

Jurisdiction of Family courts

Sr. No.	Title	Citation	Question involved	Held
1	Balram Yadav vs Fulmaniya Yadav	AIR 2016 SC 2161	Over riding effect of Family Courts Act over other laws	<ul style="list-style-type: none"> • Under Section 7(1) Explanation (b), a Suit or a proceeding for a declaration as to the validity of both marriage and matrimonial status of a person is within the exclusive jurisdiction of the Family Court, since under Section 8, all those jurisdictions covered under Section 7 are excluded from the purview of the jurisdiction of the Civil Courts. • In case, there is a dispute on the matrimonial status of any person, a declaration in that regard has to be sought only before the Family Court. It makes no difference as to whether it is an affirmative relief or a negative relief. • What is important is the declaration regarding the matrimonial status. Section 20 also endorses the view which we have taken, since the Family Courts Act, 1984, has an overriding effect on other laws.
2	Narayan vs Baba sahib and ors	AIR 2016 SC 1666; (2016) 6 SCC 725	Alienation of property of minor by guardian, Legal necessity, limitation Act.	<ul style="list-style-type: none"> • When mandatory permission of district court was not obtained u/s 8(2)(a) of HA&GA and sale was not done for legal necessity, then it was held that minor can impeach the sale transaction within 3 years after attaining majority
3	Shamima Farooqui Vs Shahid Khan	AIR 2015 SC 2025	Approach of Family Court Judge	<ul style="list-style-type: none"> • Family Courts have been established for adopting and facilitating the conciliation procedure and to deal with family disputes in a speedy and expeditious manner. • Further held – Family judges expected to be sensitive to the issue pertaining to the marriage and issues ancillary thereto. Family judge should remember that procrastination is the greatest assassin of the list before it. • Further held – There has to be a pro active approach in this regard and the said approach should be instilled in the family court judges by the judicial academies functioning under the High Court.
4	Surya Vadnan Vs State of Tamil Nadu & Ors	AIR 2015 SC 2243	Judgments of Foreign Court	<ul style="list-style-type: none"> • If there exists pre existing order of foreign court of competent jurisdiction and the domestic court decides to conduct elaborate enquiry, it must have special reasons to do so • Elaborate enquiry must not be ordered as a matter of course • While deciding whether summary or elaborate enquiry should be conducted, domestic court must take into

				<p>consideration full factors</p> <ul style="list-style-type: none"> • Nature & effect of interim or interlocutory order passed by foreign court • Existence of special reasons for repatriating or not, the child to jurisdiction of foreign court • That repatriation of child does not cause any moral or physical ,social or cultural or psychological harm to the child • Nor should it cause any legal harm to the parent with whom the child is in India • The electricity with which the parent moves the concerned foreign court or concerned domestic court is also relevant • If time gap is unusually large and is not reasonably unexplainable and child has developed firm roots in India- domestic court may be well advised to conduct elaborate enquiry.
5	Bhuwan Mohan Singh Vs Meena and others	AIR 2014 SC 2875; (2015) 6 SCC 353	Maintenance Section 125 Crpc	<ul style="list-style-type: none"> • Whether the Family Court while deciding an application under Section 7 of the Family Court Act, should allow adjournments in an extremely liberal manner. • Held - Family Courts have been established for adopting and facilitating the conciliation procedure and to deal with family disputes in a speedy and expeditious manner. • Further held – Family judges are expected to be sensitive to the issue pertaining to the marriage and issues ancillary thereto. Family judge should remember that procrastination is the greatest assassin of the list before it.
6	P. Sunderraj Vs P Sarika Raj	AIR 2015 P&H 83; Law Finder Id # 667859	Jurisdiction to set aside decree passed by family court of another place	<ul style="list-style-type: none"> • Judgment and decree passed by Family Court at Hyderabad dissolving the marriage on the ground of cruelty. • District Judge Family Court Gurugaon vide impugned judgment and decree, cancelled the judgment and decree passed by Family Court Hyderabad. • Held – according to Section 7(1) of the Family Courts Act, Family Court is a civil court and has all the powers, jurisdiction and trappings of a civil court. • The family court has the jurisdiction to set aside or nullified a decree passed by it or by a co-ordinate court. A decree of a family court cannot be set aside in a declaration suit before a regular civil court.
7	Kusum	AIR 2015	Procedure to be	<ul style="list-style-type: none"> • The Family Courts Act adopts a less formal procedure. Although Section

	Sharma Vs Mahinder Kumar Sharma	Delhi 53	adopted	<p>10 of the Act makes the procedure laid down under the Code of Civil Procedure, 1908 applicable to Family Court proceedings, it also lays down that the Family Court is free to evolve its own rules of procedure.</p> <ul style="list-style-type: none"> • Section 10(3) of the Family Courts Act specifically uses the word 'truth' and casts a duty on the Family Court to lay down procedure to determine the truth of the facts alleged by one party and denied by the other • Truth should be the Guiding Star in the Entire Judicial Process 9.1 It is the duty of the Court to ascertain the true income of the parties and then pass the appropriate order relating to maintenance. Truth is the foundation of justice. Dispensation of justice, based on truth, is an essential feature in the justice delivery system. People would have faith in Courts when truth alone triumphs.
8	Davu Gopal Lunani Vs. Siva Gopal Lunani	AIR 2014 AP 29; 2014 (1) ALT 396	Section 7 of Family Courts Act vis-à-vis jurisdiction of Civil Court	<ul style="list-style-type: none"> • With reference to Section 7 (1) of Family Courts Act. • A suit for declaration filed a person claiming that defendant was the father and that plaintiff was born to defendant No.2 out of a long cohabitation between defendant No.1 and defendant No.2 as man and wife. • Question – Jurisdiction of Family Court under Family Courts Act. • Held – a suit or proceeding between parties to marriage alone is dealt with under Clause (a) to Section 7 (1). • To come within clause (e) – that third party, who has filed the suit, should be obviously be off spring of persons having a matrimonial relationship. • Family Court cannot entertain any suit or proceeding for a declaration as to legitimacy of any person without establishing validly any claim of marital relationship of parents. • Therefore, matter will not fall under the purview of Clause (e) to Sub Section (1) of Section 7. • Jurisdiction of the Civil Court is not barred by Section 8 of Family Courts Act.
9	Syamala Devi Vs Sarala Devi	2009 (5) RCR Civil 421 (Kerela HC)	Declaration of Status as legally wedded wife.	<ul style="list-style-type: none"> • Dispute between two parties, seeking declaration that plaintiff is legally wedded wife of a deceased. • Even if the dispute is not between parties to alleged marriage, or even after the death of either or parties to marriage. • Such dispute falls within purview of Section 7 (b) of Family Courts Act.

				<ul style="list-style-type: none">• The husband, during the pendency of the proceedings, if dies, the proceeding does not become abated or cease to be triable by the Family Court.• It will be continued by the heirs of the husband claiming themselves to step into the shoes of the husband or by those interested to prosecute the matter.• Such proceedings will certainly fall under the jurisdiction of the Family Court.
--	--	--	--	---