

MOOT PROPOSITION

1. The Republic of Hemanapatii, situated in Asia is a secular democratic country with a dynamic and liberal economy. It witnesses a lot of social and cultural diversity and at the same time has a progressive society that while nurturing liberal views, it respects the diversities.

In January 2015, the Republic of Hemanapatii enacted the Surrogacy (Regulation) Act, 2015 to regulate surrogacy services in the country, to prohibit potential exploitation of surrogate mothers and protect the rights of children born through surrogacy.

2. Neeti Bhatt is a citizen of the Republic of Hemanapatii and is an acclaimed movie star. She has been married to Mr. Jay Bhatt for the last 10 years and is the mother of a 7 year old boy, Nishanth, suffering from cerebral palsy. Owing to an accident that she had met with after her son's 6th birthday, she discovered that she cannot beget a child anymore.
3. In January 2016, she entered into a contract with the production house called Yellow Chillies for two films. Neeti, during the shooting of her first film in Kodaipatinam, a beautiful hill station situated in the state of Kuttapattu, met her half-sister Naina Gupta who along with her husband Nithin Gupta resides in Kodaipatinam. Naina works as a System Engineer in Kodai Infy Solutions. Pvt. Ltd (KIS).
4. During their meeting, Neeti shares with Naina her grief about her inability to beget another child. Naina, being very close to Neeti since childhood readily decides to help her sister in any possible manner. Subsequently, she discusses her concern with Nithin who being a medical professional suggests that she can opt for surrogacy. Despite having a child of her own, Naina decides to bear the child for Neeti and shares the idea with her. Neeti who was initially hesitant, after repeated persuasion by Naina, agrees to the

arrangement. By April 2016, all medical procedures and legal formalities required for Naina to be the surrogate mother were duly complied with.

5. In the 12th week of Naina's pregnancy, the doctors informed Neeti and Naina that the foetus had some mental defects. On hearing this news, a heartbroken Neeti requests Naina to terminate the pregnancy. Naina, who had by that time developed an undying affection towards the unborn child, was deeply disappointed and decided not to terminate her pregnancy.
6. Meanwhile, Naina and her husband, who plan on getting their passports for going abroad after Naina delivers the baby, decide to register their marriage and eventually discover that their marriage is *void ab initio* owing to their *Sapinda* relationship. Distressed and embarrassed by the situation, Nithin leaves Naina and their son.
7. A depressed Naina confides in Neeti about her suppositional marriage. During the course of this conversation, Naina informs Neeti that she will not be terminating the pregnancy. Neeti exclaims that Naina is no longer eligible to be a surrogate mother and insists that she aborts the child. However, Naina says that she will not go back on her decision.
8. Perturbed by Naina's stubborn decision, Neeti, keeping in mind the gravity of the situation and need for expediency, files a petition before the High Court of Kuttapattu seeking an order of abortion and an injunction to stay the surrogacy arrangement. The High Court, after examining the facts and circumstances and the expert opinions, rules against Naina who is currently in 15th week of her pregnancy. The experts' opinion reads as, "*....The foetus suffers from severe mental defects. Also there is a probability that the mother will suffer from medical complications if the child is aborted any time later than twenty weeks....*".
9. In the meantime, Naina overhears a conversation between her boss Mr. Roshan and his secretary about how Naina is a woman of questionable character since she was married to her own relative and was now carrying

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her sister's deformed child. The conversation comes to an abrupt end as they notice Naina standing behind them. Provoked by what her boss said, she immediately reacts by hurling verbal abuses at her boss. Subsequently, she was dismissed from service and her application for Maternity Benefits was rejected.

10. Aggrieved by the decision of the High Court and the withdrawal of her maternity benefits, Naina, who is now in the 20th week of her pregnancy, approaches the Supreme Court of Hemanapatii under a Special Leave Petition (SLP) in which she also challenges the constitutionality of Section 4 (iii)(b) of the Surrogacy (Regulation) Act, 2015.
11. For the purpose of this moot proposition, the Surrogacy (Regulation) Bill, 2016 in India is considered to be passed by the Parliament of Hemanapatii. The rest of the laws of the Republic of Hemanapatii are in *pari materia* with the laws of the Republic of India.