

# Digital Assets in Divorce Proceedings: Emerging Challenges in Indian Family Law

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## ABSTRACT

The exponential growth of digital assets — encompassing cryptocurrencies, non-fungible tokens (NFTs), virtual gaming assets, and online business interests — has introduced a paradigm shift in the adjudication of matrimonial property disputes in India. Indian family law, rooted in personal laws such as the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, and the Indian Divorce Act, 1869, does not expressly account for virtual digital assets as a category of marital property. This legislative lacuna has resulted in significant uncertainty when courts are called upon to identify, value, and equitably divide digital wealth in divorce proceedings. The landmark ruling in *Rhitukumari v. Zanmai Labs Pvt. Ltd.* (Madras High Court, 2025), which declared cryptocurrency as 'property' under Indian law by invoking Section 2(47A) of the Income Tax Act, 1961, offers the most definitive judicial guidance to date but remains insufficient to fill the comprehensive regulatory void. This article examines the conceptual classification of digital assets, the inadequacies of existing statutory frameworks, the challenges of disclosure and forensic tracing, valuation difficulties arising from price volatility, jurisdictional complexities, and the implications for alimony and maintenance calculations. Drawing on comparative international jurisprudence and Indian constitutional principles, the article proposes a set of legislative and procedural reforms necessary to ensure equitable outcomes in matrimonial disputes involving digital assets in the Indian context.

**Keywords:** Digital Assets, Virtual Digital Assets, Cryptocurrency, Divorce, Indian Family Law, Hindu Marriage Act, NFT, Matrimonial Property, Blockchain Forensics, Alimony.

## 1. INTRODUCTION

The proliferation of digital technology in the twenty-first century has fundamentally transformed the nature of personal wealth. Assets that exist exclusively in digital form — most prominently cryptocurrencies such as Bitcoin and Ethereum, non-fungible tokens (NFTs), digital business interests, domain names, and in-game virtual currencies — now constitute a significant and growing component of household net worth across the socioeconomic spectrum. In India, which ranked first globally in cryptocurrency adoption for two consecutive years, this transformation carries profound implications for family law.

Divorce proceedings necessarily require a comprehensive accounting of the parties' assets and liabilities. However, Indian family law — a composite framework of personal laws shaped by religion, history, and legislative tradition — was architected in an era of tangible and traceable property. The Hindu Marriage Act, 1955 (HMA), the Special Marriage Act, 1954 (SMA), the Indian Divorce Act, 1869, the Parsi Marriage and Divorce Act, 1936, and the Muslim Women (Protection of Rights on Divorce) Act, 1986 all

operate on jurisprudential assumptions of identifiable, physically located, and institutionally custodied assets. Virtual digital assets challenge each of these assumptions simultaneously.

The statutory void is stark. No provision of the HMA, the SMA, or any personal law statute expressly defines or addresses digital assets as a category of matrimonial property. The Finance Act, 2022 introduced the first legislative recognition of 'virtual digital assets' (VDAs) in India through Section 2(47A) of the Income Tax Act, 1961, but solely for taxation purposes. The Prevention of Money Laundering Act, 2002 (PMLA), as amended in March 2023, brought VDA service providers within anti-money laundering obligations, but again without matrimonial relevance. The most significant judicial development arrived in October 2025 when the Madras High Court, in *Rhitukumari v. Zanmai Labs Pvt. Ltd.*, unequivocally declared cryptocurrency to constitute 'property' under Indian law — a ruling with transformative potential for matrimonial jurisprudence.

This article offers a comprehensive doctrinal and policy analysis of the emerging challenges posed by digital assets in Indian divorce proceedings. Part 2 defines and classifies digital assets in the Indian legal context. Part 3 analyses the existing statutory framework and its inadequacies. Part 4 examines judicial developments. Part 5 addresses the challenges of disclosure and asset tracing. Part 6 evaluates the difficulties in valuation. Part 7 considers jurisdictional and cross-border complexities. Part 8 discusses the impact on alimony and maintenance. Part 9 presents comparative international perspectives. Part 10 proposes legislative and procedural reforms, and Part 11 concludes.

