



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

CASE COMMENTARY

~*Kavya*

Title: Shilpa Sailesh v. Varun Sreenivasan

Court: Supreme Court

Year: 2023

Citation: Shilpa Sailesh v. Varun Sreenivasan, (2023) 14 SCC 231

INTRODUCTION

The case of Shilpa Sailesh v. Varun Sreenivasan is an important judgment that deals with the powers of the Supreme Court under Article 142 of the Constitution in matrimonial matters. The dispute arose after the marriage, where both parties wanted to end their marriage through mutual consent after several years of litigation and multiple connected proceedings.

The main legal issue before the Court was whether the Supreme Court can directly grant divorce by mutual consent without requiring the parties to follow the full procedure under Section 13-B of the Hindu Marriage Act, 1955, including the mandatory six-month cooling-off period. The Court also examined the conditions under which its extraordinary powers under Article 142 can be used in matrimonial disputes. Through this judgment, the Supreme Court clarified the scope of its power to do complete justice while balancing statutory procedure with practical realities.

FACTS

The case of Shilpa Sailesh v. Varun Sreenivasan involved a matrimonial dispute between Shilpa Sailesh and Varun Sreenivasan, a married couple whose relationship had broken down over time. The parties were married according to Hindu customs and initially lived together as husband and wife. However, after some time, serious differences arose between them regarding

personal and marital matters, which led to frequent conflicts and made it difficult for them to continue living together peacefully. As a result, the parties started living separately for a long period. During this time, several legal proceedings were initiated between them. These included matrimonial disputes as well as other connected civil and criminal cases arising from their marriage. The continued litigation increased hostility between the parties and showed that there was no possibility of reconciliation or restoration of the marital relationship. After years of disputes, both parties decided to settle their differences amicably. They mutually agreed that their marriage had irretrievably broken down and continuing the legal relationship served no purpose. As part of the settlement, they resolved issues relating to maintenance, alimony, return of articles, and withdrawal of pending cases filed against each other. They approached the Supreme Court and requested the court to dissolve their marriage by exercising its powers under Article 142 of the Constitution, which allows the Supreme Court to pass orders necessary to ensure complete justice.

ISSUES

The Constitution Bench framed the following important legal issues:

1. Whether the Supreme Court can exercise its powers under Article 142 of the Constitution to grant divorce by mutual consent without directing the parties to follow the mandatory waiting period prescribed under Section 13-B of the Hindu Marriage Act, 1955.
2. What are the parameters or conditions that must be satisfied before the Supreme Court exercises its extraordinary power under Article 142 in matrimonial cases.
3. Whether such power should be exercised routinely in all mutual consent divorce cases or only in exceptional circumstances depending on the facts of each case.

RULING

The Court further ruled that it could issue directives to put an end to all disagreements between the parties while granted divorce under Article 142. If both parties have consented, this includes resolving outstanding civil and criminal issues that resulted from the marriage. This helps to prevent several lawsuits and guarantees that the couples can move on with their lives in peace. At the same time, the Court cautioned against abusing Article 142 and stated that this authority should not be utilized solely out of sympathy or emotion. Every case needs to be thoroughly

investigated. The court must be convinced that denying divorce will result in more injustice than allowing it. The exercise of judicial discretion must be cautious.

LEGAL REASONING

While deciding the first issue, the Court said that Article 142 gives the Supreme Court wide powers to do complete justice between the parties. This power is not limited by strict procedural laws. So, if a case comes before the Supreme Court and the facts show that justice cannot be done by strictly following the law the court can pass appropriate orders. Therefore, the Court held that it can dissolve a marriage directly under Article 142 without sending the parties back to the Family Court or making them wait for six months. On the issue of the cooling-off period under Section 13-B, the Court explained that this period was introduced to give time to the husband and wife to rethink their decision and try to settle their differences. The Court observed that in many cases the parties have been living already separately for many years and all disputes are already settled. In such situations, the waiting period does not help in reconciliation and only increases the suffering of the parties. So, the Court held that the Supreme Court can waive this waiting period while exercising its power under Article 142. The Court then answered the issue of whether this power should be used in every mutual consent divorce case. The Court clearly stated that Article 142 should not be used in a routine manner and it is an extraordinary power and must be used only in special situations. The Court made it clear that Family Courts will continue to be the normal forum for deciding matrimonial disputes and parties should not approach the Supreme Court directly in every case just to avoid procedure. The Supreme Court further laid down certain conditions for exercising this power. The Court said that divorce under Article 142 can be granted only when the marriage has completely broken down and there is no chance of reconciliation. The parties must have been living separately for a long time and all disputes relating to maintenance, alimony, property, custody of children and other connected matters must be settled. The consent of both parties must be genuine and free and not given under pressure. Only when these conditions are satisfied the Supreme Court can exercise its power under Article 142. Another important part of the ruling relates to irretrievable breakdown of marriage. The Court accepted that irretrievable breakdown is not yet a ground for divorce under Indian law and still, the Court observed that when a marriage has reached a stage where it is emotionally and practically dead forcing the parties to stay married serves no purpose. In such cases, the Court held that it can use Article 142 to end the marriage and give relief to both parties.

ANALYSIS

The judgment also discusses the idea of irretrievable breakdown of marriage. Even though this is not a ground for divorce under Indian law, the Court accepted that some marriages reach a stage where they are emotionally and practically dead. Continuing such marriages only in the eyes of law does not benefit either spouse. The Court used Article 142 in such cases to give relief, without creating a new statutory ground. At the same time, the Court respected the role of the legislature. It did not declare irretrievable breakdown as a legal ground for divorce. Instead, it limited its intervention to exceptional cases.

CONCLUSION

The judgment in *Shilpa Sailesh v. Varun Sreenivasan* is an important decision in Indian matrimonial law because it deals with the real problems faced by people in broken marriages. The Supreme Court understood that marriage is not only a legal relationship but also an emotional one. When a marriage completely breaks down and there is no chance of reconciliation, forcing the parties to remain married only increases their suffering. Through this case, the Supreme Court clearly explained the purpose and scope of its power under Article 142 of the Constitution. The Court stated that Article 142 exists to do complete justice and can be used when normal legal procedures fail to provide fair relief. At the same time, the Court made it clear that this power is not unlimited. It should be used carefully and only in exceptional cases. This balanced approach is one of the strongest points of the judgment.