

The Divorce Act, 1869

(4 of 1869)

Last Updated 23rd February, 2019 [026]

[26th February, 1869];

An Act to amend the law relating to Divorce and Matrimonial Causes [* * *]

Preamble. - Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows:

LEGISLATIVE HISTORY ▼

- Court-fees Act, 1870 (7 of 1870)
- Repealing Act, 1873 (12 of 1873)
- Indian Divorce (Amendment) Act, 1912 (10 of 1912)
- Amended by Act 06 of 1909
- Amended by Act 18 of 1919
- Amended by Act 11 of 1923
- Amended by Act 32 of 1925
- Indian Divorce (Amendment) Act, 1926 (25 of 1926)
- Amended by Act 34 of 1926
- Amended by Act 15 of 1927
- Amended by Act 08 of 1935
- Indian Divorce (Second Amendment) Act, 1927 (30 of 1937)
- Government of India (Adaptation of Indian Laws) Order, 1937
- Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948
- Amended by Act 40 of 1949
- Adaptation of Laws Order, 1950
- Part B States (Laws) Act, 1951 (3 of 1951)
- Amended by Act 72 of 1952
- Adaptation of Laws (No. 2) Order, 1956
- Himachal Pradesh (Adaptation of Laws on State and Concurrent Subjects) Order, 1968
- Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.
- Himachal Pradesh (Adaptation of Laws on State and

Concurrent Subjects) Order, 1973

□ Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974

□ Marriage Laws (Amendment) Act, 2001 (49 of 2001)

□ Indian Divorce (Amendment) Act, 2001 (51 of 2001)

□ Personal Laws (Amendment) Act, 2019 (Act No. 6 of 2019)

CHAPTER I

Preliminary

1. Short title Commencement of Act. - This Act may be called The [* *
*] Divorce Act, and shall come into operation on the first day of April, 1869.

Object & Reasons ▼

Statement of Objects and Reasons.-The object of this Bill is to place the Matrimonial Law administered by the High Courts, in the exercise of their original jurisdiction, on the same footing as the Matrimonial Law administered by the Court for Divorce and Matrimonial Causes in England.

The 9th Section of the Act of Parliament for establishing High Courts of Judicature in India, (24 and 25 Vic. Ch. 104) provides that the High Courts shall exercise such Matrimonial Jurisdiction as Her Majesty by Letters Patent shall grant and direct. Under the authority thus conferred by Parliament, the 35th Section of the Letters Patent, constituting the High Courts of Judicature, provides as follows:-

"And we do further ordain that the said High Court of Judicature at Fort William in Bengal shall have jurisdiction in matters Matrimonial between our subjects professing the Christian religion, and that such jurisdiction shall extend to the local limits within which the Supreme Court now has Ecclesiastical Jurisdiction. Provided always that nothing herein contained shall be held to interfere with the exercise of any Jurisdiction in matters matrimonial by any Court not established by Royal Charter within the said Presidency lawfully possessed thereof."

In the Despatch of the Secretary of State transmitting the Letters Patent (Letter from Secretary of State,

Judicial No. 24, dated 14-5-1862), the 33rd and 34th paragraphs are to the following effect:-

33. "Her Majesty's Government are desirous of placing the Christian subjects of the Crown within the Presidency in the same position under the High Court, as to matters matrimonial in general as they now are under the Supreme Court, and this they believe to be effected by Clause 35 of the Charter. But they consider expedient that the High Court should possess, in addition, the powers of decreeing divorce, which the Supreme Court does not possess, in other words, that the High Court should have the same jurisdiction as the Court for Divorce and Matrimonial Causes in England, established in virtue of the Act 20 and 21 Vic. C. 85, and in regard to which further provisions were made by 22 and 23 Vic. C. 61, and 23 and 24 Vic. C. 144. The Act of Parliament for establishing the High Court, however, does not purport to give to the Crown clearly could not so import, such for instance as those which prescribe the period of remarriage, and those which exempt from punishment clergymen refusing to remarry adulterers. All these are, in truth, matters for Indian legislation, and I request that you will immediately take the subject into your consideration and introduce into your Council a Bill for conferring upon the High Court the jurisdiction and powers of the Divorce Court in England, one of the provisions of which should be to give an appeal to the Privy Council in those cases in which the Divorce Court Act gives an appeal to the House of Lords.