## 2. DEFINING AND CLASSIFYING DIGITAL ASSETS IN THE INDIAN LEGAL CONTEXT

The term 'digital asset' is broad and encompasses multiple categories of intangible assets with distinct legal and economic characteristics. For the purposes of matrimonial law, a structured taxonomy is essential.

### 2.1 Cryptocurrencies

Cryptocurrencies are decentralised digital currencies that use cryptographic techniques to secure transactions and control the creation of new units. Bitcoin (BTC), Ethereum (ETH), Ripple (XRP), Solana (SOL), and Cardano (ADA) represent the most widely held examples. Section 2(47A) of the Income Tax Act, 1961 (inserted by the Finance Act, 2022) defines a 'virtual digital asset' as any information, code, number, or token generated through cryptographic means or otherwise, which provides a digital representation of value and can be transferred, stored, or traded electronically. The definition expressly includes cryptocurrencies and NFTs within its scope.

Cryptocurrencies are held in digital 'wallets' — software programs that store public and private cryptographic keys. The private key is the functional equivalent of a bearer instrument: possession of the private key constitutes control over the associated assets. This characteristic fundamentally distinguishes cryptocurrency from conventional bank deposits, which are subject to institutional custodianship, subpoena, and account freezes.

### 2.2 Non-Fungible Tokens (NFTs)

NFTs are unique cryptographic tokens recorded on a blockchain that certify ownership of a specific digital or physical asset — including digital art, music, virtual real estate, and collectibles. Unlike fungible cryptocurrencies, each NFT is distinct. Their value is highly subjective and dependent on market sentiment. In high-net-worth matrimonial disputes, NFT portfolios may represent substantial value.

### 2.3 Other Digital Assets

Beyond cryptocurrencies and NFTs, matrimonial disputes may involve domain names, which can comm-

and considerable commercial value; online businesses and digital intellectual property such as software code, monetised content channels, and streaming royalties; virtual gaming currencies accumulated in massively multiplayer online games; loyalty points and airline miles with significant monetary equivalents; and digital content libraries. Each category raises distinct questions of identifiability, valuation, and divisibility.

### **3. THE EXISTING STATUTORY FRAMEWORK AND ITS INADEQUACIES**

#### **3.1 Personal Laws and Matrimonial Property**

Indian matrimonial law does not adopt a community property regime. Unlike jurisdictions such as California or France, where assets acquired during marriage vest equally in both spouses by operation of law, Indian personal laws follow an individual property model. Under the HMA, each spouse retains ownership of assets acquired in their own name. The court's power to divide property at the time of divorce is circumscribed by Section 27 of the HMA, which enables parties to present a petition for settlement of property held jointly or separately as to which each has a beneficial interest — but does not confer a general jurisdiction for equitable distribution of all matrimonial assets.

Section 25 of the HMA empowers the court to order permanent alimony and maintenance, having regard to the financial capacity of the paying spouse, while Section 24 enables interim maintenance during the pendency of proceedings. The Bharatiya Nagarik Suraksha Sanhita, 2023, Section 144 (formerly Section 125, Code of Criminal Procedure, 1973) provides a secular, religion-neutral maintenance remedy applicable to all spouses. None of these provisions expressly reference digital assets, nor do they contemplate the evidentiary or valuation difficulties that such assets present.

#### **3.2 The Finance Act, 2022 and Taxation of VDAs**

The Finance Act, 2022 introduced Sections 115BBH and 194S into the Income Tax Act, 1961. Under Section 115BBH, income from the transfer of a VDA is taxed at a flat rate of thirty percent, with no permissible deductions except the cost of acquisition. Losses incurred on the transfer of one VDA may not be set off against income from another VDA, nor may they be carried forward to subsequent assessment years. Section 194S mandates one percent tax deducted at source (TDS) on every transaction involving the transfer of a VDA exceeding Rs. 10,000 in value.

The mandatory disclosure of VDA transactions in the Income Tax Return (Schedule VDA) has created an inadvertent paper trail that courts in matrimonial proceedings may leverage. A non-disclosing spouse who has traded cryptocurrencies on a registered exchange while filing income tax returns faces exposure if the counterparty discloses the transaction. However, self-custody wallets and peer-to-peer transactions leave no such trail, creating a significant asymmetry.

