

# The Limitations of Applicability of Civil Procedure Code to Family Court Proceedings

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## Abstract

To summarize the versatility of civil law and what all it entails in a single tight compartment is akin to doing injustice to the vast field of civil law. To streamline the procedure of the same, the Civil Procedure Code came into the being. The code was introduced with the basic aim to rationalize and consolidate the process to be following while adjudicating matters related to civil law. With the introduction of Hindu Marriage Act, 1955, Muslim Marriage Act, Special Marriage Act, 1955 and so on coupled with the rise in matrimonial related disputes and resultant sharp rise in the number of cases being filed, the Family Courts Act, 1984 was incepted. Eventually all states too made their own rules to bring together the whole process in a linear manner. In this paper the author aims to analyse as to what extent CPC determines the functioning of cases filed under the ambit of family Law and if at all the family courts by virtue of Family Courts Act, 1984 have been given certain independence in this aspect. If yes, then where does that stem from primarily and in case of conflict between the two which one would prevail.

## CHAPTER : 01

### INTRODUCTION

To summarize the versatility of civil law and what all it entails in a single tight compartment is akin to doing injustice to the vast field of civil law. To streamline the procedure of the same, the Civil Procedure Code came into the being. The code was introduced with the basic aim to rationalize and consolidate the process to be following while adjudicating matters related to civil law. With the introduction of Hindu Marriage Act, 1955, Muslim Marriage Act, Special Marriage Act, 1955 and so on coupled with the rise in matrimonial related disputes and resultant sharp rise in the number of cases being filed, the Family Courts Act, 1984 was incepted. Eventually all states too made their own rules to bring together the whole process in a linear manner.

Family law in many jurisdictions operates within a unique procedural framework designed to address the distinct nature of family disputes. The Civil Procedure Code (CPC), which governs the general procedure for civil litigation, often finds limited application in the context of Family Court proceedings. This distinction arises due to the specialized needs and sensitive nature of family matters, which necessitate a departure from conventional civil litigation practices.

Family Courts are established with the objective of promoting conciliation and securing speedy redressal of disputes relating to marriage and family affairs. Consequently, the procedural rigor and adversarial nature inherent in the CPC may not always align with the goals of family justice. The Family Courts

Act, for instance, provides a more flexible and informal framework aimed at reducing the adversarial nature of family litigation and focusing on dispute resolution.

In this paper the author aims to analyze as to what extent CPC determines the functioning of cases filed under the ambit of family Law and if at all the family courts by virtue of Family Courts Act, 1984 have been given certain independence in this aspect. If yes, then where does that stem from primarily and in case of conflict between the two which one would prevail.

## **CHAPTER: 02**

### **ANALYSIS OF SECTION 10(3) AND OF SECTION 20 OF THE FAMILY COURTS ACT 1984 WITH THE HELP OF CERTAIN CASE LAWS**

Prior to enactment of the Family Courts Act, 1984, the matrimonial suits were tried by the District Courts in accordance with the procedure laid down in the Code of Civil Procedure and the evidence was led as per the provisions of the Indian Evidence Act. It will be relevant to notice that the Code of Civil Procedure was amended drastically by the Amending Act 104 of 1976 which came into effect on 01.02.1977 and Order XXXII-A was incorporated which was applicable to suits relating to matters concerning the family. Order XXXII-A, Rules 1 to 6 are reproduced hereinafter for ready reference:-

#### **“1.Application of the Order:-**

- (1) The provisions of this Order shall apply to suits or proceedings relating to matters concerning the family.
- (2) In particular, and without prejudice to the generality of the provisions of sub-rule (1), the provisions of this Order shall apply to the following suits or proceeding concerning the family, namely:
  - A suit or proceeding for matrimonial relief, including a suit or proceeding for declaration as to the validity of a marriage or as to the matrimonial status of any person;
  - A suit or proceeding for a declaration as to the legitimacy of any person;
  - A suit or proceeding in relation to the guardianship of the person or the custody of any minor or other member of the family, under a disability;
  - A suit or proceeding for maintenance;
  - A suit or proceeding as to the validity or effect of an adoption;
  - a suit or proceeding, instituted by a member of the family, relating to wills, intestacy and succession;
  - a suit or proceeding relating to any other matter concerning the family in respect of which the parties are subject to the impersonal law.
- (3) So much of this Order as relates to a matter provided for by a special law in respect of any suit or proceeding shall not apply to that suit or proceeding.

