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IMPACT OF TECHNOLOGY ON THE CONDUCT OF PROCEEDINGS IN THE FAMILY COURT: CASE COMMENT

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ABSTRACT

The functioning of the family courts and their procedure adopted by the courts, being archaic, came in for scrutiny of the Hon'ble High Court of Madras under Article 227 of the Constitution of India, wherein, the Hon'ble High Court exercises superintending powers over the subordinate courts. In the light of technological innovations, the cumbersome procedure prevailing in the conduct of proceedings before the family and other courts was deliberated and discussed by the Hon'ble Mr. Justice V. Lakshminarayanan, Judge, High Court of Madras, and the judgement rendered by the Hon'ble High Court has set at ease the procedural bottlenecks so that the litigant public will be able to avoid undue delay in giving a closure to the pending disputes in family courts. This article deals with the exhaustive discussion and the methodologies suggested by the High Court of Madras by taking advantage of the technological advances at every stage of the proceedings pending before the family courts.

KEYWORDS: Family Courts Act, 1984; video conferencing; power agent; mutual consent divorce; mediation; procedural bottlenecks; court-mediated settlement; adversarial system; litigant-centric.

A. INTRODUCTION

Technology in conjunction with judicial procedures has grown in importance in contemporary times, especially where Family Courts are concerned, as the former is one of the key avenues for solving disputes of a deeply personal nature. Two significant decisions that highlight the intersection of technology and judicial procedures have been made in **Nanda Kishore Kolluru v. Madhulika Maddipudi** and **Vijaya Vaishnavi Sriram v. Sriram Sridhar**¹⁷⁴², in the Hon'ble High Court of Madras on the exercise of its powers under Article 227 of the Constitution of India.

1. C.R.P.(PD) No. 4073 of 2024

Nanda Kishore and Madhulika Maddipudi got married in June 2022 at Rajahmundry. Soon after that, cohabitation was discontinued. Nanda and Madhulika were both residing in the US at that

time; hence, both of them decided to apply for a divorce mutually and under *Section 13B of the Hindu Marriage Act*. Their divorce petition was filed in September 2023.

The husband had applied for permanent residency in the US, and his application was in the process of being reviewed. Returning to India would mean losing the opportunity to visit America again and thus ending his career. Therefore, he issued a power of attorney in favour of his father, authorising him to appear, file application, receive copies, and conduct proceedings on his behalf. The father filed an affidavit accepting the position, and also volunteered to help identify his son through video conferencing where required.

While presenting the 13B petition before the Family Court, it was returned on the insistence that the parties must present it personally. The

¹⁷⁴² 2025 (2) CTC 113.

husband had to come to the High Court (in CRP 4804 of 2023), which set aside that direction and ordered the Family Court to number the petition. The petition was then numbered as F.C.O.P. No. 716 of 2024. However, the power of attorney petition was still not numbered.

Hence, this revision was presented before the Madras High Court seeking for a direction to number the power of attorney petition and also to permit the power agent to apply and obtain certified copies of the order.

2. C.R.P.(PD) No. 4227 of 2024

The wife had filed a contested divorce petition on grounds of cruelty. She later returned to the United States. On a hearing date she attempted to join virtually, while her counsel was physically present before the Family Court. She was not admitted into the virtual court room from the virtual lobby. The Family Court dismissed her petition for default, stating that she had not appeared. She challenged that dismissal before the High Court.

B. ISSUES RAISED

The two cases raised an array of issues that the court found to have been emerging regularly in the Family Court:

1. Can a litigant appearing in the Family Court be assisted by a power agent throughout the legal proceedings?
2. How far should the ambit of *Section 13 of the Family Courts Act*, providing that no litigant is entitled to representation by a lawyer, be construed, especially with regard to the Advocates Act?
3. Can litigants appear via video conferencing, and under what terms and conditions?
4. Can lawyers assist litigants in initiating and carrying on proceedings?
5. Is the presence of litigants personally in court required in each proceeding in the Family Court?
6. Do pending proceedings have to be withdrawn before initiating a 13B mutual consent petition?