34. The objects of the proviso at the end of Clause 35 is to obviate any doubt that may possibly arise as to whether, by vesting the High Court with the powers of the Court for Divorce and Matrimonial Causes in England, it was intended to take away from the Courts within divisions of the Presidency not established by Royal Charter any jurisdiction which they might have in matters matrimonial, as for instance, in a suit for alimony between Armenians or Native Christians. With any such jurisdiction it is not intended to interfere."

In addition to the Act of Parliament mentioned by the Secretary of State as regulating the jurisdiction of the English Divorce Court the Statutes 25 and 26 Vic. Ch. 81 has been passed in the year just expired (1862).

The object of this Statute is to render perpetual 23 and 24 Vic. Ch. 144 the duration of which had been originally limited to two years.

The draft of a Bill has been prepared to give effect to the Secretary of State instructions, but some variations from the English Statutes in respect of Procedure have been adopted.

With a view to uniformity in practice in the several branches of jurisdiction, the Bill provides that the Procedure of the Code of Civil Procedure shall be followed, instead of the Rules of Her Majesty's Court for Divorce and Matrimonial Causes in England and it omits the provision in 20 and 21 Vic. Ch. 85 respecting the occasional trial of questions of fact by juries.

In respect of fees, it has been considered that the Act 20 of 1862 (lately continued by the Governor-General in Council for another year) renders special legislation unnecessary.

The power of intervening in suits, given by 23 and 24 Vic. Ch. 144, to the Attorney General and the Queen's Proctor is, in this Bill, given to the Advocate General and the Solicitor to Government.

There are also other variations of a minor and verbal character.

The Draft Bill having been submitted to the Judges of the several High Courts, with request that they would favour the Government with their opinions on it communications have been received, from the Judges at Calcutta and Bombay and will be laid before the Council. In these letters there are several important suggestions, and the Honourable the Chief Justice of the High Court at Calcutta has intimated that he considers it doubtful whether decrees by the High Court under the proposed Act, dissolving the marriages of persons who have been married in England would have legal effect there. The question is one of considerable difficulty as well as of great importance, and has been stated to the Secretary of State, with the view of obtaining the opinion of Her Majesty's Law Officers, and, if necessary, some legislative measure to remove all doubts."-Calcutta Gazette, 1863, p. 173.

Amendment Act 49 of 2001-Statement of Objects and Reasons.-The Law Commission of India in its 27th, 54th and 129th Reports and the Committee on

Subordinate Legislation (11th Lok Sabha) had recommended that the tendency to obtain the adjournments on frivolous grounds in the cases pending in Courts should be curbed. The Malimath Committee also recommended that remedial measures should be taken immediately for speedy disposal of the cases pending in Courts.

2. Sections 36 and 41 of the Indian Divorce Act, 1869, sections 39 and 49 of the Parsi Marriage and Divorce Act, 1936, sections 36 and 38 of the Special Marriage Act, 1954 and sections 24 and 26 of the Hindu Marriage Act, 1955 do not contain any time-limit for disposal of applications for alimony pendente lite or the maintenance and education of minor children. More than 670 cases are understood to be pending in various High Courts under section 24 of the Hindu Marriage Act, 1955.

3. As part of the judicial reforms process, it is proposed to make necessary amendments in the enactments mentioned in paragraph 2 with a view to making provisions that an application for alimony pendente lite or the maintenance and education of minor children shall be disposed of within sixty days from the date of service of notice on the respondent.

Amendment Act 51 of 2001-Statement of Objects and Reasons.-The Law Commission of India in its 164th Report on "The Indian Divorce Act (4 of 1869)" presented to the Government in November, 1998, has, inter alia, recommended that Parliament may enact a comprehensive law governing marriage and divorce and other allied aspects of the Christians in India. The Commission, relying on the judgments and observations of certain High Courts, has also urged the Central Government to take immediate measures-

- (i) to amend section 10 of the Indian Divorce Act, 1869 relating to grounds of dissolution of marriages so that the female spouses are not discriminated vis-a-vis male spouses in obtaining a decree of dissolution of marriage;
- (ii) to amend suitably sections 17 and 20 of the Act to do away with the procedural requirement of obtaining confirmation from the High Court in respect of a decree of dissolution of marriage or

decree of nullity of marriage as such a procedure is long-drawn and strenuous.

