



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 27th APRIL, 2026

IN THE MATTER OF:

I.A. 16974/2025

IN

+ **CS(OS) 591/2023 & I.A. 18775/2023**

NEHA JALAN

.....Plaintiff

Through: Mr. Simar Pal Singh, Mr. Naveen
Kumar Yadav, Mr. Manjeet Hooda,
Advocates.

versus

CA VAIBHAV JALAN & ORS

.....Defendants

Through: Mrs. Manasi Bhushan, Ms. Sanjana
Patel, Mr. Mohammad Navas. K, Ms.
Gauri Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 16974/2025

1. The present application has been filed by the Defendants/Applicants under Order VII Rule 10 of the CPC seeking return of the plaint on the ground that the instant matter falls within the jurisdiction of the concerned Family Court.

2. The instant suit has been filed by the Plaintiff seeking the following prayers:

*“(A) Pass a preliminary decree for partition in respect
of the properties detailed as under:*



(i). Property / office bearing No. 405, Crowne Heights, Sector-10, Rohini Delhi-110085, ad-measuring 1110 Sq. ft. Covered Area (103.12 sq. mtrs. approx.), by metes and bounds, in accordance with the shares of the parties to the suit;

(ii). Property / house No. 24, Pocket-D-13, Sector-8, measuring 92.25 sq. mtrs., situated at Rohini Residential Scheme, Delhi-110085, by metes and bounds, in accordance with the shares of the parties to the suit; and

(iii). Property / flat bearing No. 15-B, Block ED, area measuring 61.60 sq. mtrs., Pitampura Delhi-110034, by metes and bounds, in accordance with the shares of the parties to the suit.

(B) Appoint a Local Commissioner to prepare a site plan of:

(i). Property / office bearing No. 405, Crowne Heights, Sector-10, Rohini Delhi-110085, ad-measuring 1110 Sq. ft. Covered Area (103.12 sq. mtrs. approx.);

(ii). Property / house No. 24, Pocket-D-13, Sector-8, measuring 92.25 sq. mtrs., situated at Rohini Residential Scheme, Delhi-110085; and

(iii). Property / flat bearing No. 15-B, Block ED, area measuring 61.60 sq. mtrs., Pitampura Delhi-110034, effecting effect partition of the above properties, in terms of the preliminary decree and thereafter a final decree of partition be passed in favour of the plaintiff, embodying the Commissioner's report, by metes and bounds.

(C) It is further prayed that if this Hon'ble court comes to the conclusion that the partition of the above



premises by metes and bounds is not possible, then a decree for sale of the same may please be passed by directing to sell the said properties, in the open market against consideration and the sale proceeds so received, may be distributed amongst the parties to the suit as per their legal rights / shares.

(D) It is also prayed that this Hon'ble court may also be pleased to pass a decree of permanent injunction in favour of the plaintiff and against the defendants restraining the defendants, their legal heirs, representatives and agents etc. from selling, parting with or creating third party interest in respect of the properties detailed as under:

(i). Property/office bearing No. 405, Crowne Heights, Sector-10, Rohini Delhi-110085, ad-measuring 1110 Sq. ft. Covered Area (103.12 Sq. Mtrs. approx.);

(ii). Property/house No. 24, Pocket-D-13, Sector-8, measuring 92.25 sq. mtrs., situated at Rohini Residential Scheme, Delhi-110085; and

(iii). Property / flat bearing No. 15-B, Block ED, area measuring 61.60 sq. mtrs., Pitampura Delhi-110034.

(E) Award the cost of the suit in favour of the plaintiff and against the defendants.

(F) Pass such order or further orders in favour of the plaintiff and against the defendants, which this Hon'ble court may deem fit and proper, in the facts and circumstances of the case.”

3. The facts of the case, as mentioned in the Plaint, are as follows:-

a. The Plaintiff and Defendant No. 1 were classmates at a coaching centre run by the Plaintiff's father under the name and style of



“MK Gupta Tax Classes”, which is also popularly known as “MKG CA Education”. Both the Plaintiff and Defendant No. 1 were taking CA (Inter) Level and CS (Inter) Level courses in the said institute.

- b. On 02.12.2009, the Plaintiff and Defendant No.1 got married to each other. It is averred that the Defendant No. 1 was working at his father’s partnership firm “Gupta Jalan and Associates” after passing the CA Examination. It is stated that even after the marriage, both Plaintiff and Defendant No. 1 were teaching students at “MK Gupta Tax Classes”.
- c. Disputes arose between the parties regarding insufficient dowry and it has been stated that the Plaintiff was subjected to cruelty by the parents-in law and the Defendant No. 1. It is averred that her finances were controlled by the Defendant No. 1, wherein he opened the bank accounts on Plaintiff’s name, without her consent and has withdrawn a sum of Rs. 63,57,400/-. It is also stated that all her Income Tax Returns were filed by the Defendant No. 1 after their marriage and for the Assessment Year 2013-2014, an amount of Rs. 65,00,000/- has been shown as sale consideration against a commercial building.
- d. It is averred that on 10.07.2023, the Defendants purchased a property bearing No. 405, Crowne Heights, Sector 10, Rohini, Delhi – 110085, admeasuring 1110 Sq. ft. Covered Area (103.12 sq. mtrs. approx.) out of Plaintiff’s income in the name of Plaintiff and Defendants *vide* Sale Deed dated 10.07.2013.