In addition to this, other grievances expressed by the members of the Family Court Bar, which were observed by the court, included the fact that between 800 to 1500 entry slips were being handed out each day to the litigants that had to appear in person; there were too many differently abled litigants, women expecting children, and senior citizens in the courts; parties were being asked to appear in person even for simple matters such as paying court fees and affidavits of service; and the Video Conferencing Rules formulated by the High Court itself was not being implemented in the Family Court.

C. RULING

The Hon'ble High Court categorised the difficulties faced by the litigant public into the following eight headings:

1. Enactment of the Family Courts Act, 1984 and establishment of family courts in India
2. Institution of proceedings and serving of summons
3. Counselling
4. Mediation
5. Applications for representation and interim relief
6. Recording of evidence and hearing of parties
7. Judgment and copy application
8. Miscellaneous

I. ENACTMENT OF THE FAMILY COURTS ACT, 1984 AND ESTABLISHMENT OF FAMILY COURTS IN INDIA

As a starting point, it was emphasized by the Court that the first essential aspect that required consideration was the very reason behind the setting up of Family Courts.

According to the Sixth Law Commission of India presided over by Chief Justice Gajendragadkar way back in 1973, family proceedings have special dimensions of their own since there exist emotional aspects in them which cannot be dealt with satisfactorily through civil litigation procedures. He went to state that the existing court structure should be so organized such that a single court should deal with the problem of

preserving families and that the conventional approach carried by way of the adversarial system may not be appropriate for resolving familial matters.

In a similar vein, the Fifty-Ninth Law Commission of India recommended that in family matters, courts must adopt a humane approach and make reasonable efforts at settlement before commencement of trial. It recommended that States must establish family courts with presiding officers, who will be qualified and trained to deal with such disputes in a humane way.

In the debate on the Family Courts Bill of 1984, the then Law Minister Shri Jagannath Kaushal explained the object of the Bill, that is, for the establishment of Family Courts with a view to promote conciliation and secure speedy settlement of disputes relating to family affairs. On the bill being passed, the Family Courts Act, 1984 was enacted on 14th September, 1984.

Since the Family Courts were vested with an extensive jurisdiction under *Section 7* of the Act, the Madras High Court in this case reviewed the working and procedure adopted by the courts to ensure that it aligned with the objectives for which the Act was passed.

II. INSTITUTION OF PROCEEDINGS AND SERVING OF SUMMONS

a. Institution of proceedings

Every case filed in the Family Court is initiated through the presentation of a plaint or petition. The Family Courts Rules mandate this, but do not specify details regarding the format or contents of the document. According to the Family Court, since there are lacunae in the Family Courts Rules, provisions of the Code of Civil Procedure (CPC) will step in, therefore, petitions presented to the Family Court have to follow Orders VI and VII of the CPC.

In its statement here, the court made an empathic remark: litigants who approach the Family Courts are ordinary people with no formal

experience in litigation to know the rules of procedure. They approach the Family Courts in their emotional, physical, and financial distress. It would be preposterous to expect litigants to sort out issues related to the procedures mandated by the CPC (for example, knowing when one needs to present a plaint instead of a petition) without assistance.

b. Assistance of an advocate

This was another major issue in the legal discussion. Under *Section 13* of the Family Courts Act, it is clearly stated that no party has a right to engage the services of any legal practitioner. This matter was discussed carefully by the court and the following interpretation was made.

The primary intention behind the regulation of the legal profession and not its outright banning was to avoid making the process adversarial, particularly during the counselling stage, so as to not prolong the proceedings.

However, the court also considered the contradiction with *Section 30* of the Advocates Act, 1961 that provides that every enrolled advocate is entitled to practice in all the courts. The contradiction was settled in five ways.

Firstly, it was necessary to interpret both sections harmoniously. Secondly, the bar on the right of advocacy in the case of *Section 13* does not operate as an absolute denial of the right, but states that there is no such right of practice. Thirdly, the Family Courts Act is a special act and therefore must override the general act of Advocates (*generalia specialibus non derogant*). Fourthly, although the right to advocate as provided for in *Section 30* may constitute a fundamental right under *Article 19(1)(g)*, the right is not an absolute one but subject to reasonable restrictions under *Article 19(6)*, which makes the restriction reasonable. Finally, Parliament was aware of *Section 30* while enacting *Section 13*.

