



ॐ सर्वे भवन्तु सुखिनः। सर्वे सन्तु निरामयाः। सर्वे भद्राणि पश्यन्तु।
मा कश्चित् दुःख भाग्भवेत्॥ ॐ शान्तिः, शान्तिः, शान्तिः॥

May all become happy, May all be free from illness, May all see what
is auspices, May 'no' one suffer, OM, PEACE, PEACE, PEACE.

— Upanishad

SPECIAL BULLETIN

on the
2nd Regional Conference
on
Sensitisation on
Family Court Matters
at Lucknow

For the States of
Bihar, Chhattisgarh,
Jharkhand and
Uttar Pradesh
on 22nd October,
2016



**Let us be together, Let us eat together,
Let us be vital together, Let us be radiating truth,
radiating the light of life. Never shall we denounce anyone,
never entaintain negativity.**

— कठोपनिषद्

Prepared by :

Jharkhand State Legal Services Authority

Nyaya Sadan, Near A.G. Office, Doranda, Ranchi

Phone : 0651-2481520, 2482392, Fax : 2482397, Email : jhalsaranchi@gmail.com, Website : www.jhalsa.org

This Special Bulletin is also available on official website of JHALSA "www.jhalsa.org"

Supreme Court Committee for Sensitization of Family Court Matters:



Hon'ble Mr. Justice Dipak Misra
Judge, Supreme Court of India



Hon'ble Mr. Justice Navin Sinha
Chief Justice, Chhattisgarh High Court



Hon'ble Mr. Justice D.N. Patel
Judge, Jharkhand High Court

SUPREME COURT OF INDIA

Dated : 6TH MAY, 2016

Hon'ble the Chief Justice of India vide order dated 6th May, 2016 has been pleased to reconstitute the '**Committee for sensitization of Family Court Matters**', comprising the following Hon'ble Judges :-

1. Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India
2. Hon'ble Mr. Justice Navin Sinha, Chief Justice, High Court of Chhattisgarh
3. Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand

The concerned PPS/PS may apprise their Lordships about the reconstitution of the Committee.

Sd/-
[Ravindra Maithani]
Secretary General

- (i) **PPS to Hon'ble Mr. Justice Navin Singh,**
Hon'ble Chief Justice, High Court of Chhattisgarh
- (ii) **PS to Hon'ble Mr. Justice D.N. Patel**
Hon'ble Judge, High Court of Jharkhand

Genesis of the Programme

Almost everything of lasting value in society has its root in the family. Family disputes have many dimensions: maintenance and alimony, custody of children, visitation rights, marriage & divorce and stridhan. These disputes have potentiality to ruin the innocence of child and esteem of man and woman.

The dispute in family is not uncommon but the speed with which family disputes are reaching courts is a matter of concern. The responsibility of a Family Court Judge is much more than that of other judges. A Family Court judge is not expected to merely record evidence, hear argument and pass judgement. The approach of Family Court judge should be conciliatory.

Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India has said in Voluntary Health Association of Punjab Vs. Union of India [(2013) 4 SCC 1 para 31] that "the innocence of a child and the creative intelligence of a woman can never ever be brushed aside or marginalised. They play a seminal role in the society. Civilisation of a country is known by how it respects its women."

In family disputes the worst sufferer are children and the women and the matters concerning their future are highly sensitive. They should be dealt with equal amount of sensitivity by all stake holders. The family is the foundation of society and a dispute in family has its impact on the society also. A Family Court Judge should be aware of human behaviour. Likewise, the role of Mediators and Counsellors is also important. The sensitisation of all the stake holders of family court matters is the need of the hour.



Left to Right : Hon'ble Mr. Justice V.K. Shukla, Sr. Judge, Allahabad High Court, Hon'ble Mr. Justice D.B. Bhosale, Chief Justice, Allahabad High Court, Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India, Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court & Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand



Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters alongwith Hon'ble Mr. Justice D.B. Bhosale, Chief Justice, Allahabad High Court and Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand



Hon'ble Judges of the Allahabad High Court, Patna High Court, Chhattisgarh High Court, Jharkhand High Court, Family Court Judges of Participating States : Uttar Pradesh, Bihar, Chhattisgarh, Jharkhand & Hon'ble Dignitaries attending the conference.