- e. It is stated that out of the Plaintiff's income, the Defendant No. 1 purchased a property bearing House No. 24, Pocket D-13, Sector 8, Delhi – 110085, measuring 92.25 sq. mtrs. in the names of Defendant No. 1 and 3 *vide* Sale Deed dated 05.10.2016.
- f. The Plaint further reveals that the Plaintiff was subjected to various incidents of cruelty by the Defendants in the name of dowry and has been repeatedly tortured. Resultantly, a Settlement Deed dated 24.06.2021 was executed between the parties, wherein the Defendants agreed to pay a sum of Rs. 2,75,00,000/- to the Plaintiff as full and final settlement.
- g. It is stated that the Defendants only paid a sum of Rs. 10,00,000/- and when the Plaintiff demanded the remaining amount of Rs. 2,65,00,000/-, the Defendants refused to pay.
- h. The Plaintiff was constrained to file a suit for partition and permanent injunction bearing CS DJ No. 665/2021 before the Ld. District Judge (NW), Rohini Court, Delhi, against the Defendants, however, the same was returned with a direction to file it in the Family Courts. Accordingly, suit was filed before the Principle Judge, Family Court, North-West, Rohini Court, Delhi (*hereinafter referred to as the "concerned Family Court"*), however, the same was withdrawn by the Plaintiff with the liberty to file it before this Court in lieu of the pecuniary jurisdiction.
- i. A legal notice dated 18.08.2021 was sent by the Plaintiff to the Defendants to effectuate partition by metes and bounds in the suit properties, however, the same was refused by the Defendants, which led to filing of the instant suit.



4. Learned Counsel for the Defendants raised a preliminary objection that this Court does not have the jurisdiction to try the instant suit as the same falls within the jurisdiction of Family Courts and hence, the plaint has to be returned under Order VII Rule 10 of the CPC on this ground alone.

5. It has been contended that the suit properties, for which partition and permanent injunction is sought for, was purchased from the funds of Plaintiff and Defendants and the disputes have arisen out of the marital relationships, hence, the same is liable to be tried by the Family Courts.

6. Learned Counsel for the Defendants has drawn the attention of this Court to Section 7 & 8 of the Family Courts Act, 1984 (*hereinafter referred to as "FC Act"*), which reads as follows:-

"7. Jurisdiction.—(1) Subject to the other provisions of this Act, a Family Court shall—

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be,



annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit of proceeding for an order or injunction in circumstances arising out of a marital relationship;

(e) a suit of proceeding for a declaration as to the legitimacy of any person;

(f) a suit or proceeding for maintenance;

(g) a suit of proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the Jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.

8. Exclusion of jurisdiction and pending proceedings.—*Where a Family Court has been established for any area,—*



(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the Explanation to that sub-section;

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(c) every suit or proceeding of the nature referred to in the Explanation to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

(ii) which would have been required to be instituted or taken before such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established,

shall stand transferred to such Family Court on the date on which it is established.” (emphasis supplied)

7. It has been submitted that a perusal of Section 7 of the FC Act reveals that the matters enumerated under *Explanation* are to be adjudicated by the Family Courts only. In light of the same, the instant suit is not maintainable before this Court as Explanation (c) of Section 7(1) of the FC Act specifically states that Family Courts have the jurisdiction to try suits or



proceedings with respect to the properties belonging to the parties in marriage. Therefore, the suit properties which are alleged to have been purchased out of the funds of the parties and the disputes having been arisen during the subsistence of marriage, the jurisdiction lies with the Family Courts only.

8. It is further submitted that the Plaintiff has initially filed a suit bearing CS DJ 665/21 claiming the same reliefs before the Ld. District Judge, North-West, Rohini, Delhi, however, the plaint was returned directing it to be filed before the Principle Judge, Family Court, North-West, Rohini Court, Delhi. Accordingly, suit bearing CS DJ No. 665/2021 was filed before the concerned Family Court, however, the same was withdrawn seeking liberty to file it before this Court on the grounds of pecuniary jurisdiction.

9. Learned Counsel for the Defendants also placed reliance on the judgment of the Division Bench of this Court in Geeta Anand v. Tanya Arjun, **2024 SCC OnLine Del 2327**, wherein it was held that the matters where there is an intrinsic and unwavering connection between the suit proceedings and marital relationship falls within the ambit of Family Court's jurisdiction.

10. *Per Contra*, learned Counsel for the Plaintiff states that the reliefs sought in the instant suit are purely civil in nature and the same cannot be construed to be tried by the Family Courts merely because the parties are in a marital relationship. It is stated that the disputes concerning parties in marriage does not *ipso facto* fall within the exclusive jurisdiction of Family Courts.

