

Marriage under Thesawalamai

- ♣ Jaffna Matrimonial Rights and Inheritance Ordinance (JMRIO) :- Applicable to Thesawalamai people
- ♣ Marriage Registration Ordinance (General) :- Applicable to Thesawalamai people but doesn't applicable to Muslims and Kandyans
- ♣ Marriage Registration and Inheritance Ordinance and Married Women's Property Ordinance :- Doesn't apply to Thesawalamai people

Essentials of valid Marriage

- ❖ Consent of the parties :-
 - ✓ Influential marriages (by fraud, force or fear) are **voidable**.
 - ✓ Voluntary cohabitation of spouses gives **validity** of a marriage.
- ❖ Consent of parents :-
 - ✓ Age of Majority Ordinance fixed the age of majority at 18 years of age to all persons (amended by Act, No. 17 of 1989)
 - ✓ If one of party is under 18 years of age [according to section 22 of Marriage Registration Ordinance (MRO) amended by Act, No. 12 of 1997], ***Consent of the father is necessary; if it's impossible, mother's consent is necessary; if it is impossible, consent from the guardian appointed by the father; Otherwise, District court can provide consent***

Consent not obtained: - In **Selvaratnam Vs Anandavelu**, Krest J held that, if there's **no consent**, then marriage is **null and void**

In **Ratnamma Vs Rasaiah**, Dias J held that, **absence of consent** of the father **doesn't invalidate** the marriage.

- ❖ Marriageable age :-
 - ✓ According to Section 15 of MRO (Amended) Act, No.18 of 1995 age for valid marriage is 18 years (Previously it was for, Male- 16; Female-12)

In **Gunaratnam Vs AG**, Registrar-General refuse to register the marriage (where, one person is 14 years and the other party is 18 years), although the parents' consent is obtained. Thilakawardena J stated that, there's an **absolute bar** to marriages under age of 18 and further stated that the **consent of the parents is irrelevant**.

➤ Prohibited Degrees :-

- **Ascendants, descendants and collaterals up to 3rd degree** is prohibited and such marriage will become **null and void**
- It is an offence

➤ Marriage by habit and Repute :-

- Parties lived as couples and received by relations as couples.
- Best **evidence of customary marriage** is the **testimony** of those **who were present** at such meeting.
- **Presumption** of validity **arises** only when the **testimony of witness** who states that **parties lived as husband & wife**.

In **Sinaval Vs Nagappa**, evidence led to prove that among the people bride and bridegroom **eaten rice and betel before their relations**. Court held that valid marriage didn't take place as they never lived as husband and wife.

In **S.V.Aronegary Vs Vaigalie**, parties **lived as husband and wife; betel and rice** were served by wife to husband before relations.

District court: - Stated there was a valid marriage

Supreme Court: - Set a District court's Decision

Privy Council: - Stated there was a valid marriage

Registration isn't compulsory in a customary marriage:-

- In **Chellappa Vs Kumarasamy**, Ennis J stated, not registering the marriage doesn't affect the Hindu ceremony.
- In **Valliammai Vs Annammai**, full Bench of the Supreme Court held that there can be lawful marriage without registration.