2. With a view to ascertaining the views of the Christian community on proposal for a unified law on marriage and divorce, the Central Government convened a meeting of leaders of prominent Churches in India and the Members of Parliament belonging to the Christian community on the 28th April, 2000 but there was no consensus for bringing in a comprehensive legislation on Christian marriages and matrimonial causes. However, there is no opposition from any one to amend sections 10, 17 and 20 of the Indian Divorce Act, 1869 suitably to remove the gender inequality as contained in section 10 and to do away with the procedural delays in obtaining divorce due to the provisions contained in sections 17 and 20 of the Act. The Government, therefore, proposes to make suitable changes in the Indian Divorce Act, 1869 for removing hardship to all concerned.

3. The Commission on Review of Administrative Laws which was set up by the Central Government on the 8th May, 1998 has, inter alia, recommended repeal of various enactments including three British Statutes relating to Christian Personal Law still in force. It is proposed to repeal these enactments also as they have become obsolete.

2. Extent of Act. - This Act extends to [the whole of India except the State of Jammu and Kashmir].

Extent of power to grant relief generally. - [Nothing hereinafter contained shall authorise any Court to grant any relief under this Act, except where the petitioner [or respondent] professes the Christian religion,

and to make decrees of dissolution. - or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

or of nullity. - or to make decrees of nullity of marriage except where the marriage has been solemnized in India, and the petitioner is resident in India at the time of presenting the petition,

or to grant any relief under this Act other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition.]

3. Interpretation clause. - In this Act, unless there be something repugnant in the subject or context,

[(1) **High Court.** - High Court means with reference to any area

(a) in a State, the High Court for that State;

[(b) in Delhi, the High Court of Delhi;

[* * *]]

(c) in Manipur and Tripura, the High Court of [Assam;]

(d) in the Andaman and Nicobar islands, the High Court at Calcutta;

(e) in the [Lakshadweep], the High Court of Kerala;

[(ee) in Chandigarh, the High Court of Punjab and Haryana;]

and in the case of any petition under this Act, High Court means the High Court for the area where the husband and wife reside or last resided together;]

(2) **District Judge.** - [District Judge means a Judge of a principal civil Court of original jurisdiction however designated;]

(3) **District Court.** - District Court means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, [or of whose jurisdiction under this Act the marriage was solemnized or], the husband and wife, reside or last resided together;

(4) **Court.** - Court means the High Court or the District Court, as the case may be;

(5) **Minor children.** - minor children means, in the case of sons of native fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of native fathers, girls who have not completed the age of thirteen years; in other cases, it means unmarried children who have not completed the age of eighteen years;

[* * *]

[* * *]

(8) **Marriage with another woman.** - marriage with another woman means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage shall have taken place within [India] or elsewhere;

(9) **Desertion.** - desertion implies an abandonment against the wish of the person charging it; and

(10) **Property.** - property includes, in the case of a wife, any property to which she is entitled for an estate in remainder or reversion or as a trustee, executrix, or administratrix; and, the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II

Jurisdiction

4. Matrimonial jurisdiction of High Courts to be exercised subject to Act Exception. - The jurisdiction now exercised by the High Courts in respect of divorce *a mensa et toro*, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise; except so far as relates to the granting of marriage licenses, which may be granted as if this Act had not been passed.

5. Enforcement of decrees or orders made heretofore by Supreme or High Court. - Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

6. Pending suits. - All suits and proceedings in causes and matters matrimonial, which when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

7. Court to act on principles of English Divorce Court. - [Omitted by the Indian Divorce Amendment Act, 2001 (51 of 2001) *section 4 (w.e.f. 3-10-2001).*]

OLD LAW ▼

8. Extraordinary jurisdiction of High Court. - The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

Power to transfer suits. - The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge.

9. Reference to High Courts. - When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case and refer it, with the Courts own opinion thereon to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference, and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

III

Dissolution of Marriage

[10. Grounds for dissolution of marriage. - (1) Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001, may, on a petition presented to the District Court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent

- (i) has committed adultery; or
- (ii) has ceased to be Christian by conversion to another religion; or
- (iii) has been incurably of unsound mind for a continuous period of not less than two years immediately preceding the presentation of the petition; or

[***]

- (v) has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form; or
- (vi) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive; or
- (vii) has wilfully refused to consummate the marriage and the marriage has not therefore been consummated; or
- (viii) has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree against the respondent; or
- (ix) has deserted the petitioner for at least two years immediately preceding the presentation of the petition; or
- (x) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent.

(2) a wife may also present a petition for the dissolution of her marriage on the ground that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality.]