11. Heard the learned Counsel for the parties and perused the material on record.



12. The short question that arises for due consideration is that whether the plaint is liable to be returned under Order VII Rule 10 of the CPC or not for it being filed before the Family Court.

13. Section 7 of the FC Act confers jurisdiction of those matters enumerated under the *Explanation* of the same provision on the Family Courts. The instant suit is clearly one for partition of the suit properties wherein the Plaintiff's husband contends that the suit properties have been purchased from her funds in the name of the Plaintiff and the Defendants who were married at the time when the properties were purchased. It is therefore the contention of the Defendants that since the plaint indicates that the suit properties have been purchased by the Defendants during the subsistence of the marriage, the same is to be adjudicated by the Family Courts as per Explanation (c) of Section 7(1) of FC Act.

14. The Division Bench of this Court in Geeta Anand (supra) dealt with the issue of jurisdiction of the Family Courts vis-à-vis Civil Courts in matters arising out of matrimonial dispute. The relevant portion of the judgment is as follows:

“1. A learned Single Judge of the court noticing a situation of conflict of opinion with regards to the jurisdiction of the Family Courts vis-à-vis civil courts as to certain kinds of matrimonial disputes propounded in Manita Khurana v. Indra Khurana (2010 SCC OnLine Del 225) and Meena Kapoor v. Ayushi Rawal (2020 SCC OnLine Del 2481) on the one hand and Avneet Kaur v. Sadhu Singh (2022 SCC OnLine Del 4815) on the other hand, has referred the following questions for our consideration:

“(a) Whether a suit for possession/injunction filed by the in-laws of the defendant or either of them,



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claiming themselves or either of them to be the exclusive owner of the property of which the possession is sought or with respect to which injunction is prayed for from or against the defendant daughter-in-law, is to be tried exclusively by the Family Court established under the Family Courts Act, and the jurisdiction of the civil court is barred?

(b) Whether the impleadment or non-impleadment of the husband of the defendant son of the plaintiff has any effect on the maintainability of such a suit before a civil court?"

2. The issue arises in the context of interpretation, scope and ambit of Explanation (d) of Section 7(1) of the Family Courts Act, 1984 (FC Act) (hereinafter referred to as "subject provision") wherein a suit, proceeding for an order or injunction "arising out of a marital relationship" is to fall under the ambit of the jurisdiction of Family Courts. The primary contestation centres around the question whether the claim of a third-party against or involving a party to a marriage, even if he/she is a parent of one of the spouses, should be exclusively tried before the Family Court, thereby ousting the jurisdiction of civil court. It flows from the conflicting observations of the court in the abovementioned cases wherein while the learned Single Judge in Avneet Kaur case held that a suit seeking eviction would be maintainable before Family Courts as marriage is the foundation of this dispute, the learned Single Judges in the earlier decisions in Manita Khurana case and Meena Kapoor case have taken a different view holding that such suits would be outside the purview of the Family Courts. The aforesaid issue forms the core of question (a).

3. Question (b) flows from the learned Judge concluding that there is an apparent conflict between the abovementioned decisions regarding the



jurisdiction of Family Court depending upon who the litigating parties are, since in Avneet Kaur case it was opined that upon the reading of subject provision it cannot be inferred that jurisdiction of Family Courts is limited to litigation between husband and wife. It has been observed that the above is in direct conflict with the judgments in Manita Khurana case and Meena Kapoor case; and that the same have not referred while giving the decision in Avneet Kaur case. The courts in Manita Khurana case and Meena Kapoor case had held that based on a mother-in-law's exclusive title to property, a suit seeking injunction or eviction filed by her against the daughter-in-law cannot be said to be a suit "in circumstances arising out of a marital relationship", thus it cannot be exclusively tried by a Family Court.

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31. *It is a well ordained principle in law that exclusion of the jurisdiction of the civil court should neither be readily inferred nor be construed liberally. There must be either a specific exclusion of its jurisdiction or it must be shown to be ousted by necessary implication. A bare perusal of the entire scheme and structure of the Family Courts Act would show that Section 8 of the FC Act does create a specific provision for excluding the jurisdiction of the civil courts. Section 8 provides that where a Family Court has been established for an area, no District Court or any subordinate civil court referred to in Section 7(1) in relation to such area shall exercise any jurisdiction in respect of any suit or proceedings of the nature referred to in the Explanation to that sub-section. Section 8(c) further provides that upon establishment of a Family Court, any proceedings pending immediately before the establishment of such Family Court before any District Court or subordinate court shall stand transferred to such Family Court on the date on which it is established. However, the situations provided for by*



the legislature in the Explanation forming part of the Section 7(1)(a) of the FC Act and exclusion provided for under Section 8 of the FC Act does not illustrate the whole gamut of eventualities and disputes that may arise in a matrimonial relation. In *Darshan Singh v. Ram Pal Singh* (1992 Supp (1) SCC 191), the Supreme Court observed in the said context as under : (Supp SCC p. 207, para 24)

“24. ...Neque leges neque senatus consulta ita scribe possunt ut omnes casus qui quandoque inciderint comprehendatur; sed sufficet ea quoe plerumque accident contineri. Neither laws nor Acts of a Parliament can be so written as to include all actual or possible cases; it is sufficient if they provide for those things which frequently or ordinarily happen. What is material is to see the expressed objects and reasons and the language used....”