#### **3.3 The PMLA Amendment of 2023**

By a notification dated March 7, 2023, the Ministry of Finance brought all transactions involving VDAs within the ambit of the Prevention of Money Laundering Act, 2002 (PMLA). VDA service providers (VDASPs) — including exchanges, custodians, wallet providers, and administrators — were designated as 'reporting entities' obligated to perform Know Your Customer (KYC) verification, maintain transaction records, and report suspicious transactions to the Financial Intelligence Unit-India (FIU-IND). This regulatory architecture creates exchange-level records that are discoverable in court proceedings, providing an important tool for the identification of hidden digital assets in matrimonial disputes.

#### **3.4 The Bharatiya Sakshya Adhiniyam, 2023**

The Bharatiya Sakshya Adhiniyam, 2023 (BSA), which replaced the Indian Evidence Act, 1872 with eff-

ect from July 1, 2024, expressly recognises electronic records — including information stored on digital devices and transmitted over networks — as admissible evidence. Blockchain transaction records, wallet addresses, exchange statements, and digital communications referencing cryptocurrency holdings may accordingly constitute admissible evidence in matrimonial proceedings, subject to proper authentication and certification.

#### **4. JUDICIAL DEVELOPMENTS: BUILDING A JURISPRUDENTIAL FOUNDATION**

##### **4.1 Rhitukumari v. Zanmai Labs Pvt. Ltd. (Madras High Court, 2025)**

The most consequential Indian judicial pronouncement on the status of digital assets is the Madras High Court's decision in O.A. No. 194 of 2025, delivered by Justice N. Anand Venkatesh. The case arose from a petition filed by an investor whose 3,532.30 XRP tokens — purchased on the WazirX exchange in January 2024 for approximately Rs. 1,98,516 — were frozen following a cyberattack on the platform in July 2024 that resulted in losses of approximately USD 230 million. The petitioner sought interim protection under Section 9 of the Arbitration and Conciliation Act, 1996.

Justice Venkatesh held that cryptocurrency possesses the essential legal attributes of property — identifiability, exclusivity, and transferability — and that ownership is ascertainable through private keys. The Court referenced Section 2(47A) of the Income Tax Act, 1961, to establish that the Indian legislative framework had already implicitly acknowledged VDAs as property by subjecting them to a capital gains-equivalent tax. The ruling also confirmed Indian courts' jurisdiction to protect cryptocurrency assets located on Indian exchanges, irrespective of pending offshore restructuring proceedings.

Although decided in a commercial context, the implications for family law are direct and significant. If cryptocurrency is property, it is capable of forming part of the matrimonial estate; it may be the subject of disclosure obligations; its non-disclosure may attract adverse inference; and it may be taken into account in computing alimony and maintenance.

##### **4.2 Related Supreme Court Developments**

In *Internet and Mobile Association of India v. Reserve Bank of India* (2020), the Supreme Court struck down the Reserve Bank of India's 2018 circular that had prohibited banks from dealing with cryptocurrency businesses, holding it disproportionate and violative of the right to trade guaranteed under Article 19(1)(g) of the Constitution. In *PASL Wind Solutions Pvt. Ltd. v. GE Power Conversion India Pvt. Ltd.* (2021), the Supreme Court affirmed the capacity of Indian courts to grant interim relief for the protection of assets situated in India. The *Rhitukumari* court expressly invoked this precedent to assert territorial jurisdiction over Indian-exchange-held digital assets.

##### **4.3 The Supreme Court on Maintenance and Full Disclosure**

The Supreme Court has increasingly emphasised the obligation of complete financial disclosure in matrimonial proceedings. In *Rajnish v. Neha* (2020), the Court issued comprehensive guidelines requiring both spouses to file a Statement of Assets and Liabilities at the commencement of maintenance proceedings. In *Parvin Kumar Jain v. Anju Jain* (2024), the Court reiterated that full income disclosure is a prerequisite to fair alimony determination. In *Rakhi Sadhukhan v. Raja Sadhukhan* (2025), the Supreme Court increased permanent alimony from Rs. 20,000 to Rs. 50,000 per month and ordered the transfer of the matrimonial home. These disclosure mandates, if extended to VDAs, would create a robust framework for identifying cryptocurrency holdings in divorce proceedings.

