

## Restitution of conjugal rights under Hindu Law

A husband has the right to live with his wife wherever he wants to live. On the other side, it is the duty of the wife to live with her husband where he is asking her to live with him. However, there can be the circumstances which may force the spouses to live in different places. The circumstances can be any like, for the study of children or any. It depends upon the competent court to decide that whether the excuses made by the party are able to permit the party to reside apart or not.

## Restitution of conjugal rights under Hindu Law

Marriage under all matrimonial laws, gives some necessary duties and rights to both the spouses. The main implication of the marriage is that parties should live together. Each spouse has the right to live with his/her partner. So, after the legal marriage done between both the spouses, if either of the spouses (husband or wife) withdraws herself or himself from the society of other (does not live together), without any reasonable excuse (valid reason in the eye of law), then the aggrieved party has the right to file the petition in the matrimonial court for the restitution of conjugal rights. Now, the court will hear the petition filed by the aggrieved party, and if, the court is satisfied that there is no legal ground or reasonable excuse that why other party is in default, the court may pass the decree of restitution of conjugal rights. This is the true meaning of restitution of conjugal rights.

### **Decree of restitution of conjugal rights**

In the decree of restitution of conjugal rights, the court gives the order to the guilty party to live with the aggrieved party in the petition. This is the only remedy which can be used by the aggrieved party against the other. This petition can be filed by any of the spouse against the guilty party.

The execution of the decree of restitution of conjugal right is very tough. Though, the court is competent to pass this decree against the guilty party, but the court cannot force the guilty party to consummate the marriage. The court has the remedy to attach the property of guilty party and if the party complaint still does not comply, the court can punish him or her for contempt of court.

The decree of restitution of conjugal rights can only be passed if the marriage is valid. The non-performance of the decree results to constructive destruction on the side of guilty party and, the aggrieved party can file the petition for the divorce after one year of passing the decree of restitution of conjugal right and, the competent court may pass the decree of divorce in the favour of aggrieved party.

### **What are conjugal rights?**

To stay together and the right of sexual intercourse between wife and husband is considered as the conjugal rights. The **section 9 of the Hindu Marriage Act** says that if either of the spouses, without a reasonable excuse, withdraws himself or herself from the society of other, the aggrieved spouse has the right to request the court for the decree of restitution of conjugal rights.

The burden of proving the reasonable excuse shall be lie on the spouse who has withdrawn from the society of other.