32. It is no longer *res integra* that the question as regards exclusion of jurisdiction of the civil court is to be considered having regard to the scheme of the FC Act as also the objects that the enactment seeks to subserve. Whenever there is an express bar on the jurisdiction of the civil court, it becomes imperative to examine the nature of the Act and the provision of the adequate remedies can be relevant but cannot be considered to be the sole ground to sustain the ouster of the jurisdiction of a civil court. In *M. Hariharasudhan v. R. Karmegam* ((2019) 10 SCC 94), it was observed by the Supreme Court that “we say no more but reiterate that the plea of bar to jurisdiction of civil court must be considering having regard to the contention raised in the plaint, which is to be read as whole and for that purpose the averments must disclose cause of action and the reliefs which are sought must be considered in its entirety”. The jurisdiction of civil court or exclusion thereof, cannot and must not depend only on few averments made in



the plaint or petition and/or all the reliefs claimed thereupon.

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34. In view of the aforesaid discussion, we unhesitatingly hold that the term “marital relationship” has to be interpreted de hors the meaning and import of the term “family”. The expression, “marital relationship” when bifurcated brings out that the word “marital” has been defined as “of or relating to marriage or relations between husband and wife” while “marriage” has been defined as a “formal union of a man and a woman, typically as recognised by law, by which they become husband and wife”.

35. A fortiori every suit or legal proceeding when brought before the court must invariably explain the “cause of action”, which is the fundamental requirement of law in any given case, and it must invariably include the narration of the “circumstances” that arise out of marital relationship in order to confer jurisdiction upon the Family Court. There is no gainsaying that the expression “cause of action” is not defined under any statute and the Supreme Court in *Kusum Ingots & Alloys Ltd. v. Union of India* held that it was to mean “every fact which would be necessary for the plaintiff to prove, if traversed in order to support his right of judgment i.e. the essential facts that must be proven by a party to obtain a decree, which are material to the case”.

36. The interplay as between the expressions “cause of action” and the term “circumstances” in the context of the subject provision must be deciphered in the follow manner; firstly, the averments in the plaint must explain the “cause of action” for instituting a suit or legal proceedings for injunction; and secondly that this “cause of action” is one which falls within the jurisdiction of the Family Courts. The cause of action, in order to bring the case under the subject provision



and so as to confer jurisdiction upon the Family Court must encapsulate a tangible averment that the dispute is one which has an intrinsic nexus with the marital relationship. The circumstances should be of such a nature that it is demonstrable that the dispute is closely emanating from and surrounded by such matters which are integral to the marital relationship. Mere existence of a marital relationship between the litigating parties howsoever tangential cannot be the basis or the foundation for the proceedings being brought before a Family Court. We hasten to add that if we allow the interpretation that has been placed to the subject provision in Avneet Kaur case, it is likely to open a pandora's box, which would risk inclusion of all disputes as between the parents and their married children and even siblings within its ambit.

37. We are in agreement with the submission of learned amicus that while the subject provision may encompass a range of “circumstances”, including those preceding, surrounding, influencing and emanating from a marital relationship, the emphasis is on a direct connection between the “cause of action” and the “marital relationship”. He has rightly urged that prioritising the cause of action in determining the correct jurisdictional forum also ensures that family courts can maintain their specialised focus on matrimonial matters, avoiding a situation of becoming overburdened with cases unrelated to marital relationships, which could inter alia lead to overreach of jurisdiction and a potential straining of resources.

38. Although research on foreign jurisprudence by the learned amicus curiae is very impressive and we do not restrain ourselves in borrowing words of wisdom from such source, we need to appreciate that the ethos of family and/or marital relationship that exist in our country are distinct from those jurisdictions owing to our peculiar social, educational, regional and cultural factors. However, unhesitatingly the “functional test”



which was propounded in Bate case is one that provides necessary wisdom and suffice it to state that while a dispute as amongst those who are in a matrimonial relationship may be traced back to marriage or matrimony, the judicial scrutiny would envisage and evolve objective parameters to ascertain the origin of the dispute and what lies at the core of the cause of action. The provisions of the FC Act are such that it provides for a relaxed procedural machinery for adjudication of disputes, and does away with the technicalities of the Evidence Act, 1872 as well the CPC, so as to encourage and create an environment conducive for reconciliation or amicable resolution of disputes between the parties.