## 5. CHALLENGES OF DISCLOSURE AND ASSET TRACING

### 5.1 The Concealment Problem

The pseudonymous nature of blockchain technology is, simultaneously, its defining innovation and its greatest vulnerability in the context of matrimonial justice. A hardware wallet containing hundreds of crore rupees in Bitcoin exists as a small physical device with no institutional custodian, no paper statement, and no visible connection to its owner's identity unless the owner chooses to reveal the private key. Peer-to-peer crypto transactions, decentralised exchanges (DEXes) operating without KYC obligations, and privacy-preserving coins such as Monero and Zcash present particularly acute challenges. A spouse may transfer assets to a new self-custody wallet immediately before filing for divorce, rendering the transaction traceable in principle on the blockchain but practically unattributable without sophisticated forensic analysis.

### 5.2 Forensic Blockchain Analysis

Forensic blockchain analysis has emerged as an indispensable tool in jurisdictions that have grappled with digital asset concealment in divorce proceedings. Specialist firms deploy algorithms to cluster wallet addresses, trace fund flows across chains, identify exchange deposit and withdrawal patterns, and ultimately link anonymous wallets to identified individuals. In India, the PMLA and FIU-IND registration requirements mean that exchanges such as CoinDCX, WazirX, and Zebpay are obligated to maintain transaction records and respond to law enforcement requests, providing a formal legal avenue to obtain exchange-level data in matrimonial proceedings through appropriate court orders or Letters Rogatory.

### 5.3 Disclosure Obligations Under Existing Law

Currently, the Statement of Assets and Liabilities mandated by the Supreme Court in *Rajnish v. Neha* does not expressly enumerate digital assets as a required disclosure category. Courts have wide inherent powers under Section 151 of the Code of Civil Procedure, 1908 to issue orders necessary for the ends of justice. Family court judges should be empowered to direct disclosure of all digital wallets, exchange accounts, and VDA holdings as a routine component of the discovery process. Non-disclosure should attract severe consequences, including adverse inference, contempt proceedings, and unfavourable property division orders.

## 6. VALUATION CHALLENGES IN MATRIMONIAL PROCEEDINGS

### 6.1 Price Volatility

Perhaps the most practically intractable challenge in adjudicating digital assets in divorce proceedings is the question of valuation. Cryptocurrency markets operate twenty-four hours a day, seven days a week, across global exchanges, and are subject to price fluctuations of extraordinary magnitude. Bitcoin, for example, declined from approximately USD 69,000 in November 2021 to approximately USD 16,000 in November 2022, before recovering to above USD 100,000 in 2024. A divorce proceeding that spans eighteen to thirty-six months — the routine timeline for contested matrimonial litigation in Indian courts — may see the value of a cryptocurrency portfolio fluctuate by orders of magnitude between the date of filing, the date of hearing, and the date of final decree.

This volatility raises a fundamental methodological question: which date should govern valuation? The date of separation, the date of filing the divorce petition, the date of the court's decree, or the date of actual division? Each choice produces materially different outcomes. Indian courts have no settled jurisprudence on this question.

## 6.2 NFT and Illiquid Digital Asset Valuation

The valuation of NFTs is even more complex. NFT prices are determined entirely by market sentiment, with no underlying cash flows, earnings, or tangible assets to anchor valuation. The absence of established valuation methodologies for NFTs — analogous to the discounted cash flow analysis used for businesses or the comparable sales approach used for real estate — means that courts must rely heavily on expert testimony, which itself may be contested and costly. The appointment of court-commissioned independent valuers with demonstrated expertise in digital assets is essential but currently lacks a formal procedural mechanism in Indian family courts.

## 6.3 Staking Rewards and Mining Income

Cryptocurrencies that generate income through staking or mining present an additional layer of complexity. Staking rewards — earned by 'locking' cryptocurrency in a network validation mechanism — are an ongoing income stream that may constitute marital income if generated during the marriage. Mining rewards similarly constitute income earned during the marriage through the deployment of marital resources (electricity, equipment). Courts must determine whether such rewards constitute divisible property, income for maintenance computation purposes, or both.

