

Conjugal Rights

Conjugal rights refer to all the matrimonial rights that married couples must perform. The law identifies all private laws concerning with wedding and divorce and criminal law dealing with payment of alimony and maintenance of the spouse.

What Conjugal Rights Specify?

As per Conjugal Rights, married couples should live together. According to Conjugal Rights, the spouses have responsibilities and rights together for one another and have biological relationships.

- Married couples in Conjugal Rights should provide mental and emotional reassurance to each other.
- Married couples are considered to divide household responsibilities.

The husband or wife is empowered to move the regional district court by the Restitution of Conjugal Rights as given in the Hindu Marriage Act (Section 9) and Section 22 of the Special Marriage Act.

Such restitutions allow the husband or wife to complain in the regional district court that the other spouse has moved out-of-the-way from the marriage without a suitable grounds.

- According to the petition, the provincial district court can order the "withdrawn" partner to return to the marital home.
- The court can attach properties of the "offending" in case of non-compliance with the order to return under the Civil procedure Code.

Early Conclusions for Conjugal Rights in India

- The Haryana and the Punjab High Court, in the Tirath Kaur matter, supported the restitution of conjugal rights in the 1960s.
- It states that a wife's foremost commitment to her husband is to present herself obediently to his control and to remain under his roof and safety.
- In the 1980s, the courts supported the rule, holding that the wife's rejection of married and sexual life by denying to return to him permanently is an act of physical and mental cruelty.
- The Supreme court upheld Section 9 of the Hindu Marriage Act in the case of Sudarshan Kumar Chadha v Saroj Rani in 1984, holding that the provision fits a social meaning as a help to the avoidance of wedding break-up.
- A single-judge court smashed down the provision first time during the case of T Venkatasubbaiah v T Sareetha and proclaimed it invalid in 1983.

Landmark Judgment of Restitution of Conjugal Rights

When a spouse's Conjugal Rights are challenged by the refusal of the other partner to live together or withdraw from the society of their respective halves, they can then file a claim for restitution of Conjugal Rights.

The court has provided some legal provisions to let gender equality prevail, and spouses have their rights irrespective of sex. To file a case for the restitution of Conjugal Rights, a few conditions must be fulfilled.

- The defendant has refused to live together or is withdrawing from the other spouse's society or petitioner.
- But it is important to note that even if the spouses are staying away.
- Still, they are in contact with each other, or the staying away is due to some valid reasons like work, and then such cases cannot be considered a refusal of society, and a suite of Conjugal Rights cannot be filed.
- The petitioner's statement is true, no false statement is made, and the ground of refusal from the society of the "errant" is unreasonable.
- If the relief or application is denied, then the legal ground for the same need not be mentioned.

Restitution of Conjugal Rights filed by Wife and Husband

Either party- husband or wife can file the plea for the Restitution of Conjugal Rights. The court can pass the Restitution of Conjugal Rights order based on the valid points below.

- The petitioner can confirm that their spouse has withdrawn from them without providing any convincing reason.
- The statement submitted by the petition (unhappy spouse) in their petition is true.
- The court did not see any legal ground, as to why the dissatisfied party must not be offered the restitution of conjugal rights.

Challenges Faced By Conjugal Rights of Husband

The primary ground on which the law has been challenged is that it violates the fundamental right to privacy. The 2017 judgment has posed possible challenges to many laws, one of which is the restitution of Conjugal Rights.

The judgment argues that court-mandated conjugal right restitution leads to a "coercive action" on the role of the state, disregarding one's decisional and sexual autonomy and dignity, along with right to privacy.

Reason for Challenging Conjugal Rights Section Law

Violation of Rights:

- The law is being inquired on the central foundation that it disobeys the fundamental privacy right, as acknowledged by a nine-judge Bench of the Supreme court in 2017.
- The petition disputes that court-mandated repayment of conjugal rights add up to a "coercive act," which violates one's sexual and decisional independence, dignity, and right to privacy.

Misuse of the Provision:

- Another relevant matter to consider is the misuse of this provision as protection against divorce proceedings and alimony costs.
- Usually, a dissatisfied spouse files for divorce from their area of occupancy, and their spouse punishes by filing for a law of reimbursement in their location.

Not As Per SC Decisions:

- The Supreme court has emphasized married women's right to privacy and physical independence.
- It states that wedding does not carry away their sexual liberty or preference, and the court cannot mandate that two adults live together if one does not desire to do it.

Biased Against Women:

- Conjugal rights law is gender-neutral and lets both husband and wife pursue restitution of conjugal rights, but the provision unreasonably impacts women.
- Women are usually return back to marital residences and told that spousal rape is not an offense, exposing them to such forced intermarriage.