39. A careful perusal of the provisions of the FC Act would show that the scheme of this Act is such that it provides for certain distinct measures for settlement of disputes in matrimonial cases, for instance, Section 4(3) provides for preference to be given for appointment of women as Judges of the Family Courts; Section 5 provides for framing of rules for the association of institutions or organisations engaged in social welfare or professionally engaged persons for assistance of the Family Courts so as to promote family welfare; Section 9 involves the spirit of providing opportunity to the parties to arrive at a settlement in an amicable manner so much so that is specifically empowering the Family Courts to adjourn the proceedings for such period, as it may deem fit, to enable the parties to effect a settlement, the underlying purpose of which is to provide a cooling off period so as to enable the parties to take an informed decision about their fate; Section 10(3) empowers the Family Courts to lay down its own procedure in addition to the procedure prescribed under the Civil Procedure Code, 1908 and the Criminal Procedure Code, 1973 in order to arrive at a settlement in respect of subject-matter of the suit or proceedings or find out the truth of the fact



alleged by one party and denied by others. The Family Courts are also empowered to hold in camera proceedings vide Sections 11 and 13 takes away the right to legal representation in proceedings before the Family Courts. Section 14 enables the court to receive any evidence in the nature of any report statement, document, information, or matter that may, in the opinion of the Family Court effectively deals with a dispute irrespective of whether the same is relevant or admissible under Evidence Act, 1972; Section 15 empowers the Family Courts to record a memorandum of the substance of what the witness deposes instead of recording the testimony of witnesses at length, as normally is the practice in the civil courts; Section 19 provides for an appeal against judgment and order of the court to the High Court within 30 days of such orders and the matters are mandated to be heard by a Bench of two or more judges in the appeal.

40. The relaxation of procedural and evidentiary safeguards which otherwise attach to proceedings before civil courts might lead to a situation where the substantive rights of third-parties would be compromised, especially in disputes involving complex factual and/or legal issues. It is also noteworthy that even where Family Courts may exercise jurisdiction over matters ordinarily within the purview of civil courts, the actual exercise of pronouncing and enforcing orders within the scope of such purported jurisdiction may be fraught with practical and legal difficulties.

41. We find much weight in the submissions of the learned amicus curiae that in cases incidental to or not directly related to matrimonial issues, such flexibility might severely prejudice the third parties inasmuch as parties legitimately expect a legal framework that strictly adheres to procedural and evidentiary rules for ultimate and effective resolution of disputes.



42. Thus, in our considered opinion, the question whether the claim laid before the Family Court or the civil court falls within the ambit of the expression “in circumstances arising out of marital relationship” must be examined and answered on an identification of the foundation of the claim, the underlying basis for the institution of the suit or the proceedings. Thus, there must be an intrinsic and unwavering connection between the proceeding and the marital relationship. This would necessarily entail the court analysing the cause of action and its relation with the marital relationship—the interrelation and interdependence between the two being determinative of the question. An assertion of a particular suit or proceeding being liable to be tried exclusively by the Family Court would succeed only if it is established that there is a direct nexus between the “cause of action” and the “marital relationship”. A cause of action which is shown to exist independent of the marital relationship would clearly take the matter outside the purview of the Family Court. What needs to be emphasised is that a matter would fall under the purview of Family Court only where the circumstances have a direct bearing on the marriage. It is not the relationship of the various parties which could be said to be conclusive. What needs to be ascertained and identified is the fundamental basis for the institution of the action. That underlying basis must have an inefaceable link to the marital relationship. The marital relationship must constitute the point of origin for the action in order to bring it under the exclusive jurisdiction of the Family Courts.

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44. Accordingly, the present reference is answered as under:



(a) Whether a suit for possession/injunction filed by the in-laws of the defendant or either of them, claiming themselves or either of them to be the exclusive owner of the property of which the possession is sought or with respect to which injunction is prayed for from or against the defendant daughter-in-law, is to be tried exclusively by the Family Court established under the Act, and the jurisdiction of the civil court is barred?

Answer to question (a):

Each of the categories under Section 7(1)(a) of the Act are undoubtedly civil in nature. Since the principal question therein relates to a civil right, there is no gainsaying that when claim is made about ownership rights and relief is sought in the nature of possession or injunction and/or damages, such legal rights are to be considered de hors the matrimonial relationship. The proprietorship rights or ownership rights to immovable property are not integral to maintaining the matrimonial relationship. Such rights may be claimed as against a third person or anyone in the family or for that matter somebody connected through matrimonial relationship.

Indeed, when it comes to a dispute as between mother-in-law and/or father-in-law on the one side and their estranged daughter-in-law on the other side, the claim of proprietorship or ownership of a property and thereby seeking relief in the nature of possession and/or injunction by its very nature incidentally indicates a matrimonial relationship, but such relationship is not a foundational fact so as to lay a claim. Such relationship is not at the core of



the dispute but exists independently in civil law, and thus, the Family Courts do not exercise exclusive jurisdiction over such disputes and as an inevitable corollary the jurisdiction of civil courts is not barred.

(b) Whether the impleadment or non-impleadment of the husband or the defendant son of the plaintiff has an effect on the maintainability of such a suit before a civil court?