Programme Schedule

INAUGURAL SESSION (09:00 AM TO 11:15 AM)

- 09:00 AM : Registration of participants
- 09:55 AM : Arrival of the Chief Guest, Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters and Hon'ble Dignitaries.
- : Hon'ble the Chief Guest and Hon'ble Dignitaries escorted to the dais.
- : Presentation of Bouquets
- : Deep Prajwalan
- 10:00 AM : Welcome address by Hon'ble Mr. Justice V.K. Shukla, Executive Chairman, U.P. State Legal Services Authority
- 10:05 AM : Address by Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand and Executive Chairman, JHALSA and Member, Supreme Court Committee for Sensitization of Family Court Matters
- 10:15 AM : Address by Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court cum Patron-in-Chief RLSA and Member, Supreme Court Committee for Sensitization of Family Court Matters
- 10:25 AM : Address by Hon'ble Mr. Justice Dilip Babasaheb Bhosale, Chief Justice, High Court of Judicature at Allahabad and Patron-in-Chief, UPSLSA
- 10:35 AM : Release of "Compilation of Landmark Judgments of Supreme Court of India as well as the High Courts of India on Topics relating to Family Matters" and of "Handbook"
- 10:40 AM : Inaugural address by Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India
- : Vote of Thanks by Hon'ble Mr. Justice A.P. Sahi, Chairman, Allahabad High Court Family Court Committee
- : National Anthem

Followed by Tea

SESSION-I (11:15 AM – 01:10 P.M.)

- Chair : Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters
- Co-Chair : Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court and Member, Supreme Court Committee for Sensitization of Family Court Matters
- : Hon'ble Mr. Justice Dilip Babasaheb Bhosale, Chief Justice, High Court of Judicature at Allahabad
- : Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand and Member, Supreme Court Committee for Sensitization of Family Court Matters

FIRST TOPIC (CHHATTISGARH HIGH COURT)

- 11:15 AM to 11:35 AM : Address including PowerPoint presentation by Hon'ble Mr. Justice Prashant Kumar Mishra, Chairman, Family Court Committee of Chhattisgarh High Court on the topic Maintenance including interim maintenance
- 11:35 AM to 11:55 AM : Address including PowerPoint presentation by Hon'ble Mr. Justice Manindra Mohan Shrivastava, Member, Family Court Committee of Chhattisgarh High Court on the topic Alimony including permanent alimony and analysis of Chhattisgarh High Court Judgments on Family Matters

SECOND TOPIC (JHARKHAND HIGH COURT)

- 11:55 AM to 12:15 PM : Address including PowerPoint presentation by Hon'ble Mr. Justice Harish Chandra Mishra, Chairman, Family Court Committee of Jharkhand High Court on the topic Marriage including restitution of conjugal rights
- 12:15 PM to 12:35 PM : Address including PowerPoint presentation by Hon'ble Mr. Justice Aparesh Kumar Singh, Member, Family Court Committee of Jharkhand High Court on the topic Divorce including annulment of marriage and analysis of Jharkhand High Court Judgments on Family Matters
- 12:35 PM to 01:10 PM : Interactive Session Questions are Solicited

Followed by Lunch

SESSION – II (02:00 PM – 04:45 PM)

- Chair : Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters
- Co-Chair : Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court and Member, Supreme Court Committee for Sensitization of Family Court Matters
- : Hon'ble Mr. Justice Dilip Babasaheb Bhosale, Chief Justice, High Court of Judicature at Allahabad
- : Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand and Member, Supreme Court Committee for Sensitization of Family Court Matters

THIRD TOPIC (PATNA HIGH COURT)

- 02:00 PM to 02:20 PM : Address including PowerPoint presentation by Hon'ble Mr. Justice Navaniti Prasad Singh, Chairman, Family Court Committee of Patna High Court on the topic Custody of child
- 02:20 PM to 02:40 PM : Address including PowerPoint presentation by Hon'ble Mrs. Justice Nilu Agrawal, Member, Family Court Committee of Patna High Court on the topic Visitation rights including shared parenting and analysis of Patna High Court Judgments on Family Matters

