

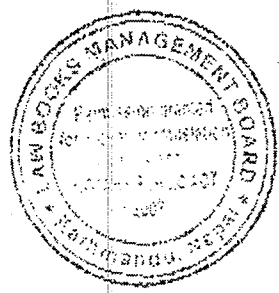
### CHAPTER 12

### ON HUSBAND AND WIFE

No. 1 No relationship of husband and wife shall be divorced except in the circumstances referred to in paragraph 9 of No. 2 and Nos. 4, 5, 7 and 8 of the Chapter on Marriage and except on the conditions referred to herein below. Even in the event of any of those circumstances leading to divorce, the relationship shall only be divorced as per decision of a court upon submission of a petition and court's decision to that effect.

A husband is entitled to get his relationship divorced with his wife in case the wife has been living separate from the husband for a consecutive period of three years or more without his consent or the wife has committed or conspired to commit an act that is likely to take the life of the husband or causes any grievous hurt or physical or mental torture or the wife has been suffering from any venereal disease of incurable nature or it has been decided that the wife has indulged into sexual intercourse with a third person-----1

A wife is entitled to get her relationship divorced with her husband in case the husband enters into marriage with another woman or keeps another wife or expels the wife out of the home or does not provide her with costs for maintenance or in case the husband has been living separate from the wife for a consecutive period of three years or more without her consent or the husband has committed or conspired to commit an act that is likely to take the life of the wife or causes any grievous hurt or physical or mental torture or the husband is impotent or has been suffering from any venereal disease of incurable nature or in case it has been decided that the husband has indulged into sexual intercourse with any other woman or it has been decided that



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the husband has committed rape of the wife pursuant to paragraph (6) of No. 3 of the Chapter on Rape-----2

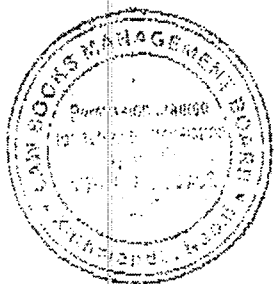
Except in circumstances referred to above, the relationship of a husband and wife may be divorced if both of them agreed to get the relationship divorced----- 3

No. 1A. The party willing to divorce pursuant to paragraph 1 of No. 1 of this Chapter or both the husband and wife willing to get the relationship divorced as per mutual consent of the both pursuant to paragraph 3 of No. 1 of this Chapter shall submit an application to the concerned Village Development Committee or the Municipality and the Village Development Committee or Municipality has to mediate by convincing the both to the extent possible. In case no mediation could be concluded even by convincing and it is better to divorce the relationship than to continue it any longer, the application so received shall be referred to the concerned district court having jurisdiction for divorcing the relationship within one year along with its opinion.

No. 2 The relationship between husband and wife shall *ipso facto* be divorced in case the wife enters into marriage with other person.

No. 3. The child born within two hundred seventy-two days from the date of divorce of the relationship of the husband and wife under the prevailing law shall, unless the contrary is proved, be deemed to be the child of the divorced husband. In case of taking custody of such a child or the child below or above the age of five years, the following provisions shall apply:

The mother, if she so desires, shall take the custody of the minor and if she does not desire, the father shall take the custody of the minor -----1



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Notwithstanding anything contained in paragraph 1 of this No., in case there is consent of the father and mother both, either the father or mother may take the custody of such a minor or take the custody of the minor alternately-----2

Whoever among the father and the mother takes the custody of the minor, the father or mother not taking the custody of the minor shall be provided with an opportunity to meet the minor from time to time unless there is the situation of adverse effect or reasonable doubt to have adverse effect on the interests of the minor. The mother entering into the next marriage shall also be allowed to such an opportunity---- 4

In case the mother takes the custody of the minor, the father shall provide with reasonable costs for maintenance, education and medical treatment for the minor to the best of capacity of the father. In case the father takes custody of the minor and if the mother's income is higher than that of the father, the mother shall be obliged to bear the expenses for maintenance, education and medical treatment for the minor, as specified by the court in an order having regard to the circumstances -----5

No. 4. A wife shall be entitled to get her share of property from the share of the husband in case she has been expelled from the home without providing her with the maintenance or has been subjected to torture by frequent beating or in case the husband marries another woman or keeps another wife. In case such a wife dies or enters into next marriage, the property remaining after expending by the wife for her maintenance shall be entitled to the nearest claimant. In case she has been expelled by the parents-in -law, she shall be provided with the foods and cloths to the best of their prestige and dignity.

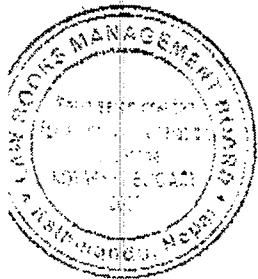


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No. 4.A In case the relationship of husband and wife has to be divorced pursuant to No. 1 of this Chapter, the court shall decide to the effect of divorcing the relationship only upon partition of property amongst them. In case the husband getting the relationship divorced has not got his share of property, the court shall order to submit the statement of property and to carry out partition of property and thereafter, the court shall order to pay to such wife the maintenance costs on monthly basis having estimated the share of property the husband is entitled to and the share of property the woman is entitled to from the share of the husband for the period until the partition of property is carried out. In case of the woman getting the relationship divorced after partition of property is carried out, she shall entitle to the share of property she has got from the partition. In case such a woman does not enter into next marriage or no child has born even though she does enter into the next marriage, the children born to the earlier husband, if any, and if no such children are there, the earlier husband shall entitle to such property after the life of such a woman.

No. 4B. Notwithstanding anything contained in No. 4 of this Chapter, in case the woman getting divorced the relationship does not opt for partition of property and seek for the cost of an annual or monthly expenses from the husband in lieu of the share of property, the court shall make available such woman the cost of an annual or monthly expenses on the basis of the property and level of his income. The husband shall be liable to pay such a cost for expenses until such woman does not enter into the next marriage.

No. 4C. In case the woman getting the relationship divorced pursuant to No. 1 of this Chapter could not get a share of property from the husband as there is no property to be divided and she seeks for the cost for an annual or monthly expenses from the husband, the court shall make available to such



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woman the cost of an annual or monthly expenses on the basis of the property and level of his income. The husband shall be liable to pay such a cost for expenses until such a woman does not enter into the next marriage.

- No. 5 In case there are other coparceners in a single family having not carried out partition of the family property while disposing of the *daijo* or *pewa* (a woman's exclusive property) of the wife, the *daijo* or *pewa* so disposed of may be recovered from the common property of all coparceners in accordance with the Chapter on Financial Transaction only if a deed of consent has been executed to that effect by all the coparceners who have attained the age of sixteen years. In case such property has been disposed of without following the above procedures, such property shall not be recovered from the common property of all coparceners nor shall it be borne by the coparceners in absence of their consent.
- No. 5A Anyone may file a case in order to get his/her relationship maintained. In case of a minor, other claimant may also file a case to get the relationship of the minor maintained.
- No. 6. Except in cases referred to in No. 1 and in matters of adultery, no case shall be entertained if it is not filed within one year from the date of raising the cause of action.



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