

BADRI PRASAD

v.

DY. DIRECTOR OF CONSOLIDATION AND ORS.

August 1st, 1978

[V. R. KRISHNA IYER, D. A. DESAI AND O. CHINNAPPA REDDY, JJ.]

*Presumption in favour of valid marriage, law regarding—Law leans in favour of legitimacy—Proof by eye-witness evidence after half a century not permissible.*

Dismissing the special leave petition, the Court

HELD: If man and woman who live as husband and wife in society are compelled to prove, after half-a-century of wedlock by eye-witness evidence that they were validly married fifty years earlier, few will succeed. A strong presumption arises in favour of wed-lock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of its legal origin. Law leans in favour of legitimacy and frowns upon bastardy. [1 F-H]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) Nos. 1731 and 927 of 1978.

From the Judgment and Order dated 3-11-76 of the Allahabad High Court (Lucknow Bench) in W.P. 116 of 1971 and from the Judgment and Order dated 5-8-77 of the Allahabad High Court (Lucknow Bench) in Revision Application No. 29/77 respectively.

*R. K. Garg, Madan Mohan and V. J. Francis* for the Petitioner.

The Order of the Court was delivered by

KRISHNA IYER, J.—For around 50 years, a man and a woman, as the facts in this case unfold, lived as husband and wife. An adventurist challenge to the factum of marriage between the two, by the petitioner in this special leave petition, has been negatived by the High Court. A strong presumption arises in favour of wed-lock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin. Law leans in favour of legitimacy and frowns upon bastardy. In this view, the contention of Shri Garg, for the petitioner, that long after the alleged marriage, evidence has not been produced to sustain its ceremonial process by examining the priest or other witnesses, deserves no consideration. If man and woman who live as husband and wife in society are compelled to prove, half a century later, by eye-witness evidence that they were validly married, few will succeed. The contention deserves to be negatived and we do so without hesitation. The special leave petitions are dismissed.

S.R.

*Petitions dismissed.*