The court also referred to the judgment in the case of **S. Venkataraman v. L. Vijayasaritha**¹⁷⁴³

¹⁷⁴³ S. Venkataraman v. L. Vijayasaritha, (1996) 2 LW 222.

wherein it was stated that if any party files a memo or petition before the Family Court or even orally expresses desire seeking permission of the court to engage a counsel for legal assistance, it is left to the discretion of the Family Court to allow any counsel to appear on behalf of the client in the interest of justice.

The High Court ruled that a combined reading of *Section 13* and *Rule 41 of the Family Court Rules* indicates that it is not the intent of the Parliament to unqualifiedly restrict the representation of a party by a lawyer before the Family Court. Though parties cannot seek such representation as of right, the provisions do not restrain the litigants from resorting to the aid and assistance of a legal practitioner altogether. If lack of representation by a lawyer would negatively impact a party's right to effectively present his case, then the Court must be liberal in exercising its discretion under *Rule 41 of the Family Court Rules*.

c. Representation by a power agent

The High Court held that the insistence on personal attendance of the litigants for every hearing is incongruent with the spirit of the Act and the object it seeks to achieve. It is also inhumane to presume that litigants are always available at the beck and call of the Family Court. The ruling reiterated that "the litigants are not for the Courts, but the Courts are for the litigants".

It was decided in no uncertain terms that, under the CPC (*Order III, Rules 1 and 2*), power agents are allowed to appear and act on behalf of parties, and these rules extend to Family Court proceedings through *Section 10 of the Act* as well as *Rules 50-51 of the Family Courts Rules*. This decision has also received confirmation from the Apex Court in **Amardeep Singh v. Harveen Kaur**¹⁷⁴⁴ as well as the Punjab & Haryana High Court and the various Benches of the Madras High Court.

A certain framework of precautionary measures was set forth to prevent any misuse or abuse:

- i. In case the power of attorney is made in India, it shall be registered in the office of Sub-Registrar or executed before the Notary Public.
- ii. In case it is made outside India, it should be executed before the Notary Public in that country (similar to an authorized officer), and it should be accompanied with the certificate confirming residence of the concerned party there, and it will be adjudged after coming into India according to the Stamp Act.
- iii. The power agent can represent the party at every stage of the proceeding. However, the power agent cannot replace the personal appearance of the party in mediation (which requires personal participation) or the recording of evidence, if their absence is deemed unavoidable by the court in these proceedings.
- iv. There shall be two affidavits along with the petition: one from the principal party stating that they have made the power agent and one from the power agent accepting his/her appointment.
- v. At the day of presentation, the concerned party shall send a soft copy of the plaint/petition to the registered email id of the Family Court, ensuring that they have consented with filing it.
- vi. The application seeking permission to make a power agent under *Order III Rule 1 of Civil Procedure Code* need not be sent to the other party for their reply before taking the decision.

d. Numbering and serving of summons

Once the petition is filed, the same should be numbered, and the other side should receive summons. It was noted by the court that it would be unrealistic to expect either a party or the power agent, neither of whom may have had experience dealing with court processes, to go ahead with numbering petitions and serving of

¹⁷⁴⁴ Amardeep Singh v. Harveen Kaur, (2017) 8 SCC 746.

summons in accordance with the process stipulated under the CPC.

It was thus held that it will be permissible for a petitioner or a power agent to engage an attorney or a clerk of a registered advocate, solely to ensure that the petition is numbered and summonses are served.

III. COUNSELLING

It was observed by the court that there is no provision of online counselling services in any of the Family Courts in Chennai presently. Till such a service is made available, it becomes mandatory for the parties to attend counselling in person as counselling is a highly personal exercise.

If the defendant/respondent cannot attend in person, he/she may make their attendance known via a power agent as described above, but personal attendance will be mandatory for counselling purposes.

It is also pertinent to mention that the courts allow flexibility such that in case both the parties apply to forego the process of counselling and proceed with the mediation phase, the court may approve this and move on from the counselling stage.

IV. MEDIATION

The mediation process, according to *Section 9(1) of the Family Courts Act*, is mandatory and the Court should, in every case, try to ensure that the parties settle their disputes. According to *Rule 26 of the Family Courts Rules*, the parties shall consult the counsellor as per the agreed time fixed.