**2. Proceedings to be held in camera:-** In every suit or proceeding to which this Order applies, the proceedings may be held in camera if the Court so desires and shall be so held if either party so desires.

#### **3. Duty of Court to make efforts for settlement:-**

- (1) In every suit or proceedings to which this Order applies, an endeavour shall be made by the Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist the parties in arriving at a settlement in respect of the subject – matter of the suit.
- (2) If, in any such suit of proceeding, at any stage it appears to the Court that there is a reasonable possibility of a settlement between the parties, the Court may adjourn

the proceeding for such period as it thinks fit to enable attempts to be made to effect such a settlement.

- (3) The power conferred by sub-rule (2) shall be in addition to, and not in derogation of, any other power of the Court to adjourn the proceedings.
4. **Assistance of welfare expert.**—In every suit or proceeding to which this Order applies, it shall be open to the Court to secure the services of such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purpose of assisting the Court in discharging the functions imposed by Rule 3 of this Order.
5. **Duty to inquire into facts.**—In every suit or proceeding to which this Order applies, it shall be the duty of the Court to inquire, so far it reasonably can, into the facts alleged by the plaintiff and into any facts alleged by the defendant.

This was mainly done to cater to the different civil cases which are governed by Civil Procedure Code, 1908 especially cases coming under the ambit of Family Matters and connected matters. Since the family court matters are governed by the Family Courts Act, 1984 it is incumbent to mention the special status of the Family Courts wherein certain powers to devise mechanism / procedure has been statutorily bestowed upon the Presiding Officer / Principal Judge of the Family Court vide operation of the Family Courts Act, 1984 and as affirmed in the Judicial Pronouncements being reproduced here in the succeeding paragraphs. The establishment of Family Courts in India marked a significant shift in the judicial approach to family disputes, prioritizing resolution efficiency and procedural flexibility over the stringent application of conventional legal procedures. That the letter and spirit of the Family Courts Act, 1984 coupled with statutory strength derivative from Section 10(3) and Section 20 of the Family Courts Act, 1984 further substantiate the points.

Bare text of Section 10(3) of the Family Courts Act, 1984 is being reproduced herein below:

“Nothing in sub-section (1) or sub-section (20) shall prevent a family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceeding or at the truth of the facts alleged by the one party and denied by the other.”

Additionally, Section (20) of the Family Court Act, 1984 reads as following:

“Act to have overriding effects- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

Through this paper author explores the unique procedural framework of Family Courts in India, as distinguished from ordinary civil courts, through a combined reading of Sections 9, 10, and 14 of the Family Courts Act, 1984. It argues that Family Courts are not bound by the rigid procedures prescribed by the Civil Procedure Code (CPC), the Indian Evidence Act, or the Code of Criminal Procedure (Cr.P.C.). Instead, the emphasis is on devising fair procedures that facilitate the speedy resolution of disputes. This principle has been upheld by the Hon’ble High Court of Kerala in **Nisha Haneefa vs. Abdul Latheef and Ors.**<sup>1</sup>, reinforcing the autonomy of Family Courts in ensuring justice through flexible and fair processes. Wherein it has been held that

“The Lawyers in the Family Courts continued to dominate the process and Procedure. This edifice, built in and around the Family Court kept the litigant at bay, observing the process and procedure reflect through the orders or from the websites. The lawyers continue to deal with the cases, with rules of law and procedure, as exactly as they follow in an ordinary Civil Court. The presiding officer remains a

neutral umpire, watchfully eyeing on the rules and procedure, to give a verdict. The very purpose of interesting Family dispute to the family Court from Ordinary Civil Court is to focus not on the rights and obligations of the disputants but on the interest of the parties and welfare of the subject of dispute.”

Similarly, Hon’ble High Court of Kerala in **T Anjana Vs. J.A. Jayesh Jayaram**<sup>2</sup> ruled that “The Master of the proceedings before the Family Court is the Presiding officer of the Family Court and not the party. So long as the principle of fairness or followed and adhered to, the power of Family Court cannot be questioned by the parties”

Holding the same view, Hon’ble High Court of Kerala again in **Anoop Vijaya Vs. Arunima**<sup>3</sup> ruled that

“By virtue of Section 20 of the Act, the forum created under the Act shall have overriding effect over the forum mentioned in the CPC. 18. Section 20 of the Act gives the family Court Act an overriding effect over all other laws. The overriding effect of the Act under Section 20 and the applicability of CPC made subject to the provisions of the Act, makes it abundantly clear that, the intention of legislature was to give exclusive jurisdiction to the Family Court Act. Coupled with the aforesaid statutory provisions, is the applicability of the principle of special law prevailing over the general law. In the instant case, the Family Courts Act is a special law while the CPC is the general law. So viewed, the forum for execution created under the Family Courts Act will prevail over the forum specified under the CPC.”