OLD LAW ▼

[10A. Dissolution of marriage by mutual consent. - (1) Subject to the provisions of this Act and the rules made thereunder, a petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Indian Divorce (Amendment) Act,

2001, on the ground that they have been living separately for a period of two years or more, that they have not been able to live together and they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn by both the parties in the meantime, the Court shall, on being satisfied, after hearing the parties and making such inquiry, as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of decree.]

[11. Adulterer or adulteress to be co-respondent. - On a petition for dissolution of marriage presented by a husband or wife on the ground of adultery, the petitioner shall make the alleged adulterer or adulteress a co-respondent, unless the petitioner is excused by the Court from so doing on any of the following grounds, namely:

- (a) that the wife, being the respondent is leading the life of a prostitute or the husband, being respondent is leading an immoral life and that the petitioner knows of no person with whom the adultery has been committed;
- (b) that the name of the alleged adulterer or adulteress is unknown to the petitioner although the petitioner has made due efforts to discover it;
- (c) that the alleged adulterer or adulteress is dead.]

OLD LAW ▼

12. Court to be satisfied of absence of collusion. - Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also enquire into any counter-charge which may be made against the petitioner.

13. Dismissal of petition. - In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioners case has not been proved, or is not satisfied that the alleged adultery has been committed, or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,
or that the petition is presented or prosecuted in collusion with either of the respondents,
then and in any of the said cases the Court shall dismiss the petition.

[* * *]

OLD LAW ▼

14. Power to Court to pronounce decree for dissolving marriage. - In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage, to be dissolved [* * *]:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

Condonation. - No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal cohabitation has been resumed or continued.

15. Relief in case of opposition on certain grounds. - In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty or desertion, [* * *], or, in case of such a suit instituted by a wife, on the ground of [her adultery, cruelty or desertion], the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to [such adultery, cruelty] or desertion.

16. Decrees for dissolution to be *nisi*. - Every decree for a dissolution of marriage made by a High Court, [* * *] shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court, by general or special order from time to time, directs.

Collusion. - During that period any person shall be at liberty, in such manner as the High Court, by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi* or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

[17. Power of High Court to remove certain suits. - During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the Court shall thereupon, if it thinks fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary, to enable him to make a decree in accordance with the justice of the case.]

OLD LAW ▼

17A. Appointment of officer to exercise duties of Kings Proctor. - [Section 17-A omitted by the Indian Divorce (Amendment) Act, 2001 (51 of 2001), section 13 (w.e.f. 3-10-2001).]

OLD LAW ▼

IV

Nullity Of Marriage

18. Petition for decree of nullity. - Any husband or wife may present a petition to the District [* * *], praying that his or her marriage may be declared null and void.

19. Grounds of decree. - Such decree may be made on any of the following grounds:

- (1) that the respondent was impotent at the time of the marriage and at the time of the institution of the suit;
- (2) that the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;
- (3) that either party was a lunatic or idiot at the time of the marriage;
- (4) that the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the [jurisdiction of the District Court] to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

20. Confirmation of District Judge's decree. [Section 20 omitted by the Indian Divorce (Amendment) Act, 2001 (51 of 2001), section 13 (w.e.f. 3-10-2001)."]]

OLD LAW ▼

21. Children of annulled marriage. - Where a marriage is annulled on the ground that a former husband or wife was living and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

V

Judicial Separation

22. Bar to decree for divorce *a mensa et toro*; but judicial separation obtainable by husband or wife. - No decree shall hereafter be made for a divorce *a mensa et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion [* * *] for two years or upwards, and such decree shall have the effect of a divorce *a mensa et toro* under the existing law, and such other legal effect as hereinafter mentioned.

23. Application for separation made by petition. - Application for judicial separation on any one of the grounds aforesaid, may be made by either husband or wife by petition to the District Court [* * *]; and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

24. Separated wife deemed spinster with respect to after-acquired property. - In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall

be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

25. Separated wife deemed spinster for purposes of contract and suing. - In every case of a judicial separation under this Act, the wife shall, whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use:

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of Decree of Separation

26. Decree of separation obtained during absence of husband or wife may be reversed. - Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations, of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts or acts of the wife incurred, entered into or done between the times of the sentence of separation and of the reversal thereof.

VI

Protection Orders

27. Deserted wife may apply to Court for protection. - Any wife to whom section 4 of the [Indian Succession Act, 1865 (10 of 1865)], does not apply, may, when deserted by her husband, present a petition to the District Court [* * *], at any time after such desertion, for an order to protect any property which she may have acquired, or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

28. Court may grant protection order. - The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

29. Discharge or variation of orders. - The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it thinks fit so to do, may discharge or vary the order accordingly.

