

# Significance of Order passed U/S 10 of Hindu Marriage Act, 1955

---

**PRESENTED BY : MR. SUDHIR TOMAR,  
JUDGE,  
FAMILY COURT II,  
RUDRAPUR, UDHAM SINGH NAGAR.**

## **Introduction**

The Hindu Marriage Act, 1955 (“HMA”) was made to codify and amend the laws of marriage among Hindus. The motive of the Act was to provide uniformity of the laws among the Hindus regarding marriage and other subsequent laws. Coming to Section 10 of the Hindu Marriage Act, talks about judicial separation among the partners and about the alternate reliefs available to either of them.

## **Section 10 of Hindu Marriage Act, 1955**

Section 10(1) of HMA explains that if a marriage is solemnized under Hindu laws and if the party to marriage wants to seek a judicial separation they can do so by filing a petition of the same in the court. The party can present the application of separation by mentioning the grounds which are herein mentioned under Section 13(1) of the HMA and the wife can further also take support of the grounds of separation from Section 13(2) which we are going to study ahead in this topic.

Section 10(2) of HMA additionally mentions that if a decree under Section 10(1) is passed, it is no longer obligatory for the parties to reside together and the court by the application of petition by either of the parties and being satisfied by the application their decree may be rescind.

## Significance of Order U/S 10 H.M. Act.

- The primary benefit of judicial separation is that it allows the spouses or civil partners to have their **own lives and separate possessions without interference** from the other party.
  - Judicial Separation is a medium under the law to give some **time for self-analysis** to both the parties of a disturbed married life. Law gives a chance to both the husband and wife **to rethink about the extension of their relationship** while at the same time guiding them to live separately. By doing this, the law allows them the **free space and independence to think about** their future path and it is the last option available to both the spouses for the legal breakup of the marriage.
- 

- 
- Section 10 of the Hindu Marriage Act, 1955 provides the Judicial Separation for both the spouse, those who are married under the Hindu Marriage Act, 1955. They can claim the relief of Judicial Separation by filing a petition. Once the order is passed, **they are not bound to have cohabitation.**
  - A judicial separation is a legal decree passed by a court to order a husband and wife to live separately or to end their conjugal relations **without actually dissolving their marriage.**

➤ In case of judicial separation, the mutual rights and obligations of husband and wife are suspended only. Divorce gives the right to the parties to remarry. And Judicial Separation **does not give the right to the parties to remarry because the marital tie continues.**

➤ The provision of judicial separation in Hindu Marriage Act legally allows them to stay apart from each other for reasons as provided under the Act. Although they can stay separate, they **still remain a husband and wife in the eyes of law.** Hence, the husband is still **bound to pay maintenance** for his wife.

## Conclusion

After analyzing the whole concept of judicial separation we can infer that it gives the **opportunity to the parties** to give their marriage a second chance and helps them to contemplate their status of the relationship. I think the gap of one year is a suitable time period to make the couple realize their need for reconciliation.

The cessation of mutual rights does not signify an overall end of the marriage. The couple is still lawfully married during the course of judicial separation hence **not ending their major rights of inheritance, maintenance etc.** Furthermore, maintenance can be awarded to the party who is unable to sustain and is not able to fulfill their basic needs. Judicial separation can be seen as an imperative approach by the courts to avoid marriages ending up in divorce.

**Thank**

**you...**