In **Sudhanshu Gupta Vs Komal Gupta**<sup>4</sup>, **Civil Revision No. 109 of 2019 (AFR)**, The Hon’ble Court held that

“even though the provisions of the CPC are applicable to the proceedings before the Family Court, they are subject to and limited by the provisions of the Family Courts Act itself, which means that the provisions contained in the Family Courts Act shall necessarily prevail over the provisions contained in the Civil Procedure Code”.

<sup>1</sup> 2022 SCC OnLine Ker 1556

<sup>2</sup> 2022 SCC OnLine Ker 2043

<sup>3</sup> 2021 SCC OnLine Ker 267

<sup>4</sup> 2019:AHC:126131

Therefore, a combined reading a Section 10 (3) and Section 20 would clearly entail that the proceedings under the Family Courts Act are not strictly bound by Civil Procedure Code unlike an ordinary civil court and enough leverage by means of legislative mandate has been granted to the Presiding Officer while adjudication of matter at hand.

It is submitted that by introducing the amendment in Order 18 of the Code of Civil Procedure, 1908 in the year 2002 and directing that the examination – in – chief of the witnesses is to be submitted on affidavits, was primarily to cut-short the time consumed in the trial courts for recording the examination – in – chief.

## CHAPTER: 03

### STATEMENT AND OBJECT OF FAMILY COURTS ACT, 1984

To analyze any act or the object behind it is important to read the statement and object of the same as it works like a mirror of the same giving a glimpse into the main objective while passing the Act. This not only explains the legislative intent behind the same but also paves the way into how and in which manner the statute of the act has to be interpreted. In case of any conflict the statute more in consonance with the legislative intent should be followed and given precedence than the one that doesn’t.

The statement and object of the Family Courts Act state the following: “An Act 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”

The Family Courts Act, 1984 was enacted with the primary objective of promoting conciliation and ensuring the speedy settlement of disputes relating to marriage and family affairs. To fulfil this objective, Family Courts were established throughout the State. Several key provisions underscore the unique procedural framework of these courts, namely Sections 5, 6, 9, 10, 11,

12, 13, 14, 15, 16, 17, and Section 20. Notably, Section 20 explicitly states that the Family Courts Act, 1984 shall have an overriding effect over other laws currently in force.

For the purposes of the present analysis, Sections 10, 13, 14, 15, 16, and 17 of the Family Courts Act, 1984 are particularly pertinent. These sections are reproduced below for ready reference:

**“10. Procedure generally.—**

1. Subject to the other provisions of this Act and the rules, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) and of any other law for the time being in force shall apply to the suits and proceedings (other than the proceedings under Chapter IX of the Code of Criminal Procedure, 1973) (2 of 1974), before a Family Court and for the purposes of the said provisions of the Code, Family Court shall be deemed to be a civil court and shall have all the powers of such court.
2. Subject to the other provisions of this Act and the rules, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) or the rules made there under, shall apply to the proceedings under Chapter IX of that Code before a Family Court.
3. Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings or at the truth of the facts alleged by the one Party and denied by the other.

**13. Procedure Right to legal representation.—**

Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner:

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*.

**14. Application of Indian Evidence Act, 1872.—**

A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).

**15. Application of Indian Evidence Act, 1872.—**

In suits or proceedings before a Family Court, it shall not be necessary to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record.

**16. Evidence of formal character on affidavit.—**

- (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.
- (2) The Family Court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding summon and examine any such persons to the facts contained in his affidavit.

## 17. Judgement.

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

The legislative framework as outlined above clearly indicates the intent to provide Family Courts with a distinct procedural autonomy aimed at facilitating efficient and amicable resolutions to family disputes. This autonomy is crucial for the Family Courts to effectively mediate and adjudicate in a manner that is both just and expeditious, unencumbered by the stringent procedural requirements that apply to ordinary civil and criminal courts.