30. Liability of husband seizing wifes property after notice of order. - If the husband, or any creditor of, or person claiming under, the husband seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

31. Wifes legal position during continuance of order. - So long as any such order of protection remains in force, the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

VII

Restitution Of Conjugal Rights

32. Petition for restitution of conjugal rights. - When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court [* * *], for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

33. Answer to petition. - Nothing shall be pleaded in answer to a petition for restitution of conjugal rights, which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

VIII

Damages And Costs

34. Husband may claim damages from adulterer. - [Section 34 omitted by the Indian Divorce (Amendment) Act, 2001 (51 of 2001), section 19 (w.e.f. 3-10-2001).]

OLD LAW ▼

35. Power to order adulterer to pay costs. - [Section 35 omitted by the Indian Divorce (Amendment) Act, 2001 (51 of 2001), section 19 (w.e.f. 3-10-2001).]

OLD LAW ▼

IX

Alimony

36. Alimony pendente lite. - In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, [the wife may present a petition for expenses of the proceedings and alimony pending the suit].

Such petition shall be served on the husband; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband [for payment to the wife of the expenses of the proceedings and alimony pending the suit] as it may deem just:

[* * *]

[Provided that the petition for the expenses of the proceedings and alimony pending the suit, shall, as far as possible, be disposed of within sixty days of service of such petition on the husband.]

OLD LAW ▼

37. Power to order permanent alimony. - [Where a decree of dissolution of the marriage or a decree of judicial separation is obtained by the wife, the District Court may order that the husband shall] to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable; and for that purpose may cause a proper instrument to be executed by all necessary parties.

Power to order monthly or weekly payments. - In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable:

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

38. Court may direct payment of alimony to wife or to her trustee. - In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient, so to do.

X

Settlements

39. Power to order settlement of wifes property for benefit of husband and children. - *[Omitted by the Indian Divorce (Amendment) Act, 2001 (51 of 2001), section 23 (w.e.f. 3-10-2001).]*

OLD LAW ▼

40. Inquiry into existence of ante-nuptial or post-nuptial settlements. - [The District Court may, before passing a decree for dissolution of the marriage or a decree of nullity of marriage, inquire into] the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI

Custody Of Children

41. Power to make orders as to custody of children in suit for separation. - In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court:

[Provided that the application with respect to the maintenance and education of the minor children pending the suit, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the respondent.]

42. Power to make such orders after decree. - The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provisions, with respect to the

custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

43. Power to make orders as to custody of children in suits for dissolution or nullity. - [In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in a District Court, the Court may, from time to time before making its decree, make such interim orders as it may deem proper] with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

44. Power to make such orders after decree or confirmation. - [Where a decree of dissolution or nullity of marriage has been passed, the District Court may, upon application] by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

XII

Procedure

45. Code of Civil Procedure to apply. - Subject to the provisions herein contained, all proceedings under this Act between the party and party shall be regulated by the [Code of Civil Procedure, 1908 (5 of 1908)].

46. Forms of petitions and statements. - The forms set forth in the Schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such Schedule.

47. Petition to state absence of collusion. - Every petition under this Act for a decree of dissolution of marriage or of nullity of marriage, or of judicial separation [* * *] shall [* * *] state that there is not any collusion or connivance between the petitioner and the other party to the marriage.

Statements to be verified. - The statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

48. Suits on behalf of lunatics. - When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal

rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.

49. Suits by minors. - Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking [* * *] shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

50. Service of petition. - Every petition under this Act shall be served on the party to be affected thereby, either within or without [India], in such manner as the High Court by general or special order from time to time directs:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

51. Mode of taking evidence. - The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined; and may be cross-examined and re-examined, like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

52. Competence of husband and wife to give evidence as to cruelty or desertion. - On any petition presented [by a husband or a wife, praying that his or her marriage may be dissolved by reason of his wife or her husband, as the case may be, having been guilty of adultery, cruelty or desertion], the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

53. Power to close doors. - The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors.

54. Power to adjourn. - The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

55. Enforcement of, and appeal from, orders and decrees. - All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be [appealed] from, in the like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from, under the laws, rules and orders for the time being in force:

[* * *]

No appeals as to costs. - [Provided] that there shall be no appeal on the subject of costs only.

56. Appeal to [the Supreme Court]. - Any person may appeal to the Supreme Court from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise, and from any decree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court, when the High Court declares that the case is a fit one for appeal to the Supreme Court.