FOURTH TOPIC (ALLAHABAD HIGH COURT)

- 02:40 PM to 03:20 PM : Address including PowerPoint presentation by Hon'ble Mrs. Justice Sunita Agarwal, Member, Family Court Committee of High Court of Judicature at Allahabad, on the topic Key Challenges before the Family Court and Role of Principal Judges of the Family Courts
- 03:20 PM to 04:00 PM : Address including PowerPoint presentation by Hon'ble Mr. Justice Vikram Nath, Senior Member, Family Court Committee of High Court of Judicature at Allahabad, on the topic Adoption and Analysis of Allahabad High Court Judgments on Family Matters
- 04:00 PM to 04:45 PM : Interactive Session Questions are Solicited Closing Remarks by the Chair

Followed by High Tea

Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India & Chairman, Supreme Court Committee for Sensitization of Family Court Matters addressed to the Family Court Judges that :



- You must realise that you're the chosen few. It is because you hold a key post.
- Through your adjudicatory process the future of this country is going to be shaped.
- You are not the clear adjudicator. You are not a Judge in the sense the other judge functions, in the Court room, next to yours.
- You are a Judge who is participating judge in the matter.
- Object and purpose of the Family Court Act is to see that there is reconciliation.
- When a husband and wife fight between themselves, either for divorce, separation, dissolution, nullity, maintenance, custody of child, your primary duty is to see that there is reconciliation and your first role is conciliatory.
- Your role is that of a patriarch. At the stage of settlement you can play the role of an active mediator.
- Husband or wife whosoever is dragging the litigation is taking advantage of the system. You should see to it that the system should not be made a tool in the hand of any of the party.
- You have to have a dynamic adjudicatory role as a Family Court Judge.
- When you find an application for adjournment, you must ask the litigant seeking adjournment as to how he justifies adjournment.
- Adjournment without understanding the cause for adjournment is cancerous.
- Maintenance has to be given, if the lady deserves, as early as possible.
- Grant of time is great art on the part of a Family Court Judge.
- Family Court Act, 1984 is the only Act which requires the services of Counsellors, Doctors, Social Activist, Organisations etc. Their services are to be utilized within a reasonable time.
- Unless you are alert as a Family Court Judge, you are failure.
- A Family Court Judge is greatest evaluator of social dynamics.
- A comprehensive concept of the welfare of child involves social security, emotional security and all kind of future a child is going to have.
- Absence of emotional bond may shatter the child.

Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court

- Any dispute in family has its effect on society.
- Family Court Judges should show sensitivity and concern while dealing with family matters.
- The role of counsellors, conciliators and mediators are very important in resolution of family disputes amicably.



- Substantial numbers of family matters are pending in the State of Uttar Pradesh therefore it should take lead and show the path to entire nation.
- Early disposal of maintenance matters and careful approach while dealing with custody matter is the need of the hour.
- Welfare of Child is paramount.
- In dispute between parents, the child suffers most, therefore, Family Court Judge should use his/her wisdom and experience in dealing with the family matters.
- Since the Jaipur Regional Conference on Family Matters

in the month of July, huge impact is being seen on the stakeholders and the entire credit goes to His Lordship Hon'ble Mr. Justice Dipak Misra.

- The Judgments of His Lordship Justice Dipak Misra has been and will be showing the way to the Family Court Judges, Lawyers and litigants.
- Every Family Court Judge must go through the judgments of Justice Dipak Misra so that he may be able to do complete justice.

Hon'ble Mr. Justice Dilip Babasaheb Bhosale, Chief Justice, Allahabad High Court

- I welcome My Lord Justice Dipak Misra heart and soul .
- Supreme Court Committee for Sensitization of family Court Matters has given a great honour by making us the host of this Conference,
- Sensitivity is the need of hour for the Family Court Judges and early disposal of family matters saves the person from unforeseen hardships,
- It is a matter of great concern that several years old family matters are still pending in the Family Courts,
- Recently the Govt of U.P. has sanctioned 111 posts of additional Family Court judges,
- Pendency of Family Court Matters in U.P. is highest in the Country,
- I thank my brother and sister Judges of Allahabad high Court and its Lucknow Bench for ensuring successful organization of this Conference.



Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA

- There is need to have similar sensitization programme at District Level, Regional Level and State Level.
- Such local level Sensitization Programme should be a continuous process.
- There is urgent need to improve the infrastructure of Family Courts.
- Family Court Committee of the participating High Courts should implement the decisions taken at 1st Regional Conference held on 9th of July at Jaipur.
- Family is the basis for progress of any civilization. The progress and sustenance of Indian Civilization is only because of our strong family system.
- His Lordship Hon'ble Mr. Justice Dipak Misra through My Lord's judgment in Krishna Bhattacharjee Case, Charu Khurana Case, Bhuwan Mohan Singh Case, Shamima Farooqui Case has given a new dimension as well as direction to the Family Courts Justice Administration System of the country.
- Since the Re-constitution of Family Court Sensitization Committee of Supreme Court, His Lordship Justice Dipak Misra has been tirelessly working for improvement of infrastructure, sensitization of stakeholders and sustenance of the institution of family and marriage in the country.
- We are very thankful and express our gratitude to Hon'ble the Chief Justice of Allahabad High Court for the warm welcome and hospitality.



Hon'ble Mr. Justice V.K. Shukla , Sr. Judge, Allahabad High Court

- It is a great honour for me to welcome His Lordship Justice Dipak Misra and other dignitaries ,
- Judgments of Justice Dipak Misra are a great help in understanding the family matters and the correct approach,
- The deliberation here will go a long way in shaping the Family Court Justice Administration System of the Country,
- I welcome His Lordship Justice Dipak Misra ,Chief Justice Navin Sinha, Chief Justice D.B.Bhosale, Justice D.N.Patel, Judges of Our Allahabad High Court and its Lucknow Bench all other participating High Courts.I also welcome all the participating family Court Judges and other delegates,
- I hope and trust that we shall have very fruitful dal long deliberations.



Hon'ble Mr. Justice A.P. Shahi, Sr. Judge Allahabad high Court, Lucknow Bench

- It is an honour for me to propose vote of thanks,
- I thank My Lord justice Dipak Misra for giving us this honour to organise the Conference,
- Judgments of His lordship Justice Dipak Misra on fmily matters are authority on the subject,
- I thank Chief Justice Navin Sinha and Justice D.N.Patel for helping and guiding us through minutest details in organizing this Conference,
- I thank my Chief Justice who has been with us day in and day out to ensure successful Conference.



Session I
Chhattisgarh High Court
Topic: Maintenance including interim maintenance
Hon'ble Mr. Justice Prashant Kr. Misra



- 30000 cases are pending in the Family Court of Chhattisgarh. 5050 cases of family disputes are pending in the High Court of Chhattisgarh.
- Maintenance is indispensable for maintaining the dignity of persons taking maintenance.
- The amount/quantum of maintenance is not mentioned in any Act except Section 36 of Indian Divorce Act.

- Section 24 of Hindu Marriage Act provides for interim maintenance.
- The provision of maintenance is found under different Act.
- Adulterous life.
- Even if widow has property, she can get maintenance.

Topic : Alimony including permanent alimony
Hon'ble Mr. Justice Manindra Mohan Srivastava

- Provision for alimony is provided u/s 24 and 25 of the Hindu Marriage Act.
- No condition can be imposed on maintenance.
- Till permanent alimony is decided, interim alimony can be provided.



Topic: Marriage including restitution of conjugal rights
Hon'ble Mr. Justice H.C. Mishra, Judge, Jharkhand High Court

- Lack of sensitivity is the issue which needs urgent attention.
- Marriage and restitution of conjugal rights are sensitive issue and it needs to be dealt with sensibly.
- It is the duty of Family Court Judge u/s 9 to make effort for reconciliation and amicable settlement.