It follows from the above discussion that due to the mandatory nature of the mediation process, the attendance of the parties during the process is indispensable. Thus, power agents cannot represent the parties during the conciliation process. However, the Court understood that the parties may not always be in a position to personally attend every mediation. Video-conferencing is the solution to this problem.

The court relied on *Section 30 of the Mediation Act, 2023* (which is not yet enforced) but

provides for online mediation, and noted that *Rule 7(5) of the Tamil Nadu Mediation Rules, 2010*, provides that the venue of mediation can be “any other place agreed upon by the parties subject to the court’s approval”, which suggests that online mediation is allowed. It is worth mentioning that the Madras High Court was already conducting a training program on online mediation as part of its pilot project initiated in August 2020.

The Hon’ble High Court framed a procedure which is to be followed until appropriate rules are framed, which are as follows:

- i. Notice should be served at least two days before the mediation is due, and must specify the email ID and contact phone number of the party attending the mediation online.
- ii. The mediator should select an appropriate online platform and provide login information to all participants at least a day prior to the process, making sure that the time fixed is feasible for all parties.
- iii. In cases where one party attends the mediation offline while others attend online, the mediator shall conduct the mediation process from inside the mediation centre or courtroom using the video conferencing facility.
- iv. Confidentiality of the proceedings has to be maintained with utmost diligence, and no person who is not authorized shall be allowed entry into the virtual platform for mediation, and an effort made towards recording any part of the proceedings may amount to contempt of court.
- v. All parties appearing virtually should send a soft copy of their government-issued identification proof through email to the mediator on the date of mediation for the purposes of verification.
- vi. In case of a successful mediation, the parties come up with a settlement which is put into writing, duly signed

by the parties involved and countersigned by the mediator. In cases where any of the parties appeared before the mediator virtually, the mediator will forward a copy to the respective parties which cannot be edited, and once they have signed and scanned the same, the mediator's report indicates that the concerned party appeared virtually and was identified.

- vii. It is important to state that in case of filing of any 13B or other consent petitions following mediation, no need arises to engage the parties in further mediation.

V. APPLICATIONS FOR REPRESENTATION AND INTERIM RELIEF

In the event that the mediation does not succeed or the parties fail to cooperate with the mediator, then the matter will come back to the Family Court for trial.

Where any party considers it necessary to engage the services of an advocate in presenting his/her case, he/she shall make application under *Rule 41 of the Family Courts Rules*. Such application should be treated liberally by the court. The court should not try to second guess the applicants regarding whether the case is complex enough. Only the parties can know this, and more importantly, they are fragile emotionally. When such a request is granted, the party concerned will have his/her vakalatnama filed under *Order III Rule 4 CPC*. The attendance of the advocate must be noted in every order of the court whenever the advocate attends the proceedings.

Interim relief may be needed either before or during mediation, including but not limited to, anti-suit injunctions, restraining orders to prevent removal of minors from the jurisdiction, joint endorsements of passports, extension of visas, and other similar measures. It was conceded that it is a practice in Family Courts not to accept any application for interim

measures before mediation is concluded, but truly urgent relief cannot be delayed. Applications for interim measures can be made, and these should be disposed of before the proceeding is referred to mediation.

VI. RECORDING OF EVIDENCE AND HEARING OF PARTIES

If the party is abroad and unable to physically appear for his/her examination, he/she can make an application under *Rule 4(1) of the Video Conferencing Rules* and request that his/her evidence be taken through video conferencing. It will have to be backed by an affidavit stating the reason for absence, along with the email id of the party.

This court considered the judgment of the majority of the Supreme Court in the case of **Santhini v. Vijaya Venkatesh**¹⁷⁴⁵ that video conferencing cannot be ordered where there is only one party's request and held:

First, the ruling majority in Santhini itself allows for video conferencing where both parties agree, or where the court considers it to be in the interest of justice. Second, the *Video Conferencing Rules, 2020* issued by the Madras High Court, have established guidelines that are in fact much stricter concerning privacy in the virtual space than actual hearings are. People cannot overhear or see other proceedings going on and they cannot record anything.

a. Recording of evidence

It is the duty of the advocate or the power agent to provide hard copies of the documents that are going to be tendered. While cross-examining a party, if the opposing party wants to confront him with the document, they send it to the party's witness and to the court; and in this respect, they would show a hard copy of it during the hearing. Thereafter, the court would mail the non-editable version of it to the deponent, which he needs to sign, print, and resend within 72 hours. The court would verify it with its soft copy and

¹⁷⁴⁵ Santhini v. Vijaya Venkatesh (2018) 1 SCC 1.

endorse it as 'verified'. The court itself needs to record the deposition.