XIII

Re-marriage

57. Liberty to parties to marry again. - Where a decree for dissolution or nullity of marriage has been passed and either the time for appeal has expired without an appeal having been presented to any Court including the Supreme Court or an appeal has been presented but has been dismissed and the decree or dismissal has become final, it shall be lawful for either party to the marriage to marry again.

OLD LAW ▼

58. English clergyman not compelled to solemnize marriages of persons divorced for adultery. - No clergyman in Holy Orders of the [* *] Church of England [* *] shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

59. English Minister refusing to perform ceremony to permit use of his Church. - When any Minister of any Church or Chapel of the said [* *] Church refuses to perform such marriage-service between any person who, but for such refusal would be entitled to have the same service performed in such Church or Chapel, such Minister shall permit any other Minister in Holy Orders of the said Church, entitled to officiate within the diocese in which such Church or Chapel is situate, to perform such marriage-service in such Church or Chapel.

XIV

Miscellaneous

60. Decree for separation or protection order valid as to persons dealing with wife before reversal. - Every decree for judicial separation or order to protect property, obtained by a wife under this Act shall, until

reversed or discharged, be deemed valid, so far as necessary, for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge or variation thereof.

Indemnity of persons making payment to wife without notice of reversal or decree or protection order.

- All persons who in reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

61. Bar of suit for criminal conversation. - After this Act comes into operation, no person competent to present a petition under sections 2 and 10, shall maintain a suit for criminal conversation with his wife.

62. Power to make rules. - The High Court shall make such [rules] under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same:

Provided that such rules, alterations and additions are consistent with the provisions of this Act, and the [Code of Civil Procedure, 1908 (5 of 1908)].

All such rules, alterations and additions shall be published in the Official Gazette.

Schedule of forms

No. 1 Petition by Husband for a Dissolution of Marriage with Damages against Co-respondent, by Reason of Adultery

(See sections 10 and 34)

In _____ the _____ *(High) _____ Court
of.....

.....

To the *Honble Mr. Justice..... [or To
the Judge of]

The.....day of.....

The petition of A.B., of
Sheweth,

1. That your petitioner was on the.....day
of.....was _____ lawfully _____ married

to C.B., then C.D., spinster, at.....* 2. That from his said marriage, your petitioner lived and cohabited with his said wife at.....and at.....in.....and lastly at....., in.....and that your petitioner and his said wife have had issue of their said marriage, whom.....sons only survive, aged respectively.....and.....years.

3. That during the.....years immediately preceding the.....day of.....X.Y., was constantly, with few exceptions, residing in the house of your petitioner at.....aforesaid, and that on diverse occasions during the said period, the dates of which are unknown to your petitioner, the said C.B., in your petitioners said house committed adultery with the said X.Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Honble) Court will decree a dissolution of the said marriage and that the said X.Y., do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioners said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Honble) Court seems fit.

(Signed) A.B.**

Form of verification

I., A.B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2 Respondents Statement in Answer to No. 1

In the Court of.....the.....day of.....

Between A.B., petitioner
C.B., respondent, and
X.Y., co-respondent.

C.B., the respondent, by D.E., her attorney [or *vakil*], in answer to the petition of A.B., says that she denies that she has on diverse or any occasions committed adultery with X.Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Honble) Court will reject the said petition.

(Signed) C.B.

No. 3 Co-respondents Statement in Answer to No. 1

In _____ the _____ (High) _____ Court
of.....the.....day
of.....

Between A.B., petitioner
C.B., respondent, and
X.Y., co-respondent.

X.Y. , the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said C.B., as alleged in the said petition.

Wherefore the said X.Y., prays that this (Honble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed) X.Y.

No. 4Petition for Decree of Nullity of Marriage
(See section 18)

In _____ the _____ (High) _____ Court
of.....
.....

To the Honble Mr. Justice.....or To the
Judge of

The.....day of.....

The petition of A.B., falsely called A.D.

Sheweth,

1. That on the.....day
of.....your petitioner then a spinster, eighteen years
of age, was married in fact, though not in law, to C.D., then a bachelor of
about thirty years of age, at [some place in India.

2. That from the said.....day
of.....until the month
of....., your petitioner lived and cohabited
with the said C.D., at diverse places, and particularly
at.....aforesaid.

3. That the said C.D., has never consummated the said pretended marriage
by carnal copulation.

4. That at the time of the celebration of your petitioners said pretended
marriage the said C.D. was, by reason of his impotency or malformation,
legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the
said C.D., with respect to the subject of this suit.

