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SC says Hindu Marriage Act has broken many homes

New Delhi: Expressing concern over the increasing number of divorce cases flooding the courts, the Supreme Court on Tuesday observed that the Hindu Marriage Act had harmed the family system in the country rather than strengthened it.

"The Hindu Marriage Act has broken more homes than it has united," a vacation bench comprising Justices Arjit Pasayat and G S Singhvi observed, and expressed regret for the disastrous effect divorce cases were having on children.

Enacted in 1955, the act, which has undergone several amendments until 2003, contains provisions for the validity of a Hindu marriage, the restitution of conjugal rights, and divorce, the last a concept evolved from English law. "Even at the time of marriages, anticipatory divorce petitions are being filed," the bench remarked sarcastically.

The court made the observation while dealing with a petition filed by a man seeking his child's custody. "Ego should be dissolved for the sake of the child," the bench remarked even as the separated couple tried to air their views.

The apex court told them that it was more concerned with the welfare of the child rather than the recriminations between the parents. "Ultimately, it's the child that suffers. If it's a girl the trauma is more, especially at the time of the marriage of such children," observed Justice Pasayat, who spoke for the bench.

The apex court lamented that the provisions provided in the Hindu Marriage Act for granting divorce on the grounds of spouses suffering from diseases like leprosy and mental illness were being misused by some couples. "Our forefathers never had such problems," the court observed, pointing out that earlier, differences were usually sorted out within the four walls of the home. AGENCIES