At this stage, it will also be relevant to notice that the Code of Civil Procedure, 1908 was again amended in the year 2002 with special emphasis to curb delays in the trial of the civil suits and provisions in Order V, Order, VI, Order VII, Order VIII, Order XVI, Order XVII, Order XVIII among to there were drastically amended. The intention being to curb delays and bottlenecks which were clogging the dockets of the Court and to ensure that civil trials are concluded expeditiously. In order to achieve the aforesaid aspect, Order XVIII C.P.C. came to be amended and especially Order XVIII Rule 4, 5 C.P.C. laid down new contours relating to recording of evidence and Order XVIII, Rule 4 and 5 C.P.C. are being reproduced herein after for ready reference

### “04. Procedure Right to legal representation.—

- (1) In every case, the examination-in-chief of a witness shall be on affidavit and copies thereof shall be supplied to the opposite party by the party who calls him for evidence:  
Provided that where documents are filed and the parties rely upon the documents, the proof and admissibility of such documents which are filed along with affidavit shall be subject to the orders of the Court
- (2) The evidence (cross-examination and re-examination) of the witness in attendance, whose evidence(examination-in-chief) by affidavit has been furnished to the Court, shall be taken either by the Court or by the Commissioner appointed by it:  
Provided that the Court may, while appointing a commission under this sub-rule, consider taking into account such relevant factors as it thinks fit.
- (3) The Court or the Commissioner, as the case maybe, shall record evidence either in writing or mechanically in the presence of the Judge or of the Commissioner, as the case may be, and where such evidence is recorded by the Commissioner he shall return such evidence together with his report in writing signed by him to the Court appointing him and the evidence taken under it shall form part of the record of the suit.
- (4) The Commissioner may record such remarks as it thinks material respecting the demeanour of any witness while under examination. Provided that any objection raised during the recording of evidence before the Commissioner shall be recorded by him and decided by the Court at the stage of arguments.
- (5) The report of the Commissioner shall be submitted to the Court appointing the commission within sixty days from the date of issue of the commission unless the Court for reasons to be recorded in writing extends the time.
- (6) The High Court or the District Judge, as the case may be, shall prepare a panel of Commissioners to record the evidence under this rule.
- (7) The Court may by general or special order fix the amount to be paid as remuneration for the services of the Commissioner.

(8) The provisions of Rules 16, 16-A, 17 and 18 of Order XXVI, in so far as they are applicable, shall apply to the issue, execution and return of such commission under this rule.

**05. How evidence shall be taken in appealable cases.—**

In cases in which an appeal is allowed, the evidence of each witness shall be,—

(a) Taken down in the language of the court,—

1. in writing by, or in the presence and under the personal direction and superintendence of, the Judge, or
2. from the dictation of the Judge directly on a type writer; or

(b) If the Judge, for reasons to be recorded, so directs, recorded mechanically in the language of the Court in the presence of the Judge”

Section 14 also indicates that a Family Court may receive as evidence, any report, statement, document, information or any other matter which may in its opinion is essential for effectively dealing with a dispute, irrespective whether such material, report or document may not be admissible as per the Indian Evidence Act. The recording of evidence as per Section 15 of the Family Courts Act, 1984 permits the Family Court judge to record the memorandum of substance of what the witness deposes and it may not be necessary for the Judge to record the evidence of the witness at length. The evidence of formal witnesses is permissible in shape of an affidavit as per Section 16 and even the judgment which is to be pronounced as per Section 17 is required to have a concise statement of the case, the point for determination and the decision thereon along with reasons for such decision. This Section 17 is akin to the provisions of Order XXII Rule 4 which relates to judgments of a Small Cause Court, inasmuch as, even a judgment of a court of small causes is required to contain the points of determination and the decision thereon and the judgment of other courts as per Order XX Rule 4 (2) clearly provides that the judgment shall contain a concise statement, the points for determination and decision thereon and the reasons for said decision.

The aforesaid provisions and their interplay clearly highlights that the Family Court is required to curtail the delays, giving the Family Court enough leverage to expedite the proceedings diluting certain provisions of the Indian Evidence Act and the Code of Civil Procedure to achieve the said object. The purpose and the object of the Family Court cannot be said to be identical to that of the traditional Civil Courts who are empowered to deal with all sorts of disputes where the provisions of C.P.C. and the Evidence Act are applicable with full rigors. In the aforesaid context, in a manner of speaking, the Family Courts are special courts wherein particular type of disputes are taken note of and decided and in order to achieve the solemn goal of fostering the atmosphere of conciliation, the legislature has conferred powers to achieve the afore said purpose including the power to devise the procedure for fair conclusion of the proceedings. It will also be pertinent to keep in mind that a civil trial specially relating to matrimonial matters which are governed by the Family Courts Act, 1984 cannot be mirrored as a criminal trial. Needless to say that the standard of proof in a civil case and in a criminal case are quite different, though, in a civil trial the standard of proof is based on the principles of pre-ponderance of probabilities while in a criminal trial, the standard of proof must be beyond reasonable doubt.

