

Lily Thomas Bigamy Case - Important SC Judgements for UPSC

Many Supreme Court judgements have influenced Indian polity and law profoundly. These landmark SC judgements are very important segments of the [UPSC syllabus](#). In this series, we bring to you important SC judgments explained and dissected, for the benefit of IAS aspirants. In this article, you can read all about the Lily Thomas Bigamy case. Get a list of [landmark SC judgements for the UPSC exam](#) in the linked article.

Lily Thomas Bigamy Case

Case Summary - Lily Thomas versus Union of India

To start with, it is pertinent to mention that because Late Senior advocate Lily Thomas was the petitioner in various landmark cases, the instant case relates to issues arising out of conversion to Islam and subsequent second marriage to avoid prosecution under bigamy.

It would not be an overstatement to suggest that Part III and Part IV of the Constitution are the strong pillars on which the constitutional scheme for the welfare of the citizen has been built. Both these parts are integral for the citizen of India to live his/her life with equality and dignity in both the social and the economic spectrums. Every now and then there arises a case that pits these two parts against each other. However, as laid down in the Minerva Mills case, there must be a harmonious interpretation of the law so as not to give one part a sense of supremacy over the other. One such case where there was an apparent conflict between the two parts was the case of Lily Thomas v Union of India. The judgement, in this case, was pronounced by a two-judge bench comprising of Justice Sagir Ahmad and Justice R Sethi in April 2000.

Background

- Sushmita Ghosh filed a petition before the apex court stating that she was married to Mr. M C Ghosh as per Hindu rituals since the year 1984.
- However, in the year 1992, Mr. Ghosh asked Ms. Ghosh for divorce by mutual consent while stating that he had converted to Islam so that he can marry for the second time to Ms. Vinita Gupta who was a divorcee with two kids.
- There is no provision for a second marriage or bigamy under the Hindu Marriage Act, 1959, so he also produced a certificate which confirmed that he had converted to Islam.
- It is amply clear from the above-stated facts that Mr. Ghosh only converted to Islam because he wanted to contract a second marriage and that he had actually no faith in his converted religion.

Case Details

The instant petition brought to the fore several important issues for the court to deal with and adjudicate.

- First and foremost was the issue of implementation of a [Uniform Civil Code](#) as envisaged by Article 44 of the Constitution. But such implementation poses a direct challenge to every citizen's right to practice and propagate his/her religion as provided in Article 25 of the Constitution.
- Another important question before the Court was whether a Hindu husband in order to contract a second marriage can convert to Islam; where such a marriage is permitted what was the validity of the first and the second marriage respectively.
- Also, when such a husband contracts such a second marriage, should he be prosecuted for Bigamy under Section 494 of the Indian Penal Code?

Court's Ruling

- The Court held that when a second marriage is contracted by a Hindu husband after conversion, he does not do so because of his conscience and that such a conversion is manifestly fraudulent and is feigned in order to achieve an ulterior motive (which is to contract a second marriage without getting prosecuted for the same).
- Therefore, it was laid down that such a marriage was void and invalid due to the violation of [Article 21](#).
- A marriage cannot be deemed to have been dissolved simply because a husband has converted to a different religion.
- A marriage contracted by converting to Islam while the first one is subsisting will invite penal action under different provisions of the Indian Penal Code.
- In India, there are no marriage-related laws since marriage takes place according to one's personal law.
- Therefore, such things could not be codified and applying the uniform civil code to such an issue would not do justice to one's own personal belief.
- But what could be penalized are the wrong acts done in the pretext of such personal law, which is what the SC has done in this case by making it illegal to marry another person by converting to Islam while already in marriage with the first wife.

Conclusion

It has been two long decades since the Lily Thomas judgement but several questions still remain unanswered regarding conversion and the implementation of the Uniform Civil Code. Issues that attract personal law, fundamental rights and the penal provisions keep propping up every now and then as was seen with the issue of [Triple Talaq](#) recently. The recommendations of several law commissions seem to fall on deaf ears while a concrete and long-lasting framework that will comprehensively deal with these issues is still missing. A solution that deals with these issues in a sensitive manner is a *sine qua non* for avoiding further litigation in this regard.