

# A & S LAW WEEKLY

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*WEEKLY LEARNING  
SERIES*



**A&S** LAW WEEKLY  
Week - 22  
**FAMILY COURT PROCEDURE**



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## Establishment of Family Courts (Section 3)

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- The State government, after consultation with the High Court shall establish the Family Courts
- where the population is exceeding 1 million or in the area where the State government deem necessary.
- The State government shall specify the jurisdiction of the Family Court extends.

It may also reduce, increase, or alter such limits of the jurisdiction of the Family Court





# ASSOCIATION OF SOCIAL WELFARE & AGENCIES SECTION 5



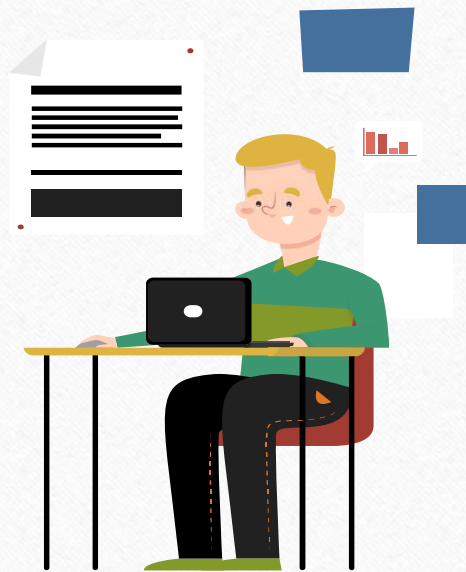
The State Government after consulting High Court, shall associate the following people with family court for it's welfare:

- Social welfare organization
- Professional to work with family court
- Any person who will ensure effective working in Family Court.





# COUNSELLORS, OFFICERS & OTHER EMPLOYERS OF FAMILY COURTS SECTION 6



The government after consulting Family Court shall determine the number of counsellors and workers to help the court in discharging functions.

Because most of the cases can be solved easily with the help of counselling.



## Jurisdiction of Family Courts (Section 7)

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A suit or proceeding ,

- for the decree of nullity of marriage, or restitution of conjugal rights, or for the dissolution of the marriage between the parties;
- for determining the validity of a marriage or matrimonial status of a person;
- in the matter related to the properties between the parties to a marriage;
- for an injunction or order arising out of a marriage.
- for declaring the legitimacy of a person;
- for maintenance;
- for the guardianship of the person, or custody of any minor.





## DUTY OF FAMILY COURT TO MAKE EFFORTS FOR SETTLEMENT SECTION 9

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The family court shall make effort to convince the parties to settle the disputes with an agreement.

If court finds that there is a reasonable probability of settlement, they have power to adjourn the proceedings.



# SECTION 10 - PROCEDURES

1. DEEMED TO BE A CIVIL COURT AND SHALL HAVE ALL THE POWERS OF SUCH COURT.

PROVISIONS OF THE CODE OF CRIMINAL PROCEDURE , 1973 (2 OF 1974) OR THE RULES MADE THEREUNDER, SHALL APPLY

FAMILY COURT MAY LAY DOWN ITS OWN PROCEDURE WITH A VIEW TO ARRIVE AT A SETTLEMENT IN RESPECT OF THE SUIT OR PROCEEDINGS OR AT THE TRUTH OF THE FACTS ALLEGED BY THE ONE PARTY AND DENIED BY THE OTHER.





## SECTION 11- PROCEEDINGS TO BE HELD IN CAMERA

In every suit or proceedings to which this Act applies, the proceedings may be held in camera if the Family Court so desires and shall be held if either party desires.





# ASSISTANCE OF MEDICAL & WELFARE EXPERTS SECTION 12

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To promote reconciliation, the court can take help from medical and welfare experts who can help the court in completing their duties.

Such experts need to ensure the welfare of the family among the parties.



## SECTION -13

### RIGHT TO LEGAL REPRESENTATION

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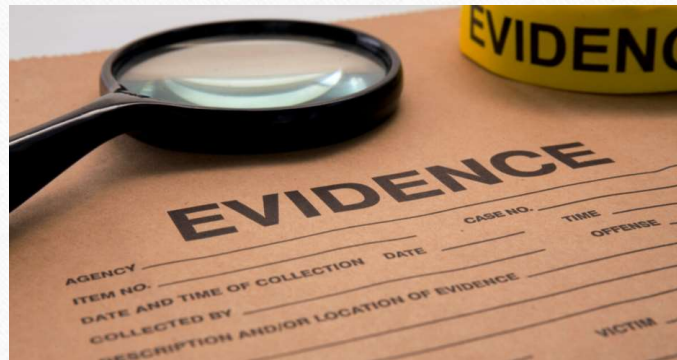
- No party is entitled to be represented before a family court by an advocate.
- For the interest of justice , if the court considers, it seeks the assistance of legal expert (Amicus curiae/Friend of the court )





# Application of Indian Evidence Act, 1872

## SECTION 14



**Family court may receive evidence, whether or not that evidence relevant or admissible under Indian evidence act**



## Record of Oral Evidence SECTION 15



**In suit or proceedings before a Family Court, it shall not be necessary to record the evidence but the judge as the examination of each witness and shall form part of record.**



# Evidence of formal character on affidavit

## SECTION 16



- **The evidence of any person where such evidence is of a formal , may be given affidavit, subject to the all exceptions, be read in evidence in proceedings before a Family Court.**
- **The Family Court may, give any summon and examine any such personas to facts contained in his affidavit.**



# Judgment under Family Courts Act- Section 17



A **Judgment** contains -

- Concise statement of the case
- Point for determination
- The decision and its reasoning





## Execution of Decrees and Orders under Family Courts Act- Section 18

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- It shall have the same force and effect as a decree or order of a civil court and shall be executed in the same manner.
- An order passed under Chapter IX of the Code of Criminal Procedure, 1973 by a Family Court shall be executed in the manner prescribed for such order by that Code.
- It can be executed by a Family Court which passed the same / other Family Court / Ordinary Civil Court which it is sent for execution.



# APPEALS – SECTION 19

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1. Any order or judgment of a family court except for an interlocutory order can be appealed in the high court
2. No appeal shall lie from an order or decree or judgment passed with the consent of the parties
3. Appeal should be preferred within 30 days of date or order of the family court
4. The High court has a power to examine the records of any proceeding for the correctness, illegality or propeity
5. Appeal shall be heard by a two judge bench

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