Answer to question (b):

In light of our answer to question (a), the answer to this question would necessarily have to be in the negative. The mere impleadment or non-impleadment of the husband or the defendant son of the plaintiff would not be determinative of the question relating to the jurisdiction of the Family Court. The joinder or non-joinder of parties would have to be considered in light of the plethora of case law which already exists on that issue. Ultimately and irrespective of whether a husband is joined or not, the jurisdiction of the Family Court would have to be ascertained based on the cause of action and whether that is founded on the marital relationship or has a mere casual or incidental connection to the cause.”

15. Applying the same to the facts of the present case, it is observed that the Plaintiff has sought for the relief of partition of the suit properties, which are purchased out of her funds by the Defendant No.1, without her consent, during the subsistence of their marriage. The allegations made in the Plaintiff



reveal that the Plaintiff is being subjected to cruelty by the Defendants regarding dowry and as a result, utilised the funds of the Plaintiff to purchase the suit properties, thereby showing a direct nexus of the dispute herein to their marital relationship. Had there been no marital relationship between the parties, the dispute would have not been arisen in the first place. The foundation of the dispute being one of arising out of matrimonial relationship is sufficient to bring it within the jurisdiction of the Family Courts and the observations made by the Division Bench of this Court Geeta Anand (supra) is binding on this Court.

16. At this juncture, another question arises as to whether this Court has the jurisdiction to try the instant case under FC Act or not as the value of the suit properties is above Rs.2 crores.

17. The said question also no longer survives as the same has been elaborately dealt by the Division Bench of this Court in Amina Bharatram vs. Sumant Bharatram and Ors., **2016 SCC OnLine Del 3929**. The relevant portion of the same is as under:-

“1. These proceedings emanate from an order of reference dated 09.06.2014 (“Reference Order”) made by the Learned Single Judge in CS(OS) No. 411/2010 (“Suit”), formulating the following questions of law for adjudication by this Court:

“(i) Whether the High Court while exercising the Original Civil Jurisdiction is deemed to be a District Court within the meaning of Section 2(4) of CPC in the context of Section 7(1)(a) of the Family Courts Act, 1984?

(ii) Whether the original civil jurisdiction of the High Court excluded (sic) for any suit or petition by



virtue of Sections 7 & 8 of the Family Courts Act, 1984?”

2. This Court notices that the second question would necessarily involve a determination on the first. Accordingly, we proceed to examine as to whether this Court's original civil jurisdiction in respect of matters outlined in the Explanation to sub-section (1) of Section 7 of the Family Courts Act, 1984 (hereinafter referred to as “the Act”) is ousted by virtue of the provisions of Sections 7 and 8 of the Act. Having examined this issue of statutory interpretation from both a literal as well as a purposive lens, we answer the question in the affirmative. Since this reference involves a pure question of law, we do not delve into the specific facts of the case.

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36. Learned counsel for the plaintiff had submitted that there is nothing to indicate that Family Courts in Delhi have been released from the pecuniary jurisdiction limit. However, this Court is of the opinion that no such formal notification extending the Family Courts’ pecuniary jurisdiction is required. Once it has been held that ‘District Court’ includes the High Court exercising its original civil jurisdiction, and in the absence of a bar limiting the pecuniary jurisdiction of Family Courts to any pecuniary limit, they would assume jurisdiction exclusively regardless of pecuniary values.

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43. It is evident from the above excerpt that the Act was intended to create a separate procedure for resolution of disputes of the nature provided therein, such that ordinary rules of procedure would not always apply to



such proceedings. The rationale behind this is the endeavor to amicably resolve disputes concerning family. Accordingly, the procedure prescribed under the Act, specifically Chapter IV, applies to the exclusion of any contrary provision in the CPC (Section 10). In the event that the term 'District Court' in Sections 7 and 8 was to be interpreted to exclude this Court's exercise of ordinary original civil jurisdiction, the benefits of the procedure prescribed under the Act would not be available to parties contesting the suit for the sole reason that the pecuniary value of the suit exceeds Rs. 20 lakhs (or now, in excess of Rs. 2 crores). Indeed, this would be contrary to the object and purpose of the Act.

44. Another important circumstance, which this court has to keep in mind, is the provision for appeals and revisions, in Section 19 of the Family Courts Act. It reads as follows:

"19. Appeal

(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties 2[or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974):



PROVIDED that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) before the commencement of the Family Courts (Amendment) Act, 1991.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment or order of a Family Court.

(4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and, as to the regularity of such proceeding.

[(5) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

[(6)] An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.”

45. *Section 19 clearly establishes the role of the High Court as an appellate and revisional forum. Unlike provisions of the Delhi High Court Act, which specifically provide for intra court appeals, Section 19 casts the High Courts - in relation to family matters-as an exclusive court of appeal. Furthermore, the creation of a revisional power and its vesting it in the High Court - from proceedings and orders of the Family Court-rules out the possibility of certain High Courts*



exercising intra court appellate jurisdictions. The appellate jurisdiction is cast in decisive terms, and conferred upon the High Court-evidenced by clear and unambiguous language i.e. against every “...order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.” Lastly, revisional and appellate power is conferred in respect of both criminal jurisdiction exercised by the Family Court (i.e. under Section 125 Code of Criminal Procedure) and civil matters. Here, it is noteworthy that the Family Court under Section 7(2) exercises jurisdiction that is conferred upon a Magistrate:

“(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise-

(a) the jurisdiction exercisable by a Magistrate of the First Class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.”