Topic : Divorce including annulment of marriage
Hon'ble Mr. Justice Aparesh Kumar Singh, Judge, Jharkhand High Court

- It is the statutory duty of Family Court Judge to seek settlement of disputes through reconciliation.
- Special drive was conducted to settle family disputes in the State of Jharkhand for 4 days from 3rd October to 6th October and 237 matters were amicably settled.
- In divorce matter the Family Court Judge should be very careful and sensitive. The scope of settlement never end and this has been reaffirmed through our special drive.



Session II

Topic: Custody of child Patna High Court

Hon'ble Mr. Justice Navneeti Prasad Singh, Judge, Patna High Court



- In the matter of custody of child, welfare of child is of paramount consideration.
- Competency of guardian is also one of the factor.
- One of the area where Family Courts need to be sensitive is where jumping the foreign courts order one of the parent has brought the child to India and the other parent is seeking custody on the basis of foreign courts order.

Topic : Visitation right and shared parenting

Hon'ble Mrs. Justice Nilu Agrawal

- Visitation right and shared parenting is just like custody of child.
- It can be granted to the parent who has not custody over the child.
- Visitation right brings the parents into physical contact with the child.
- Age of the child, physical and mental condition of the child and relation between the child and non-custody parent are important factors.
- Friendly parenting idea is one of the reason for shared parenting.



Allahabad High Court

Topic: Key challenges before the Family Courts and Role of Family Court Judge

Hon'ble Mrs. Justice Sunita Agrawal



- Our childhood was simple but our adulthood is complex.
- There is lot of acrimony and mistrust between the parties, therefore the family judge must break the ice to come to the root cause.
- Certain qualities are required which family judge may be already having or need to develop.

Topic: Adoption

Hon'ble Mr. Justice Vikram Nath

- Right to adopt and right to be adopted is not a fundamental right.
- Adoption gives family to a child and child to a family.
- CARA guidelines govern the secular adoption law of the country.
- Provision of adoption is under Hindu Adoption and Maintenance Act.



Glimpse of the deliberation



Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters sharing a moment with Hon'ble Chief Justice Navin Sinha and Hon'ble Mr. Justice D.N. Patel, Members of the Supreme Court Committee for Sensitization of Family Court Matters



(From R to L) : Madam Arundhati Bhosale, Madam Suprama Misra and Madam Giraben D. Patel in inaugural ceremony in conference



Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India and Chairman, Supreme Court Committee for Sensitization of Family Court Matters launching the mobile app developed by Allahabad High Court



Release of Handbook



Release of Compilation of Landmark Judgments of Hon'ble Supreme Court of India on Family Matters



Release of Compilation of Landmark Judgments of Hon'ble High Courts of India on Family Matters

LUCKNOW INITIATIVES

FOR

STRENGTHENING THE FAMILY COURT JUSTICE ADMINISTRATION SYSTEM

- ❖ Similar Seminar, Workshop, Symposium for Sensitization of Stake-holders on Family Court Matters shall be organized by each High Court Committee for Sensitization of Family Court Matters in its State at Regional or State level at least once in each quarter.
- ❖ As far as practicable, no additional work shall be assigned to a Family Court Judge or additional Family court Judge.
- ❖ Each High Court Committee for Sensitization of Family Court Matters shall take up the matter of creation of sufficient number of additional Family Courts with the respective State Government through the High Court.
- ❖ Each High Court Committee for Sensitization of Family Court Matters shall take up the matter of posting of sufficient number of Counsellors and Expert Mediators with the respective State Government through the High Court.
- ❖ Each High Court Committee for Sensitization of Family Court Matters shall prepare district-wise list of Medical and Welfare Experts in terms of section 12 of the Act for Enabling the Family Courts to avail Assistance of medical and welfare experts.
- ❖ Each High Court Committee for Sensitization of Family Court Matters shall prepare, in terms of section 5 of the Family Courts Act 1984, district-wise list of social welfare agencies, that is to say :
 - ❖ institutions or organisations engaged in social welfare or the representatives thereof;
 - ❖ persons professionally engaged in promoting the welfare of the family,
 - ❖ persons working in the field of social welfare; and
 - ❖ any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.
- ❖ Each State judicial Academy shall send Family Courts Data by 7th of each month positively to the Members of Supreme Court Committee for Sensitization of Family Courts Matter on their Lordships' id for its compilation and analysis and presentation before His Lordship hon'ble Mr Justice Dipak Misra, Hon'ble Chairman of the Committee :
 - i. goyalbhuwan@gmail.com
 - ii. dnpatel9431713360@gmail.com