Your petitioner therefore prays that this (Honble) Court will declare that the
said marriage is null and void.

(Signed) A.B.

Form of verification. See No. 1

No. 5 Petition by Wife for Judicial Separation on the Ground of Her Husband's Adultery
(See section 22)

In _____ the _____ (High) _____ Court
of.....

To the Honble Mr. Justice..... [or To
the Judge of]

The.....day of.....

The petition of A.B., of....., the wife of A.B.

Sheweth,

1. That on the.....day
of.....your petitioner, then C.D., was lawfully
married to A.B., at the Church of.....in
the.....

2. That after her said marriage, your petitioner cohabited with the
said A.B., at.....and at.....and
that your petitioner and her said husband have issue living of their said
marriage.....children to wit, etc., etc.*

3. That on diverse occasions in or about the months
of.....the
said A.B., at.....aforesaid, committed adultery
with E.F., who was then living in the service of the said A.B., and your
petitioner at their said residence.....aforesaid.

4. That on diverse occasions, in the months of..... and
at.....aforesaid, committed adultery, with G.H., who
was then living in the service of the said A.B., and your petitioner at their
said residence..... aforesaid.

5. That no collusion or connivance exists between your petitioner and the
said A.B., with respect to the subject of the present suit.

Your petitioner therefore prays that this (Honble) Court will decree a judicial
separation to your petitioner from her said husband by reason of his
aforesaid adultery.

(Signed) C.B.**

Form of verification. See No. 1

* State the respective ages of the children.

** The petition must be signed by the petitioner.

No. 6 Statement in Answer to No. 5

In _____ the _____ (High) _____ Court
of.....

B against B

The..... day

of.....

The respondent *A.B.*, by *W.Y.*, his attorney [*or vakil*" , saith,

1. That he denies that he committed adultery with *E.F.*, as in the third paragraph of the petition alleged.

2. That the petitioner condoned the said adultery with *E.F.*, if any.

3. That he denies that he committed adultery with *G.H.*, as in the fourth paragraph of the petition alleged.

4. That the petitioner condoned the said adultery with *G.H.*, if any.

Wherefore this respondent prays that this (Honble) Court will reject the prayer of the said petition.

(Signed) *A.B.*

No. 7 Statement in Reply to No. 6

In _____ the _____ (High) _____ Court
of.....

.....
B against *B*

The..... day
of.....

The petitioner, *C.B.*, by her attorney [*or vakil*" , says,

1. That she denies that she condoned the said adultery of the respondent with *E.F.*, as in the said paragraph of the statement in answer alleged.

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with *G.H.*, as set forth in the fourth paragraph of the petition.

(Signed) *C.B.*

No. 8 Petition for a Judicial Separation by Reason of Cruelty

(See section 22)

In _____ the _____ (High) _____ Court
of.....

.....
To the Honble Mr. Justice..... [*or To*
the Judge of]

The.....day of.....

The petition of *A.B.* (wife of *C.B.*) of.....

Sheweth,

1. That _____ on _____ the.....day
of.....your petitioner, then *A.D.*, spinster, was lawfully
married to *C.B.*, at.....

2. That from her said marriage, your petitioner lived and cohabited with her
said _____ husband _____ at.....until
the.....day of....., when your
petitioner separated from her said husband as hereinafter more particularly
mentioned, and that your petitioner and her said husband have had no issue
of their said marriage.

3. That from and shortly after your petitioners said marriage, the said C.B., habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.

4. That on an evening in or about the month of....., the said C.B., in the highway and opposite to the house in which your petitioner and the said C.B., were then residing at.....aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of F.D., your petitioners brother.

5. That subsequently on the same evening, the said C.B., in his said house at.....aforesaid, struck your petitioner with his clenched fists a violent blow on her face.

6. That on one Friday night in the month of, the said C.B., in..... without provocation, threw a knife at your petitioner thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the.....day of....., your petitioner, by reason of the great and continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at....., that from and after the said.....day of....., your petitioner hath lived separate and apart from her said husband and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Honble) Court will decree a judicial separation between your petitioner and the said C.B., and also order that the said C.B., do pay the costs of and incident to these proceedings.

(Signed) A.B.

Form of verification. See No. 1

No. 9 Statement in Answer to No. 8

In the (High) Court
of.....

.....

The..... day
of.....

Between A.B., petitioner, and
C.B., respondent.

