

COURSE NAME - LL.B-2<sup>ND</sup> SEM  
SUBJECT - FAMILY LAW-II  
TOPIC - THE FAMILY COURT ACT 1984

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# OBJECT OF FAMILY COURT ACT

The Family Court Act 1984 to provide for the establishment of Family Courts with a view

- to promote conciliation in,
- and secure speedy settlement of,
- disputes relating to marriage and family affairs and for matters connected therewith

## Establishment of Family Courts-Sec-3

1. For the purpose of exercising the jurisdiction and powers conferred on a Family Court by this Act, the State Government after consultation with the High Court, and by notification,-
  - a. shall, as soon as may be after the commencement of this Act, establish for every area in the State comprising a city or town whose population exceeds one million, a Family Court;
  - b. may establish Family Courts for such other areas in the State as it may deem necessary.
2. The State Government shall, after consultation with the High Court specify, by notification, the local limits of the area to which the jurisdiction of a Family Court shall extend and may, at any time, increase, reduce or alter such limits.

## Appointment of Judges (sec-4)

1. The State Government may, with the concurrence of the High Court appoint one or more persons to be the Judge or Judges, of a Family Court.
2. When a Family Court consists of more than one Judge

(3) A person shall not be qualified for appointment as a Judge unless he

- a. has for at least seven years held a Judicial office in India or the office of a member of a tribunal or any post under the Union or a State requiring special knowledge of law; or
- b. has for at least seven years been an advocate of a High Court or of two or more such Courts in succession; or
- c. Possesses such other qualification as the Central Government may, with the concurrence of the Chief Justice of India, prescribe.

(4) No person shall be appointed as or hold the office of, a Judge of a Family Court after he has attained the age of sixty-two years.

**5. Association of social welfare agencies, etc.**-The State Government may, in consultation with the High Court, provide. by rules, for the association, in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of

- a. institutions or organizations engaged in social welfare or the representatives thereof;
- b. persons professionally engaged in promoting the welfare of the family;
- c. persons working in the field of social welfare; and
- d. any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

**6. Counsellors, officers and other employees of Family Courts.** -(1) The State Government shall, in consultation with the High Court, determine the number and categories of counsellors, officers and other employees required to assist a Family Court in the discharge of its functions and provide the Family Court with such counsellors, officers and other employees as it may think fit

# PROCEDURE OF ADJUDICATION (SEC 9-18)

## **DUTIES OF FAMILY COURT( SEC-9)**

The family Court shall make an endeavor to assist and persuade the parties in arriving at a settlement.

If the Court feels that there is a reasonable possibility of a settlement the Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to arrive at a settlement.

## ■ **FAMILY COURT- A CIVIL COURT (SEC-10)**

Family Court shall be deemed to be a civil Court (except for proceedings relating to Maintenance of wives, children and parents relating to the Code of Criminal Procedure).

- **Proceedings to be held in camera(SEC-11)**
- **Assistance of medical and welfare experts(SEC-12)**
- **Right to legal representation.(sec-13)**
- **Application of Indian Evidence Act, 1872(SEC-14)**



# Jurisdiction Of The Family Court

The Family Courts are empowered to deal with the following matters:

- A suit or proceeding between the parties to a marriage for nullity of marriage or restitution of conjugal rights or dissolution of marriage.
- A suit or declaration as to the validity of a marriage or as to the matrimonial status of any person
- A suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them.
- A suit or proceeding for an order or injunction in circumstances arising out of a marital relationship.
- A suit or proceeding for a declaration as to the legitimacy of any person
- A suit or proceeding for maintenance.
- A suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.
- Family Courts also have jurisdiction exercisable by a Magistrate of the 1st class relating to an order for maintenance of wife, children and parents under the Code of Criminal Procedure.

## **RECORD OF ORAL EVIDENCE AND BY AFFIDAVIT**

### **( SEC 15-16)**

- The Court shall record what the witness deposes and the memorandum shall be signed and form a part of a record.
- The Court may on the application of any of the parties summon and examine any such person as to the facts contained in the affidavit.

## **JUDGEMENT(SEC-17)**

Judgment of a Family Court shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

# Execution of decrees and orders(SEC-18)

1. A decree or an order (other than an order under Chapter IX of the Code of Criminal Procedure, 1973, (2 of 1974), passed by a Family Court shall have the same force and effect as a decree or order of a Civil Court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 (5 of 1908), for the execution of decrees and orders.
2. An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure 1973, (2 of 1974), shall be executed in the manner prescribed for the execution of such order by that Code.
3. A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary Civil Court to which it is sent for execution.

# **APPEAL (SEC-19)**

An appeal lies to the High Court from every judgment or order passed by the Family Court.

However no appeal lies against a decree or order passed by the Family Court with the consent of the parties under proceedings relating to maintenance of wives, children and parents under the Code of Criminal Procedure.

## **LIMITATION**

An appeal to the High Court from every judgment or order not being an interlocutory order passed by the Family Court has to be filed within 30 days.

**THANKYOU**