The coordinator who will assist at the remote site is not necessary except when the deponent lacks the capability to use the technological facility, since recording of evidence of the parties before the Family Court is not even remotely related to the examination of an accused or a witness to an offence.

b. Recording of depositions

The Video Conferencing Rules prohibit the recording of proceedings by the parties. This prohibition operates only on the parties and not on the court, therefore, it was ruled that the Family Court must record the depositions in order to avoid any confusion regarding their contents. The parties may be made to supply recording equipment in case it is not available with the court.

c. Hearing of the parties

For a final hearing, where the parties are being represented by legal representatives, there is no need for physical attendance before the court. In cases where the court demands physical attendance from the party and such is not possible, they can attend the hearing through video conference under the same rules applicable during the hearing of the evidence. Where an earlier application has been approved for use in the hearing of evidence and the conditions remain the same, there will be no need for a new application.

Where a party attending through video conference wishes to rely on case laws or any other documents, they should be emailed to the court and all parties prior to the hearing date.

VII. JUDGMENT AND COPY APPLICATION

Judgment: Pursuant to *Rule 42 of the Family Courts Rules*, a free copy of each judgment shall be provided to the parties to the litigation. It was held that a copy of the judgment free of cost should be provided to the advocate or power agent when the party is not present due to

reasons of personal convenience. Moreover, the judgment should also be sent by email to those appearing through video conferencing.

Applications for Copies: The Hon'ble High Court also noticed that the Family Courts and their Registries insisted upon the personal attendance of the party even for filing an application for getting certified copies in accordance with *Rule 43 of the Family Courts Rules*. The Court dismissed this interpretation of *Rule 43*. The requirement under the Rule is that copies should be supplied free to the parties, but there is no restriction in that regard that only the party in person should make applications for such copies.

The Court referred to its previous judgment in ***Togo Mukherjee v. Sapna Mukherjee***¹⁷⁴⁶ wherein it had been held that the advocate who filed a vakalath on behalf of the party can be permitted to file the copy application. In cases where no advocate is involved on behalf of the party, power of attorney holder, the party assisted by the Advocate or the clerk shall be able to get copies of such documents.

VIII. MISCELLANEOUS

With respect to withdrawing prior petitions before a 13B petition: The Court unequivocally disapproved the approach of the Family Court of treating the filing of the mutual consent petition contingent upon the previous withdrawal of the pending proceedings, viewing it as a means through which one may manipulate the other, such that the former may cause the latter to withdraw their petition but subsequently not fulfil the mutual consent petition. Under this new scheme, prior petitions are kept in suspended state while hearing of the 13B petition is underway. If successful, the 13B petition ends those prior petitions, but if unsuccessful, the prior petitions live on and continue with their proceedings.

On noting presence of the advocate: It is to be noted in all cases that whenever an advocate appears for any client in front of the Family Court,

¹⁷⁴⁶ Togo Mukherjee v. Sapna Mukherjee (2002) 1 LW 356.

his presence shall be recorded in the order of that day by the Court. It should not be considered merely a technical issue since this can cause serious implications.

Time Limits: While refusing to lay down any rigid timelines for family court cases, the court held that judges have complete discretion to expedite cases whenever required.

Amendment of the Mediation Rules: Given that the Mediation Rules of Tamil Nadu are more than a decade old, and with tremendous technological changes having occurred in the meantime, the court ordered the Rules to be placed before the Rules Committee.

Modification of VC Directions: The video conferencing directions have been made pursuant to the Video Conferencing Rules of 2020, and thus can be amended as per requirement. They are a practical remedy to existing issues, not a rigid code.

