble Courts ruling in D. Veluswami vs. D Patchaimal [6]. A relationship that meets the requirement including being of legal age for marriage bring eligible to enter in to marriage choosing to live together voluntarily and having lived together for significant period of time. The act gives women who live in relationship the ability to request maintenance. Despite the fact that marriage was legally recognized.

In Indira Sarma vs. V.K. Sarma[7]
Hon'ble Court has considered the live in relationship as marriage and laid down some guidelines to regulate it.
Under Domestic violence Act 2005 the female partner has right to get maintenance under section 20. The said Act which says While disposing of an application under subsection (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and

[5] Hindu Marriage Act 1955 Sec. 7
[6] AIR 2011 SC 479
[7] AIR 2014 SC 309

losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include

In famous case Chanmuniya vs. Virendra Kumar[8]
In this case definition of wife under section 125 of cr. p..c... has been expended to include people who live together in a long-term relationship that shows marriage

Privy Council in the case of A. Dinohany vs. W.L. Balahmy[9]
Has held that where a man and woman are proved to have lived together as husband and wife than kaw will presume they are husband and wife unless and until contrary is proved resulting, they are valid husband and wife.

In Abhijit Bikasseth vs. State of Maharashtra & others.[10]
Horn able supreme court stated that it is not strictly mandatory in order to get maintenance that wife should establish marriage. If a woman is living together with man as wife, She is entitled for maintenance.

In Payal Katara vs. Superintendent, Nari Niketan & Others
The live in relationship is not illegal. The adult man and woman can live together
Lata Singh vs. State of U.P.[11]
It is fundamental right of citizen to marry with a person of their choice.
Legitimacy of Children born from couple of live in relationship.

Honourable supreme court of India heard a very important issues, whether child born with parents who were living as husband and wife, without having prescribed ceremonies or formalities of marriage will be legitimate or illegitimate.

The land mark Judgement of S.P.S Bala Subramaniyam vs. Suruttayam
Has held that if women and man are living together as husband and wife or cohabiting some years without marriage there will be presumption under section 114 of Indian Evidence Act 1872, that they live as husband and wife and child born to them is legitimate.

Challenges to Couples of Live in relationship
The live in Relationship is legally accepted by Indian Judiciary in various verdict but still it is controversial relation has not been accepted universally and similar like marriage solemnized

[8] AIR 2010 SCW 6497
[9] AIR 1927 PC 185
[10] AIR 2009 NOC 808 (BOM)
[11] AIR 2006 SC 2522

ritually and systematically. In many societies in India the couples of such relation been subjected to cruelty either by their families or from society. Even man examples in India could be observed of honour killing or Khap Panchayat. Similarly, still this type of relation is considered immoral relation and couples of such relations face challenge of social boycott.

Right of Succession & Inheritance

In India there is no law which could ascertain clearly the Succession and inheritance rights to couples of live in relationship. Similarly, if a man and woman live in relationship who belonged to different religion in such situation it is also challenge to them that by which their property rights will be ascertained.

The parties of live in relationship do not get automatically succession right and inheritance rights in any law therefore it is practically very difficult to them availing their rights. There is no other way to them except approaching court for interpretation.

The problem is not only in India of lack of codified and uniform law regulating to live in relationship but it is also prevailed in America,U.K., and other developed Countries.

V. CONCLUSION

Live in Relationship is presumed marriage in which law considers them husband and wife. The rights of partners in live in relationship have not been recognized by any statutory section or article. The judicial approach to the rights and rituals to be conducted as well as social recognition or support of such partnership, remains a long way off in the Indian context. However, it is not new concept of marriage but t was in practice exceptionally during Vedic period in India by way of Gandharva Vivah or Matrikarar. In present scenario where human being are living in global concept than it has been need of society to recognize it.

VI. SUGGESTIONS

The Live in relationship has come in to practice it can't be denied by the society at global level. It is slowly accepting by modern society also but to smooth surviving of such relationship there is need of uniform codified law to define it. There should be enactment to penalize those who create obstruction in such living of men and woman. Therefore, I Suggest following measures for live in relationship

(1) Uniform enacted law is required to regulate and define its validity.
(2) The rights of couples of such relation be clearly mentioned in constitution through amendments
(3) The societies which boycott such relations should be identified and punished
(4) There is need of special court, special police to protect the partners of live in relation
(5) The special commission is needed to be established for recommendations in due time in order to better protection to the couples of live in relationship.

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