

**A** V. K. GUPTA

v.

NIRMALA GUPTA

September 4, 1979

**B** [V. R. KRISHNA IYER AND P. N. SHINGHAL, JJ.]

*Hindu Marriage Act 1958—S. 13(1)(b)—Dissolution of marriage—Reconciliation of a ruptured marriage—Judge aided by counsel to strain to the utmost—Judicial monitoring a salutary prophylactic.*

**C** The husband (petitioner) sought a decree for divorce of his wife (respondent) under Sec. 13(1)(b) of the Hindu Marriage Act.. The single Judge and the Division Bench of the High Court did not grant dissolution of the marriage.

In the Special Leave Petition to this Court,

**D** HELD : 1. The benign perspective which the Court must bring to bear upon a matrimonial cause is the resolution of the conflict between the parties and eventual restoration of the conjugal home. The first essay of the judge aided by counsel is that of reconciliation of the ruptured marriage. [507C]

**E** 2. The sanctity of marriage is the foundation of civilisation and therefore Court and counsel owe a duty to society to strain to the utmost to repair the snapped relations between the parties. The task becomes more insistent when an innocent off-spring struggles in between the disputed parents. Judicial monitoring is a salutary prophylactic. [507D, 508D]

**F** In the instant case the minor frictions which got distorted into disruption being really the wear and tear of wedded fabric and there being a child whose future is to be largely moulded by the sweetness and survival of the wedlock, the Court impressed upon counsel and the parties for resolution of the conflict and restoration of the conjugal home. They responded, put in their statements and the Court directed the husband and wife (petitioner and respondent) to live together in terms of their statements and hopefully, never to separate until death do them part. The Court further granted three months time to know whether the marriage is back on its wheels to run smoothly. [507G-508C]

**G** CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) No. 3661/78.

From the Judgment and Order dated 9-5-1978 of the Delhi High Court in L.P.A. No. 41/78.

**H** A. K. Gupta for the Petitioner.

N. D. Garg and T. L. Garg for the Respondent.

The Order of the Court was delivered by

KRISHNA IYER, J. Upon hearing counsel, the Court passed the following order :

This matrimonial litigation, where a husband (the petitioner) unsuccessfully tried to get a decree for divorce of his wife (the respondent) under Section 13(1)(b) of the Hindu Marriage Act, has landed in this Court as a petition for special leave to appeal. Customary accusations on both sides were made in the pleadings and evidence, but the High Court (both the single judge and the division bench) did not grant dissolution of marriage. When we heard counsel on both sides on a preliminary basis we impressed upon them the benign perspective which the Court must bring to bear upon a matrimonial cause. It is fundamental that reconciliation of a ruptured marriage is the first essay of the judge, aided by counsel in this noble adventure. The sanctity of marriage is, in essence, the foundation of civilisation and, therefore, Court and counsel owe a duty to society to strain to the utmost to repair the snapped relations between the parties. This task becomes more insistent when an innocent off-spring of the wedding struggles in between the disputed parents. In the present case, there is a child, quite young, the marriage itself being young.

We have had the advantage of responsive counsel on both sides who shared the spirit of our suggestion, worked on the minds of their clients and healed a wounded situation into a healthy rapprochement. What is equally noteworthy is the circumstance that the parties themselves reacted sensitively and constructively. Naturally, there was initial resistance, mistrust, apprehension and, therefore, a string of conditions in arriving at a consensus between the parties. At the end of this conciliatory journey, it was possible to reach a happy destination resulting in the resolution of the conflict between the parties and eventual restoration of the conjugal home.

Today, counsel on both sides put in statements which we are recording in the proceedings. In substance, both husband and wife are basically agreed upon living together with the ardour and lover of partners in life. The minor frictions which got distorted into disruption was really the wear and tear of wedded fabric. We are able to discern in the two statements a sincere wish to come together and enjoy the conjugal bliss which is their right. We further notice a concern on both sides for the little, lovely child whose future is largely moulded by the sweetness and survival of the wedlock.

At the end of brief submissions on both sides, the respondent (wife) agreed to go to her matrimonial home and live with her

**A** husband (the petitioner) right away. On our gentle persuasion, they moved from the Court to live together in the husband's home—the husband assuring the Court that he will live with and love his wife and the wife, in turn, agreeing to live in the family of the husband as a good daughter-in-law would do in a Hindu family. We are glad that the story has ended happily.

**B**

We direct the husband and wife (petitioner and respondent) to live together in terms of their statements and, hopefully, never to separate until death do them part. As a preliminary experiment we have directed that the Court will wait for three months to know whether the marriage is back on its wheels to run smoothly. We have impressed on the spouses that an ideal marriage is one where—

**C**

“each sucked into each,  
on the new stream rolls,  
whatever rocks obstruct”.

**D** The special leave petition will stand adjourned to 25th January 1980 and counsel on both sides will report on Republic Day eve about the fortunes of the wedlock which by joint endeavour is apparently restored. Judicial monitoring is a salutary prophylactic.

N.V.K.