**CHAPTER: 04**

**SECTION 21 B OF HINDU MARRIAGE ACT, 1955 AND U.P. FAMILY COURT RULES 2006**

The intersection of statutory law and procedural regulations is crucial in the administration of justice, particularly in family law, where the stakes are inherently personal and societal. Section 21B of the

Hindu Marriage Act, 1955, and the Uttar Pradesh (U.P.) Family Court Rules, 2006, together constitute a significant legal framework governing matrimonial disputes in India.

The Hindu Marriage Act, 1955 came to be amended by the amending Act No. 68 of 1976 which came into effect from 27.05.1976 and Sections 21-B, Section 21-C and Section 22 came to be inserted and the same read as under:-

**“21-B. Special provision relating to trial and disposal of petitions under the Act.—**

- (1) The trial of a petition under this Act, shall, do as far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.
- (2) Every such petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the notice of the petition is served on the respondent.
- (3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date on which the notice of the appeal is served on the respondent.

**21-C. Documentary Evidence.—**

Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered.

**21-C. Documentary Evidence.—**

- (1) Every proceeding under this Act shall be conducted in camera and it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except a judgment of the High Court or of the Supreme Court printed or published with the previous permission of the court.
- (2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which may extend to one thousand rupees.

Section 21-B was introduced to ensure that the trial of matrimonial proceedings be continued on day to day basis and the legislature thought expedient to provide a timeline for conclusion of the trial within a period of six months from the date of service of notice on the defendant.

Section 21-C provided leverage to the parties that notwithstanding anything contained in other Act, no document will be treated to be inadmissible in evidence on the ground that it is not duly stamped or registered.

Section 22 directed that the proceedings be held in camera and may not be printed or publicized. The basic purpose of enacting the aforesaid provisions was to achieve the goal of getting the matrimonial proceedings decided not only expeditiously but to cut short the procedural technicalities and ensure privacy to an extent.

**Uttar Pradesh Family Court Rules 2006.—**

**Rule 57**

The proceedings before the court shall be heard and disposed of as expeditiously as possible, preferably within 3 months, and in achieving this objective the rules or procedure may not rigidly be adhered to.

All these provisions explicitly establish that the primary objective is the expeditious disposal of disputes and suits pending before Family Courts. This places Family Courts on a different footing compared to ordinary civil courts. According to the golden rule of interpretation, this implies that neither party is



permitted to exploit legal technicalities to delay proceedings with a malafide intent.

## CHAPTER: 05

### CONCLUSION AND WAY FORWARD WITH REFERENCE TO ARTICLE 21 OF THE INDIAN CONSTITUTION

In conclusion, family court matters are inherently sensitive, engaging deeply with human emotions unlike other civil suits involving immovable properties. The expeditious resolution of such litigations is essential to uphold the spirit of the law. The fundamental right to a dignified life, as guaranteed under Article 21 of the Indian Constitution, underscores the necessity for a fair and speedy trial. Ensuring timely justice in family court matters is not just a procedural requirement but a critical component of delivering true justice, safeguarding the well-being and dignity of the individuals involved.

Despite the clear legislative mandate for the swift resolution of family court matters, it is frequently observed that these cases endure for excessively long periods, sometimes spanning decades. This protracted process not only undermines the legislative intent but also allows such litigations to be misused as instruments for settling personal scores. It is imperative that the judicial system reinforces the legislative aim of expeditious justice in family courts to prevent the undue suffering of individuals and to ensure that the law serves its true purpose of providing timely and fair resolution to sensitive family disputes.