## 7. JURISDICTIONAL AND CROSS-BORDER COMPLEXITIES

Blockchain-based assets have no physical location. A Bitcoin wallet created by an Indian resident may store assets on servers located across dozens of jurisdictions simultaneously — a characteristic that confounds traditional rules of situs that govern the law applicable to movable property. Section 20 of the Code of Civil Procedure, 1908 confers jurisdiction on the court within whose local limits the cause of action wholly or partly arises. The Madras High Court's reasoning in *Rhitukumari* — that the cause of action arose in India because the investor's transactions originated from a Chennai bank account and the exchange was registered with FIU-IND — offers a pragmatic jurisdictional anchor for Indian courts in analogous matrimonial situations.

However, where digital assets are held on offshore, unregistered exchanges or in self-custody wallets operating through foreign-hosted nodes, the enforcement of an Indian court's order presents formidable difficulties. Mutual Legal Assistance Treaties (MLATs) with cryptocurrency-friendly jurisdictions remain inadequate. India's G20 Presidency in 2023 produced a high-level commitment to coordinated crypto regulation — a foundation that must now be built upon through concrete bilateral enforcement agreements.

## 8. IMPACT ON ALIMONY AND MAINTENANCE CALCULATIONS

The Supreme Court's evolving jurisprudence on maintenance is directly implicated by the digital asset question. In *Rajnish v. Neha* (2020), the Court held that courts must consider all income streams — including investment income, rental income, and business profits — in computing maintenance. In *Parvin Kumar Jain v. Anju Jain* (2024), eight factors were enumerated to guide permanent alimony determination, including the financial capacity of the paying spouse, the standard of living during the marriage, and the income and assets of both parties. In *Rakhi Sadhukhan v. Raja Sadhukhan* (2025), the Supreme Court substantially increased maintenance, signalling that courts must take a comprehensive view of the paying spouse's economic position.

Digital assets radically complicate this inquiry. A spouse with a modest salaried income but a substantial cryptocurrency portfolio may project an artificial picture of limited financial means if the court's assessment is confined to salary slips and bank statements. Conversely, a spouse whose entire wealth is

denominated in highly volatile digital assets may lack the liquidity to satisfy a cash maintenance order without selling assets at an adverse price. Courts in India have already recognised that maintenance is not a tool for equalisation of wealth but must ensure the dependent spouse's dignity and living standard. Specifically, courts should consider: requiring disclosure of VDA holdings as part of the mandatory affidavit of disclosure; appointing forensic accountants with digital asset expertise; treating cryptocurrency staking and mining returns as assessable income for maintenance purposes; considering in-kind division of digital assets (wallet-to-wallet transfer) as an alternative to forced liquidation, which triggers tax liability; and factoring price volatility into maintenance quantum, potentially by adopting a reference period average.

## 9. COMPARATIVE INTERNATIONAL PERSPECTIVES

### 9.1 United Kingdom

English courts have developed the most sophisticated jurisprudence on digital assets in matrimonial proceedings. The Law Commission of England and Wales published its report 'Digital Assets as Personal Property' in 2023, recommending recognition of a distinct third category of personal property to accommodate digital assets. English family courts have issued worldwide freezing orders over cryptocurrency wallets and have appointed receivers over digital assets in divorce proceedings. In *Lavinia Deborah Osbourne v. Persons Unknown* (2022), the court recognised NFTs as property in English law. In *Prest v. Petrodel Resources Ltd.* (2013), the Supreme Court affirmed broad judicial powers to look through corporate structures to ascertain beneficial ownership — a doctrine extendable to digital wallets.

### 9.2 United States

In the United States, community property states such as California treat digital assets acquired during marriage as presumptively marital property subject to equal division. New IRS reporting rules operative from 2025 require cryptocurrency brokers to issue 1099-DA forms, significantly enhancing the paper trail available to family courts. The Uniform Law Commission has been developing a model act to standardise the treatment of digital property in dissolution proceedings across states.

### 9.3 Singapore

Singapore has adopted a forward-looking approach to digital asset regulation through its Payment Services Act, 2019 and subsequent amendments. Singapore courts have exercised broad equitable jurisdiction to freeze and divide digital assets in matrimonial proceedings, leveraging the Monetary Authority of Singapore's robust licensing and registration framework for digital payment token service providers.

