

**NATIONAL CONFERENCE OF THE PRESIDING OFFICERS  
OF FAMILY COURTS (P-821)**



**National Judicial Academy**

**Programme Report**

**July 25-27, 2014**

## **Background**

The Indian legal system has adopted the system of special courts to deal with some specific matters in order to deal with delays and pendency which is clogging the judicial system. At the same time, the special courts are also expected to serve the requirement of specialized treatment to certain specific areas of cases. In India special courts are in existence for nearly three to four decades. However, so far no systematic study has been undertaken either to evaluate whether these courts have been able to realize the objectives with which they were established. Nor any systematic and institutional efforts have been made to understand the problems and constraints faced by these courts fulfilling the people's expectations. NJA has initiated a series of programmes in the current academic year focused on the special courts. These programmes will bring together the presiding officers of the selected special courts from across the country. While this programme is expected to provide an opportunity to understand and appreciate functioning of these courts, it will provide a forum for the presiding officers to introspect, to share their experiences and also to express the major challenges and constraints faced by these courts. In this series of programmes, focus has also been given on the family courts with the aim of examining the functioning of the family courts in the country and to assess the extent to which these courts have been able to achieve the objectives for which they have been established.

## **Objectives of the Programme**

1. To examine the functioning of the Family Courts in India and to identify the challenges faced in by these courts in their functioning.
2. To discuss and analyze the approaches adopted by Family Courts in settling the disputes before them.
3. To discuss and deliberate on the areas for improvement in the functioning of Family Courts and to discuss the means to improve the performance of these courts.
4. To provide a forum to presiding officers of family courts to share views and express their problems with their counterparts

## Day I

### Session I

The programme commenced with an Introductory Address by Dr. Balram K. Gupta, Director NJA. After a round of self -introduction by the participants of the programme, the resource person for the session – Shri Anil Malhotra addressed the participants on the theme of the session- **“Judging Family Disputes: Issues & Concerns”**. Shri Malhotra dwelt on the significant features of family disputes and the challenges they pose to the judges dealing with such matters.

### Session II

The theme of this session was **“Effective Psychological Perspectives to Determination of the Best Interests of the Child ”**. The resource person for this session was Dr. LN Suman, Professor NIMHANS. In this session, the resource person discussed the concept of best interests of the child and dwelt on the major factors and the concerns in identifying the best interests of the child in cases. The resource person discussed the ways and means that judges can use to pinpoint the best interest of the child and the warning signs that judges should be on the lookout for in family disputes involving children.

### Session III

The theme of this session was **“Effective Use of ADR methods in resolving family disputes: Role of Family Courts”**. The resource person for this session was Shri Anil Malhotra. In this session, the resource person stressed on the role of ADR in family disputes and discussed the various ADR mechanisms that can be used in settlement of family disputes. Shri Malhotra also discussed the relevant legal provisions that govern the use of ADR mechanisms in Family Courts and the reform requirements in this area.

### Session IV

The theme of Session IV was **“NRI Marriages & Divorce – Family Courts”**. The resource person for the session –Mr. Anil Malhotra addressed the participants and discussed on the issues relating to NRI marriages and divorce, which is an area of dispute that has gained significance in recent times. The discussions centered

on the law governing this area as applicable in the Indian scenario and the judicial decisions on this issue. The discussions also focused on the issues relating to NRI Marriage and Divorce and the challenges faced by the Family Courts in resolving these issues. The discussions ranged from the issue of deciding jurisdiction of the courts in respect of NRI cases, the law that governs NRI marriages and the issue of recognition and enforcement of foreign orders and decrees

## Day II

### Session V

In Session V, the participants were involved in group discussion on the theme **“Strengthening the Family Courts in India: Challenges & Constraints (Group Discussion)”**. The resource persons for this session were Hon’ble Justice Anjana Prakash and Hon’ble Justice R. Basant. In this session, the participants were invited to share their views on the role of the judge in a Family Court and to deliberate on the challenges faced by them in their day-to-day functioning and areas for improvement as identified by them.

### Session VI

The theme of session VI was **“Role of Family Courts in Ensuring Equal Rights in Matrimonial Disputes”**. The resource person for this session was Hon’ble Justice R. Basant. In this session, the resource person threw light on the role of Family Courts in protecting the rights of both parties in Matrimonial Disputes. The discussion centered on the major challenges that Family Court judges face in ensuring that the rights of both parties to the dispute is protected while at the same time the institution of marriage and the family is protected. The resource person stressed on the need to ensure that the balance between the parties is maintained by the court whether in status, economic position, representation.

### Session VII

In Session VII, the participants were involved in discussion on the theme **“Rethinking Role of Lawyers in Family Courts”**. In this session the resource persons – Hon’ble Justice R. Basant, Mr Anil Malhotra and Dr. Balram K. Gupta, Director NJA guided the discussions on the theme and invited the participants to share their views on the role that lawyers could play in Family Courts. The discussions centered around the need for professional legal representation of parties in family disputes and the difficulties posed by the absence of legal counsels in family courts. The discussion also centered on the ways by which the family court judge can

ensure effective legal representation and assistance to the parties and the court and the ways by which the benefits of legal counsel can be utilized by the court to achieve justice in family disputes.

### **Session VIII**

The theme of this session was “**Role of Family Courts in Protecting the Rights & Interests of Children**”. The resource person for Session was Hon’ble Justice Anjana Prakash and the session was chaired by Hon’ble Justice R. Basant. In this session the resource person dwelt on the major issues and concerns in protecting the rights and interests of children involved in family dispute and the role that Family Court judges can play in ensuring that the interests and welfare of the child is protected. The participants shared their experiences in this area and expressed their concerns in determining the welfare of children who are involved or are the subject of dispute in matters before the Family Court.

## **Day III**

### **Session IX**

In Session IX, the resource person- Ms. Susheela Sarathi emphasized on the “**Special Communication Techniques and Skills required by Family Court Judges**” and discussed the skills that a Family Court Judge must utilize to effectively deal with disputes before him. In view of the unique nature of disputes before the Family Court, it is necessary that rather than the traditional methods of dealing with other forms of litigation, the judge should use effective methods to understand the crux of the matter before him and to identify and deal with the root cause of the dispute.

### **Session X**

The theme of this session was “**Protection of Women from Domestic Violence Act, 2005 – Role of Family Courts**”. In this session the resource person Ms. Geeta Ramaseshan discussed the relevance of the Protection of Women from Domestic Violence Act, 2005 in family disputes and highlighted the major issues that the

family courts face in relation to this statute. The resource person also threw light on the potential areas of concern in the statute for family court judges. The participants also shared their experiences and expressed their views on the subject.

The programme concluded with the concluding remarks by the Director, NJA.