D. GREY AREAS IN IMPLEMENTATION

Though the ruling of the Hon'ble High Court of Madras clears the procedural bottlenecks so as to enable the litigant public to experience an uncumbersome procedure, there are grey areas which require to be addressed. It is time that the courts in general break away from the rigour of procedural bottlenecks and be more litigant-centric to address their disputes and differences.

Though the Hon'ble High Court has held that it is not the intent of the Parliament to unqualifiedly restrict the representation of a party by a lawyer before the Family Court, reasonable restrictions can be imposed. The court held that the Parliament was aware of *Section 30 of the Advocates Act* while enacting *Section 13 of the Family Courts Act*. However, it is relevant to note that *Section 30* was never notified for five decades after giving effect to the legislation in the year 1961. The said provision was notified in the Gazette of India dated 9.06.2011. The Family Courts Act was enacted in the year 1984.

There seems to be a seeming conflict in the decisions rendered by the High Court of Kerala. The High Court of Kerala in **C.P. Saji v. Union of India**¹⁷⁴⁷ held as follows:

"In view of the notification as aforesaid, *Section 30 of the Advocates Act, 1961* has been brought into force from 15.06.2011 and as it stands so, all the lawyers have acquired a right to practice before all courts / tribunals and such other forums in India as a matter of right, which provision is having all the traits and effects of a subsequent legislation to override the restrictive covenants as contained in *Section 13 of the Family Courts Act*. This being the position, the stipulation contained in *Section 13 of the Family Courts Act, 1984*, necessitating prior sanction of the said court has virtually become redundant."

Again, in **K.G. Suresh v. Union of India**¹⁷⁴⁸, the High Court of Kerala in Paragraph 57 held as follows:

"As *Section 30 of the Advocates Act, 1961* has been brought into force from 15.06.2011, advocates enrolled under the said Act have been conferred with an absolute right thereof to practice before all courts and tribunals. By virtue of *Section 30 of the Advocates Act, 1961* coming into force from 15.06.2011, the restriction imposed is taken away and, in such circumstances, *Article 19 of the Constitution of India*, which guarantees the freedom to practice any profession, enables the advocates to appear before all courts and tribunals subject to *Section 34 of the Advocates Act, 1961*."

It is seen that most often, when parties are referred to mediation, they voluntarily agree to withdraw all pending matters and/ or call upon to withdraw all matters prior to arriving at a settlement agreement. At times, such withdrawal of earlier proceedings is embodied in the settlement agreement itself and in pursuance to the same, parties withdraw the prior proceedings to their detriment on a consensus being arrived at to dissolve the marriage by mutual consent and settle their

¹⁷⁴⁷ C.P. Saji v. Union of India (AIR 2012 Ker 23).

¹⁷⁴⁸ K.G. Suresh v. Union of India (AIR 2021 Ker 152).

differences as recorded in the said agreement. Subsequently, one of the spouses resiles from the settlement agreement and does not comply with the terms agreed to in the court-mediated settlement. This conduct has been deprecated by the courts.

E. EFFECT OF VOLUNTARY SETTLEMENT AND SUBSEQUENT WITHDRAWAL

Bottlenecks yet to be removed falls within the sphere of court-mediated settlements which are being thwarted by the parties even though the settlement agreement has been reached voluntarily after obtaining professional advice. The question that arises for consideration is whether the parties can resile from the settlement agreement entered into on their own volition with professional advice, thereby setting at naught, the entire agreement reached tantamounting to re-litigating the same issues which has reached finality on the voluntary agreement reached.

Though the Hon'ble High Court of Madras has ruled that the matters should be kept pending till disposal of the mutual consent petition filed in furtherance to the court-mediated settlement being reached, the ground reality is that the clock is put back to once again commence the adversarial litigation which has been voluntarily given up by parties. The remedy lies in the courts being empowered to enforce the mediated settlement arrived at by the parties so that parties will be deterred from resiling from the court-appointed mediation settlement. As parties have already come to a conclusion that the marriage can be mutually dissolved, to make them revisit the contentious proceedings would only protract the litigation further. The party resiling from the mediated settlement cannot be permitted to use the departure from the settled agreement as a weapon to harass the other spouse.

