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विद्येविना मति ढेली, मतीविना नीति ढेली  
नीतिविना गति ढेली, गतिविना वित्त ढेले  
वित्तविना शुद्ध चले, इत अर्थ ए । अविद्येने ले

-महात्मा ज्योतीराव फुले

❖ विद्यावार्ता या आंतरविद्याशाखीय बहुभाषिक त्रैमासिकात व्यक्त झालेल्या मतांशी मालक, प्रकाशक, मुद्रक, संपादक सहमत असतीलच असे नाही. न्यायक्षेत्र:बीड



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## Settlement of Spousal Property

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### Introduction:

In India, the institute of marriage is given a lot of importance. According to Hindu Law, it is said that the man is incomplete without his wife and vice versa. Even in the West people say that the wife is the better half of her husband and the other way round. Once married, the property of the couple which they buy together is termed as the spousal property. This does not include the property which the wife had got as a part of her stridhan. But what happens when a couple wants a divorce? Who gets the spousal property? How is the property divided?

Divorce was and is still considered to be an inauspicious thing in India. What the Indian women know is that they are entitled to maintenance after divorce from their husband so that they can maintain the same standard of life. But what very less number of women know is that they too are entitled to get a share in the property (spousal) upon divorce. It is a well-known fact that every woman has got a right to residence after divorce if she has not remarried. The confusion arises when the property has been bought by a man after marriage in the name of his wife but she has not contributed anything financially in the buying of the property.

### Spousal property:

Marital/Spousal property is basically all the assets and liabilities acquired during the course of the marriage. Earlier the concentration was more on current needs such as food,

clothing etc, but now with the concept of instalment purchases and mortgages, married couples are concentrating more on immovable property such as house, plots, land etc. So, the spouses either contribute financially equally or with their skills and hard work.

Spousal property includes all the movable or immovable property bought by the husband or wife through their mixed earnings after marriage or a separate property which is used extensively by both the parties equally or a gift which they got together during their marriage.

The confusion arises only when there is divorce and then the question of distribution of spousal property arises. As far as the marriage is going strong, the spouses do not care as to in who's name the property is bought and who is paying the money. They plan their future as a lifelong affair and are repugnant to the idea of divorce.<sup>2</sup> Spousal property is used by both of them together during continuance of marriage. But, at the time of divorce, it is difficult to conclude as to who needs it more. Also, divorce is more difficult situation for women as compare to men as all women are not that qualified that they can work and earn handsome salary. Sometimes financial position of a divorcee is tougher than that of a widow; as a widow is an heir in the property of her deceased husband as per law of succession.<sup>3</sup> In case of divorce, a woman is not entitled as such, but can claim alimony and support. Provisions for interim maintenance & permanent alimony are available in almost all personal laws.<sup>4</sup> Calculation of maintenance is not that difficult as the laws in India are quite clear. But it is difficult to calculate the share in spousal property, taking into consideration the contribution of both the spouse in the property. As to contribution of women in spousal property, there can be two categories as –(a) woman who earns money & contribute financially with husband to buy any property & (b) woman who does not earn & contribute financially, but stay at home & take care of children & whole house