### 9.4 Lessons for India

The international experience demonstrates a consistent trajectory: jurisdictions that have developed clear property classification frameworks for digital assets, established mandatory disclosure regimes, and invested in judicial training on blockchain technology are better positioned to deliver equitable outcomes in matrimonial proceedings involving digital wealth. India has both the imperative and the opportunity to draw on these international models while developing context-specific solutions.

## 10. PROPOSED LEGISLATIVE AND PROCEDURAL REFORMS

### 10.1 Statutory Amendment to Personal Laws

The most fundamental reform required is the amendment of the Hindu Marriage Act, 1955 and other personal law statutes to expressly include 'virtual digital assets' — as defined in Section 2(47A) of the

Income Tax Act, 1961 — within the definition of matrimonial property subject to judicial division. The Special Marriage Act, 1954, the Indian Divorce Act, 1869, and the Parsi Marriage and Divorce Act, 1936 should be similarly amended for consistency.

### **10.2 Mandatory Disclosure Framework**

The Supreme Court's guidelines in *Rajnish v. Neha* should be supplemented by a specific judicial direction requiring all parties to matrimonial proceedings to disclose, under oath, all VDA holdings — including wallet addresses, exchange accounts, staking positions, and NFT portfolios — as part of the mandatory Statement of Assets and Liabilities. Family courts should be empowered to issue discovery orders to FIU-IND-registered VDASPs for transaction records related to the parties.

### **10.3 Expert Valuation Mechanism**

The Family Courts Act, 1984 should be amended to empower family courts to appoint independent digital asset valuers — certified by the Institute of Chartered Accountants of India (ICAI) or a dedicated digital asset valuation board — to provide expert evidence on the value of disputed digital assets. Valuation methodology should be standardised by judicial guidelines, with courts adopting the average of the asset's value over a defined reference period (e.g., ninety days prior to the date of filing) to mitigate the distorting effect of short-term price volatility.

### **10.4 Training of Family Court Judges**

The National Judicial Academy and State Judicial Academies should incorporate modules on blockchain technology, VDA ecosystems, forensic tracing methodologies, and international digital asset law into their curricula for family court judges. Without basic technological literacy, judges are ill-equipped to evaluate expert evidence, assess disclosure affidavits, or craft technologically informed orders such as wallet-to-wallet transfer directions.

### **10.5 A Digital Assets (Matrimonial Proceedings) Act**

In the longer term, India should consider the enactment of a dedicated statute — tentatively, the Digital Assets (Matrimonial Proceedings) Act — that consolidates the law on digital assets in family proceedings. Such legislation could draw on the Uniform Law Commission's model act in the United States, the Law Commission of England and Wales's recommendations, and India's own constitutional and statutory traditions to create a comprehensive, religion-neutral framework applicable to all matrimonial proceedings. Key provisions should address property classification, disclosure obligations, forensic discovery powers, valuation methodology, cross-border enforcement cooperation, and the admissibility of blockchain evidence.

## **11. CONCLUSION**

Digital assets represent one of the most significant challenges to emerge in Indian family law in recent decades. The exponential growth of cryptocurrency adoption in India, combined with the structural opacity of blockchain technology, the absence of dedicated matrimonial legislation, and the nascent state of judicial competence in this domain, creates a systemic risk of unjust outcomes in divorce proceedings where digital assets form part of the matrimonial estate.

The Madras High Court's ruling in *Rhitukumari v. Zanmai Labs Pvt. Ltd.* (2025) is a landmark step in establishing that cryptocurrency is property under Indian law — directly importable into matrimonial property jurisprudence. Equally, the Supreme Court's sustained emphasis on full disclosure in maintenance proceedings provides a constitutional and equitable foundation upon which a digital asset disclosure regime can be constructed.

However, judicial incrementalism alone is insufficient. The challenges of valuation volatility, forensic tracing, jurisdictional uncertainty, and legal illiteracy demand legislative intervention. India must amend its personal law statutes to expressly include VDAs within the matrimonial property framework, establish mandatory disclosure mechanisms, develop standardised valuation protocols, invest in judicial training, and engage proactively in international cooperation frameworks. Only through a coordinated legislative, judicial, and institutional response can Indian family law achieve the equitable outcomes that the Constitution's guarantee of equality and the judiciary's foundational commitment to fairness demand. As digital wealth becomes an increasingly mainstream component of Indian household balance sheets, the urgency of these reforms grows commensurately.

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