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Court Matter

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ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER:

The Hindu

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Alimony guidelines

Early enforcement of maintenance laws is a must to protect dependent women

In India, though more girls are going to school now, for many, the inevitable reality seems marriage before completion of higher education. Girls are married off early and bear children long before they should. This triggers a state of poor maternal health and is one of the root causes of high levels of child stunting and wasting in India. There is also the possibility of a marriage not working out for varied reasons, leaving the girl or young woman in extreme distress because often she is not financially independent. Parliament and the courts have persistently enacted legislation to give women better rights. Article 15(3), which states 'nothing in this article shall prevent the State from making any special provision for women and children', read together with Article 39, which directs state policy towards equal pay and opportunities for both men and women, and protecting the health of women and children, are two key constitutional safeguards. On Wednesday, the Supreme Court leaned on these two Articles, and a host of other laws, while hearing a dispute between a Mumbai-based couple, and set down comprehensive guidelines on alimony. The court ruled that an abandoned wife and children will be entitled to 'maintenance' from the date she applies for it in a court of law.

In a 67-page judgment, a Bench of Justices Indu Malhotra and R. Subhash Reddy, outlined specifics, including "reasonable needs" of a wife and dependent children, her educational qualification, whether she has an independent source of income, and if she does, if it is sufficient, to follow for family courts, magistrates and lower courts on alimony cases. Given the large and growing percentage of matrimonial litigation, some clarity was necessary. Cases are known to drag on and acquire cobwebs, worsening the misery for vulnerable women. The Court laid down that while women can make a claim for alimony under different laws, including the Protection of Women from Domestic Violence Act, 2005 and Section 125 of the CrPC, or under the Hindu Marriage Act, 1955, it "would be inequitable to direct the husband to pay maintenance under each of the proceedings", urging civil and family courts to take note of previous settlements. Perhaps keeping in mind the vastness of India and its inequities, the Court also added how an "order or decree of maintenance" may be enforced under various laws and Section 128 of the CrPC. For women in India, especially the poor who are often overlooked in discourses, the top court's words that maintenance laws will mean little if they do not prevent dependent wives and children from "falling into destitution and vagrancy", offer a glimmer of hope.