46. *It is inconceivable that the Parliament intended that in respect of the categories of matters enumerated in Section 7(1), especially maintenance, the powers of a Magistrate were to be vested in High Courts, depriving them of normal appellate and revisional remedies.*

47. *In light of the aforesaid reasons, we hold that the term ‘District Court’ in Sections 7 and 8 of the Act includes the High Court to the extent that it exercises ordinary original civil jurisdiction. Accordingly, its ordinary original civil jurisdiction in respect of matters enumerated in Explanation to sub-section (1) of Section 7 of the Act stands excluded.*



48. Therefore, the reference is answered as follows:

Point No. 1 : It is held that the Delhi High Court is a “district court” under Section 8 in respect of all matters enumerated in Explanation to Section 7(1) of the Act;

Point No. 2 : The Delhi High Court does not possess jurisdiction to entertain, try and decide cases and causes referred to in Sections 7 and 8 of the Family Courts Act.” (emphasis supplied)

This Court has held that Delhi High Court does not possess the jurisdiction to entertain and decide cases referred to in Section 7 of the FC Act.

18. Keeping in line with the law laid down by the Division Bench of this Court in Amina Bharatram (*supra*), practice directions were issued in this regard on 23.12.2026 by the Hon’ble Chief Justice of High Court of Delhi. The said practice directions are being reproduced and reads as under:-

“1. In view of the Judgment dated 19.07.2016 passed by the Hon’ble Division Bench of this Court on reference in CS (OS) No. 411/2010 & I.A. No. 12186/2010 titled “Amina Bharatram Vs. Sumant Bharatram and Others”, all matters enumerated in Explanation to Sub-Section (i) of Section 7 and Section 8 of the Family Courts Act, 1984 shall be exclusively triable by the Family Courts and the jurisdiction of the High Court to the extent it exercises Ordinary Original Civil Jurisdiction in respect of such matters stands excluded by virtue of Section 8 (c)(ii) of the said Act. Such matters listed before this Court shall be transferred to the Family Courts by passing the



necessary Orders in this respect on their dates of listing.

2. The Registry, henceforth, is directed not to accept such matters as enumerated in Explanation to Sub Section (i) of Section 7 and Section 8 of the Family Courts Act, 1984.”

19. At this juncture, it is necessary to reproduce the Statement of Objects and Reasons for the FC Act, which reads as under:-

“Statement of Objects and Reasons.—Several associations of women, other organisations and individuals have urged, from time to time, that Family Courts be set up for the settlement of family disputes, where emphasis should be laid on conciliation and achieving socially desirable results and adherence to rigid rules of procedure and evidence should be eliminated. The Law Commission in its 59th report (1974) had also stressed that in dealing with disputes concerning the family the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. The Code of Civil Procedure was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the courts in adopting this conciliatory procedure and the courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt, in the public interest, to establish Family Courts for speedy settlement of family disputes.

2. The Bill inter alia, seeks to:—



(a) provide for establishment of Family Courts by the State Governments;

(b) make it obligatory on the State Governments to set up a Family Court in every city or town with a population exceeding one million;

(c) enable the State Governments to set up, such courts in areas other than those specified in (b) above;

(d) exclusively provide within the jurisdiction of the family Courts the matters relating to:—

(i) matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of a marriage or as to the matrimonial status of any person;

(ii) the property of the spouses or of either of them;

(iii) declaration as to the legitimacy of any person;

(iv) guardianship of a person or the custody of any minor;

(v) maintenance, including proceedings under Chapter IX of the Code of Criminal Procedure;

(e) make it obligatory on the part of the Family Court to endeavour, in the first instance to effect a reconciliation or a settlement between the parties to a family dispute. During this stage, the proceedings will be informal and the rigid rules of procedure shall not apply;

(f) provide for the association of social welfare agencies, counsellors, etc., during conciliation stage



and also to secure the services of medical and welfare experts;

(g) provide that the parties to a dispute before a Family Court shall not be entitled, as of right, to be represented by legal practitioner. However, the Court may, in the interest of justice, seek assistance of a legal expert as amicus curiae;

(h) simplify the rules of evidence and procedure so as to enable a Family Court to deal effectually with a dispute;

(i) provide for only one right of appeal which shall lie to the High Court.

3. The Bill seeks to achieve the above objects.”

20. The exclusion of jurisdiction of district courts or any subordinate civil courts in trying Family matters as enumerated in the *Explanation* of Section 7(1) of the FC Act only goes on to establish that the Family Courts were specifically established to expedite the process of resolving matrimonial disputes. The objective itself is sufficient to show that the Family Courts have a subject matter jurisdiction and does not concern itself with pecuniary jurisdiction.