C.B., the respondent, in answer to the petition filed in this cause, by W.J., his attorney, [or vakil" , saith that he denies that he has been guilty of cruelty towards the said A.B., as alleged in the said petition.

(Signed) C.B.

No. 10 Petition for Reversal of Decree of Separation
(See section 24)

In _____ the _____ (High) _____ Court
of.....

.....
To the Honble Mr. Justice..... [or To
the Judge of]

The.....day of.....

The petition of A.B. of.....

Sheweth,

1. That your petitioner was on the.....day
of....., lawfully married to.....

2. That on the..... day
of....., this (Honble) Court, at the petition
of.....pronounced a decree affecting the petitioner
to the effect following, to wit,

[Here set out the decree]

3. That such decree was obtained in the absence of your petitioner, who was
then _____ residing
at.....

.....
[State facts tending to show that the petitioner did not know of the
proceedings; and further, that had he known he might have offered a
sufficient defence.]

or

That there was reasonable ground for your petitioner leaving his said wife,
for that his said wife.....

[Here state any legal ground justifying the petitioners separation from his
wife.]

Your petitioner, therefore, prays that this (Honble) Court will reverse the
said decree.

(Signed) A.B.

Form of verification. See No. 1

No. 11 Petition for Protection Order

(See section 27)

In _____ the _____ (High) _____ Court
of.....

.....
To the Honble Mr. Justice..... [or To
the Judge of]

The.....day of.....

The petition of C.B. of the wife of A.B.

Sheweth,

That on the.....day
of.....she was lawfully married
to A.B. at.....

That she lived and cohabited with the
said A.B., for.....years
at.....and also at....., and hath
had.....children, issue of her said marriage, of
whom.....are now living with the applicant, and
wholly dependent upon her earnings.

That on or about....., the said A.B., without any
reasonable cause, deserted the applicant and hath ever since remained
separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained
herself by her own industry [*or on her own property, as the case may be*],
and hath thereby and otherwise acquired certain property consisting of [*here
state generally the nature of the property.*]

Wherefore she prays an order for the protection of her earnings and
property acquired since the said.....day
of.....from the said A.B., and from all creditors and
persons claiming under him.

(Signed) C.B.

No. 12Petition for Alimony Pending the Suit
(See section 36)

In the (High) Court
of.....

.....
B against B

To the Honble Mr. Justice..... [*or To
the Judge of*]

The.....day of.....

The petition of C.B., the lawful wife of A.B.

Sheweth,

1. That the said A.B., has for some years carried on the business
of..... at....., and from such
business derives the net annual income of from Rs. 4,000 to 5,000.
2. That the said A.B., is possessed of plate, furniture, linen and other effects
at his said house.....aforesaid, all of which he
acquired in right of your petitioner as his wife, or purchased with money he
acquired through her, of the value of Rs. 10,000.
3. That the said A.B., is entitled, under the will of his father, subject to the
life interest of his mother therein, to property to the value of Rs. 5,000 or
some other considerable amount.*

Your petitioner, therefore, prays that this (Honble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Honble) Court may seem meet.

(Signed) C.B.

Form of verification. See No. 1

* The petitioner should state her husbands income as accurately as possible.

No. 13 Statement in Answer to No. 12

In _____ the _____ (High) _____ Court
of.....

.....
B against B

A.B., of.....the above-named respondent, in answer.....to the petition for alimony, pending the suit of C.B. says:

1. In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of.....at....., and that, from such business, I have derived a net annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattels and effects at my said house..... aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portions, thereof, I have since purchased with my own moneys. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph, in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of any father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said fathers will, upon the death of my mother, to a legacy of Rs. 7,000 out of which I shall have to pay to my fathers executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me which she did on the.....day of.....last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, i have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late fathers executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling house on the.....day of.....last, she took with her, and has ever since withheld and still withholds, from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs.and that she has ever since withheld and still withholds from me the same sum.

(Signed) *A.B.*

No. 14 Undertaking by Minors next friend to be Answerable for Respondents Costs

(See section 49)

In the (High) Court of.....

.....
I, the undersigned *A.B.*, of.....being the next friend of *C.D.*, who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against *D.D.* of.....hereby undertake to be responsible for the costs of the said *D.D.*, in such suit, and all that, if the said *C.D.* fail to pay to the said *D.D.* when and in such manner as the Court shall order such costs of such suit as the Court shall direct him (*or* her) to pay to the said *D.D.*, I will forthwith pay the same to the proper officer of this Court.

Dated this.....day of.....

(Signed) *A.B.*