The Bombay High Court in **Prakash Alumal Kalandari v. Mrs. Jahnavi Prakash Kalandari**¹⁷⁴⁹

held that under the settlement agreement reached between the parties pending litigation, an agreement having been reached to dissolve the marriage by mutual consent, all the pending applications have been withdrawn in furtherance thereto, neither of the parties can resile from the same to the detriment of the other.

Similarly, in **Dr. Jinu Joy v. Dr. Bony Baiju**¹⁷⁵⁰, the court ruled that a spouse cannot unilaterally withdraw consent for divorce after the terms of the settlement have been agreed upon in mediation and the other party has already fulfilled their obligations.

In **Dhananjay Rathi v. Ruchika Rathi**¹⁷⁵¹, the Supreme Court made it very clear that once parties enter into a mediated settlement and act upon it, one side cannot simply take the benefits and then back out of the mutual divorce without valid legal grounds.

In **Anurag Goel v. Chhavi Agarwal**¹⁷⁵², the Delhi High Court held that the continuation of legal proceedings after execution of settlement agreement constitutes abuse of process of law. The plea that the other spouse is not placed in any disadvantageous position cannot be countenanced.

These grey areas must be addressed so that the proceedings in the Family Court are not protracted and the courts are able to give a closure at the earliest. The presiding officers of the courts must be sensitised to address the issues in a humane way.

F. CONCLUSION

The decision rendered by the Hon'ble High Court of Madras in the cases of *Nanda Kishore Kolluru v. Madhulika Maddipudi* and *Vijaya Vaishnavi Sriram v. Sriram Sridhar* represents an important milestone towards modernizing the procedures under the Family Courts Act in India. By making use of technology in all stages of litigation, from filing of petitions to evidence recording, the decision reiterates that the justice delivery

¹⁷⁴⁹ Prakash Alumal Kalandari v. Mrs. Jahnavi Prakash Kalandari AIR 2011 Bom 119.

¹⁷⁵⁰ Dr. Jinu Joy v. Dr. Bony Baiju AIR Online 2024 KER 124.

¹⁷⁵¹ Dhananjay Rathi v. Ruchika Rathi 2026 INSC 360.

¹⁷⁵² Anurag Goel v. Chhavi Agarwal, 2023 (304) DLT 555.

mechanism should conform itself to the changing needs of the litigants, not vice versa.

On the flip side, there are some grey areas. The conflict between Section 13 of the Family Courts Act and Section 30 of the Advocates Act and the difficulty in dealing with parties who back out of the settlement offered by the court stand in the way of achieving maximum efficacy. Both legislative action and judicial sensitivity are, therefore, equally necessary for implementing the intent behind the Family Courts Act, 1984. With the rapid pace of technological advancement, the need to update the procedural mechanism of family court is imminent.

REFERENCES

1. Pise, M.R., 2021. Significance of Technology in Family Courts: An Analysis. *Journal of Family and Adoption Law*, 4, pp.1-5.
2. SOOD, D.P. and Verma, A., 2024. THE WORKING OF FAMILY COURTS IN INDIA: A STUDY. *Panjab University Law Review*, 63(1).
3. Dubey, B. and Das, D., 2025. Legal Framework for Mediation in Family Disputes in India: Analysis of Statutes, Case Laws, and Mediation Mechanisms. *International Journal of Law Management & Humanities*, 8, pp.4476-4489.

CASE LAWS

1. S. Venkataraman v. L. Vijayasaritha, (1996) 2 LW 222.
2. Amardeep Singh v. Harveen Kaur, (2017) 8 SCC 746.
3. Santhini v. Vijaya Venkatesh (2018) 1 SCC 1.
4. Togo Mukherjee v. Sapna Mukherjee (2002) 1 LW 356.
5. C.P. Saji v. Union of India (AIR 2012 Ker 23).
6. K.G. Suresh v. Union of India (AIR 2021 Ker 152).
7. Prakash Alumal Kalandari v. Mrs. Jahnavi Prakash Kalandari AIR 2011 Bom 119.
8. Dr. Jinu Joy v. Dr. Bony Baiju AIR Online 2024 KER 124.

9. Dhananjay Rathi v. Ruchika Rathi 2026 INSC 360.

10. Anurag Goel v. Chhavi Agarwal, 2023 (304) DLT 555.



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