21. Furthermore, Section 19 of the FC Act, which provides for appeal reads as under:-

“19. Appeal.—(1) *Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code or Criminal Procedure, 1973 (2 of 1974), or in any other law, an appeal shall lie from every judgement or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.*



(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties [or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) before the commencement of the Family Courts (Amendment) Act, 1991].

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgement or order of a Family Court.

[(4) The High Court may, of its own motion or otherwise, call for an examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and as to the regularity of such proceeding.]

[(5)] Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

[(6)] An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.”

22. The foregoing provision clearly establishes the High Court as Court of Appeal against the order (excluding interlocutory order), or Judgment passed by the Family Courts. Furthermore, the language of the provision shows that the High Court is only vested with the power to decide appeals. If there exists pecuniary jurisdiction for adjudication of the Family matters, the matters with a valuation of Rs. 2 Crores and above will have to be sent to the High Court for adjudication, however, an appeal from a High Court's order



cannot lie to the High Court, thereby defeating the entire purpose of Section 19 of the FC Act and therefore the legislative intent to confer on the Family Court all matters under Section 7 of the FC Act whatever be the value of the suit.

23. This Court has also come across a judgment passed by a Bench of five Judges of the High Court of Madras in S. Annapoorni v. K. Vijay, **2022 SCC OnLine Mad 4367**. The High Court of Madras constituted the Five Judges Bench to answer the following questions which is being reproduced and reads as under:-

“2. This Special Bench has been constituted to answer the following questions referred by our learned brother, V. Parthiban, J. by an order dated 28.10.2021:

“(i) Whether the jurisdiction of the High Court, on its Original Side, over matters of child custody and guardianship is ousted, in view of the provisions of Explanation (g) to Section 7(1) read with Sections 8 and 20 of the Family Courts Act, 1984 ? and

(ii) Whether the decision of a Full Bench of this Court in Mary Thomas v. Dr. K.E. Thomas (AIR 1990 Mad 100) is still good law?”

24. The Five Judges Bench of the Madras High Court answered the reference by holding as under:-

“370. Though we have written/penned separate orders, for the purpose of clarity and specificity, we deem it appropriate to set out in one voice that the reference is answered per majority in the following manner:

(i) Reference : Whether the jurisdiction of the High Court, on its Original Side, over matters of child custody and guardianship is ousted, in view of the



provisions of Explanation (g) to Section 7(1) read with Sections 8 and 20 of the Family Courts Act, 1984?

Answer : The jurisdiction of the High Court on its Original Side over matters of child custody and guardianship is not ousted in view of the provisions of Explanation (g) to Section 7(1) read with Sections 8 and 20 of the Family Courts Act, 1984.

(ii) Reference : Whether the decision of a Full Bench of this Court in Mary Thomas v. Dr. K.E. Thomas (AIR 1990 Mad 100) is still good law?

Answer : The decision of Hon'ble Full Bench of this Court in Mary Thomas v. Dr. K.E. Thomas (AIR 1990 Mad 100) continues to be good law."

25. A reading of the abovementioned Judgment discloses that it has not expressed its disagreement with the view taken by the Delhi High Court in Amina Bharatram (*supra*) but has actually relied on the provisions of Clause 17 of the Letters Patent, 1865, which deals with the matters of child custody and guardianship. Clause 17 of the Letters Patent, 1865 reads as under:

"17. Jurisdiction as to infants and lunatics: - *And we do further ordain that the said High Court of Judicature at Madras shall have the like power and authority with respect to the persons and estates of infants, idiots and lunatics within the presidency of Madras, as that which is now vested in the said High ('ours immediately before the publication of these presents."*

26. This issue is not relevant for the present case which deals with Explanation (c) of Section 7(1) of the FC Act, which relates to a suit or proceeding between the parties to a marriage with respect to the property of



the parties or of either of them. This Court is, therefore, not dwelling into that facet of the Judgment rendered in S. Annapoorni (supra). Further, it is pertinent to mention that the Division Bench of this Court in Amina Bharatram (supra) has also expressed its disagreement with the decision of the Full Bench of Madras High Court in Mary Thomas v. Dr. K.E. Thomas, AIR 1990 Mad 100, which was being reconsidered in S. Annapoorni (supra). The Division Bench of this Court in Amina Bharatram (supra) has also expressed its disagreement with the Judgment of the Full Bench of Bombay High Court in Romila Jaidev Shroff v. Jaidev Rajnikant Shroff, AIR 2000 Bom 356. It is pertinent to mention that Madras High Court and Bombay High Court are Chartered High Courts which are governed by Clause 15 of the Letters Patent, whereas Delhi High Court, which is a Non-Chartered High Court and is governed by Clause 10 of the Letters Patent of the Lahore High Court and, therefore, the provisions are entirely different.

27. Be that as it may. In view of the fact that this Court is bound by the Judgment of the Division Bench of this Court in Amina Bharatram (supra) and also in view of the fact that practice directions have been issued pursuant to that Judgment, the Application is allowed and the instant Plaint is returned to the Plaintiff for filing it in the Court of competent jurisdiction.

SUBRAMONIUM PRASAD, J

APRIL 27, 2026
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