

## PROBLEMS IN HINDU LAW

### 1. PERSONS GOVERNED BY HINDU LAW AND CONVERSION

#### PROBLEM No. 1

*A child namely Pradeep was born to a Hindu father namely Murthy and to a Muslim mother namely Mumtaz. Pradeep was brought up by his father's father as Hindu. Subsequently Pradeep's father converts himself to Islam. State whether Pradeep and his parents are Hindus.*

**ANSWER:**

Generally, if both the parents are Hindus, their child, whether legitimate or illegitimate is automatically treated as a Hindu and the Hindu law applies to the child. But, if only one of the parents is a Hindu, it would be governed by Hindu law, provided the child has been brought up as a Hindu.

In the given problem, the father(Murthy) is a Hindu and the mother (Mumtaz) is a muslim and the son Pradeep had been brought up by Murthy's parents as a Hindu. So, Pradeep is a Hindu.

Subsequent conversion of Pradeep's father to Islam does not change the religion of Pradeep, but

since Pradeep's father gets converted to islam, he is a muslim.

So, Pradeep and Murthy's parents continue to remain as Hindus.



#### PROBLEM No. 2

*'A', a Hindu wife converted to Islam and lived separately from her Hindu husband 'B'. Can she claim maintenance from her husband? Explain.*

**ANSWER:**

According to Sec. 13 of the Hindu Marriage Act, one of the grounds of divorce is conversion of one of the spouse to another religion. The other party gets a ground for divorce in this aspect.

In the given problem, conversion by the wife to Islam and living separately gives the husband a right for divorce under Sec. 13 (ii).

So the petition for divorce may be presented by the husband, and the wife gets a right to claim suitable maintenance from the husband, if she is not an earning member or her earnings are insufficient to maintain herself.



**PROBLEM No. 3**

***A Hindu male was married to a Hindu female according to the Hindu form of marriage. The husband becomes a convert to Christianity and the wife becomes a convert to Mohammedanism. They now want to have dissolution of marriage. Advise the parties.***

**ANSWER:**

When the Hindu husband has converted himself to Christianity, his Hindu wife can approach the Court for divorce under Sec. 13 cl. (ii) of the Hindu Marriage Act, 1955.

But without doing this, if the Hindu wife herself becomes a convert to Islam, she would be governed by Mohammedan Law.

Under Mohammedan law, conversion of Hindu wife to Islam does not automatically terminate the marriage. Had the marriage been under Muslim Law, she could have sued for divorce on any of the grounds specified in Sec. 2 of the Dissolution of Muslim Marriage Act, of 1939.

In the given problem, since the marriage was in the Hindu form, she cannot have this remedy. So, she has no remedy and her marriage continues.

The husband would be governed by Christian Law, but under the Christian law, the conversion of the wife does not afford any ground for divorce. So the marriage continues to be valid and subsisting between the parties. They cannot dissolve the marriage by getting converted to Christianity and Mohammedanism.



**PROBLEM No. 4**

***‘S’ a male Hindu marries ‘B’ a non-Hindu woman, but does not renounce his religion. What will be the status of their son ‘C’ born of their wed lock? Decide ‘C’s’ religion.***

**ANSWER:**

Generally, if both the parents are Hindus, their child legitimate or illegitimate automatically shall be a Hindu and Hindu law applies to it. But if only one of the parents is a Hindu, it should be governed by Hindu Law, provided the child has been brought up as a Hindu (***Raj kumar Vs Barbara AIR 1989 Cal 165***).

In the given case, ‘S’ a Hindu male married a ‘B’ a non-Hindu woman. If the marriage had taken place under the Special Marriage Act, then it is a valid marriage and the son ‘C’ shall be a Hindu, if he has been brought up as a Hindu.

