

Badri Prasad

Vs

Dy. Director of Consolidation and Others

Special Leave Petition (Civil) Nos. 1731 and 927 of 1978

(V. R. Krishna Iyer, D. A. Desai, O. Chinnappa Reddy JJ)

01.08 1978

ORDER

1. 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 wedlock 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 processes by examining the priest or other witnesses, deserves no consideration. If men and women 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.

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