In **Yashpal Jain vs Sushila Devi**<sup>5</sup> Civil Appeal no. 4296 of 2023 the Apex court gave a list of directions to be followed while disposing off civil petitions:-

1. All courts at district and taluka levels shall ensure proper execution of the summons and in a time bound manner as prescribed under Order V Rule (2) of CPC and same shall be monitored by Principal District Judges and after collating the statistics they shall forward the same to be placed before the committee constituted by the High Court for its consideration and monitoring.
2. All courts at District and Taluka level shall ensure that written statement is filed within the prescribed limit namely as prescribed under Order VIII Rule 1 and preferably within 30 days and to assign reasons in writing as to why the time limit is being extended beyond 30 days as indicated under proviso to sub-Rule (1) of Order VIII of CPC.
3. All courts at Districts and Talukas shall ensure after the pleadings are complete, the parties should be called upon to appear on the day fixed as indicated in Order X and record the admissions and denials and the court shall direct the parties to the suit to opt for either mode of the settlement outside the court as specified in sub-Section (1) of Section 89 and at the option of the parties shall fix the date of appearance before such forum or authority and in the event of the parties opting to any one of the modes of settlement directions be issued to appear on the date, time and venue fixed and the parties shall so appear before such authority/forum without any further notice at such designated place and time and it shall also be made clear in the reference order that trial is fixed beyond the period of two
4. <sup>5</sup> 2023 SCC OnLine SC 1377
5. months making it clear that in the event of ADR not being fruitful, the trial would commence on the next day so fixed and would proceed on day-to-day basis.
6. In the event of the party's failure to opt for ADR namely resolution of dispute as prescribed under Section 89(1) the court should frame the issues for its determination within one week preferably, in the open court.

7. Fixing of the date of trial shall be in consultation with the learned advocates appearing for the parties to enable them to adjust their calendar. Once the date of trial is fixed, the trial should proceed accordingly to the extent possible, on day-to-day basis.
8. Learned trial judges of District and Taluka Courts shall as far as possible maintain the diary for ensuring that only such number of cases as can be handled on any given day for trial and complete the recording of evidence so as to avoid overcrowding of the cases and as a sequence of it would result in adjournment being sought and thereby preventing any inconvenience being caused to the stakeholders. vii. The counsels representing the parties may be enlightened of the provisions of Order XI and Order XII so as to narrow down the scope of dispute and it would be also the onerous responsibility of the Bar Associations and Bar Councils to have periodical refresher courses and preferably by virtual mode.
9. The trial courts shall scrupulously, meticulously and without fail comply with the provisions of Rule 1 of Order XVII and once the trial has commenced it shall be proceeded from day to day as contemplated under the proviso to Rule (2).
10. The courts shall give meaningful effect to the provisions for payment of cost for ensuring that no adjournment is sought for procrastination of the litigation and the opposite party is suitably compensated in the event of such adjournment is being granted.
11. At conclusion of trial the oral arguments shall be heard immediately and continuously and judgment be pronounced within the period stipulated under Order XX of CPC. xi. The statistics relating to the cases pending in each court beyond 5 years shall be forwarded by every presiding officer to the Principal District Judge once in a month who (Principal District Judge/District Judge) shall collate the same and forward it to the review committee constituted by the respective High Courts for enabling it to take further steps.
12. The Committee so constituted by the Hon'ble Chief Justice of the respective States shall meet at least once in two months and direct such corrective measures to be taken by concerned court as deemed fit and shall also monitor the old cases (preferably which are pending for more than 05 years) constantly.

## CHAPTER: 06

### SUGGESTIONS FOR ENHANCING THE EFFICIENCY OF FAMILY COURT PROCEEDINGS

1. **Strengthening Case Management Systems:** Implement advanced case management systems that allow for efficient tracking of case progress, ensuring adherence to timelines prescribed under the law. This includes automated reminders for deadlines and milestones in each case.
2. **Mandatory Training for Judicial Officers:** Conduct regular training sessions for judges and court staff focusing on the unique challenges of family court matters, emphasizing the importance of expeditious resolution and the sensitivities involved.
3. **Increased Judicial Oversight:** Establish oversight committees within the judiciary to monitor the progress of family court cases regularly. These committees should have the authority to intervene and provide necessary directions to expedite cases that are lagging.
4. **Penalties for Frivolous Adjournments:** Impose stricter penalties for parties seeking adjournments without valid reasons. This can include monetary fines and other sanctions to discourage unnecessary delays.
5. **Encouragement of Settlement at Early Stages:** Encourage settlement discussions at the earliest

possible stage of the proceedings. Judges should actively facilitate these discussions, helping parties to resolve disputes before they escalate into protracted litigation.

These suggestions aim to address the inefficiencies in the current system and ensure that family court matters are resolved in a timely and just manner, aligning with the legislative intent and protecting the rights and dignity of individuals involved.