(Left to Right) :- Hon'ble Mr. Justice Prashant Kumar Mishra, Judge, Chhattisgarh High Court, Hon'ble Mr. Justice H.C. Mishra, Judge, Jharkhand High Court, Hon'ble Mr. Justice D.N. Patel, Judge, Jharkhand High Court, Hon'ble Mr. Justice D.B. Bhosale, Chief Justice, Allahabd High Court, Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India, Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court, Hon'ble Mr. Justice Manindra Mohan Srivastava, Judge, Chhattisgarh High Court & Hon'ble Mr. Justice Aparesh Kumar Singh, Judge, Jharkhand High Court on the dais.



(Left to Right) :- Hon'ble Mrs. Justice Nilu Agrawal, Judge, Patna High Court, Hon'ble Mr. Justice D.N. Patel, Judge, Jharkhand High Court, Hon'ble Mr. Justice D.B. Bhosale, Chief Justice, Allahabd High Court, Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India, Hon'ble Mr. Justice Navin Sinha, Chief Justice, Rajasthan High Court, Hon'ble Mr. Justice Vikram Nath, Judge, Allahabad High Court & Hon'ble Mr. Justice Navneeti Prasad Singh, Judge, Patna High Court on the dais.

Supreme Court judge's concern over pending cases in UP's family courts

HT Correspondent

htreportersdesk@hindustantimes.com

LUCKNOW: Senior judge of Supreme Court Justice Dipak Misra on Saturday expressed concern over the large number of pending cases in family courts in Uttar Pradesh.

Justice Misra was in Lucknow to preside over the second regional conference on 'Sensitization of Family Court Matters' organised by the Uttar Pradesh State Legal Services Authority at the Judicial Training and Research Institute.

Expressing concern over pendency of cases in family courts, Justice Misra said: "Out of total pending cases in family courts in the country, 55% are in Uttar Pradesh alone."

Justice Misra also emphasized on speedy disposal of these cases. Laying stress on the role of judges of family courts, Justice Misra said: "Family court judges have a different role to play. They are not just adjudicators but have



Senior judge of Supreme Court Justice Dipak Misra at the regional conference at Judicial Training and Research Institute on Saturday.

HT PHOTO

ily courts must have deep understanding of social dynamics.

"Family court judges have to soothe hurt emotions and mend breaking matrimonial ties so as to preserve the institution of marriage," he said. On the issue of custody of children, Justice Misra said: "Welfare of the child in a custody matter should be understood very comprehensively. Wish of the

chief justice of Uttar Pradesh, Justice Dilip Babasaheb Bhosle, said: "With the pace of time, new problems have emerged in social and family life such as honour killing, live-in relationship, surrogacy and forced marriages which were never known when marriage laws were enacted."

Justice Bhosle said that the family court judges had to address

pute resolution' as 'family dispute resolution'.

Prominent among those present on the occasion were justice Navin Sinha, chief justice Rajasthan high court, Justice DN Patel, Jharkhand high court, senior registrar of Lucknow bench of the Allahabad high court Rajendra Singh, joint registrar of the Lucknow high court Sanjay



SECTION 125 OF CR PC IS SECULAR LAW: JUSTICE PATEL

Saturday, 22 October 2016 | SUMAN K SHARDEASTAVA | Ranchi

Rate: 05 | Like: 0

Justice DN Patel of Jharkhand High Court has said that Muslim women are entitled for maintenance from their ex-husbands under Section 125 of the Criminal Procedure Code (CrPC).

"It is a secular provision and applies equally to Hindu, Muslim, Christian and other women in the country," Justice Patel, who happens to be a member of the committee for sensitisation of Family Court matters constituted by the Supreme Court, told The Pioneer.

The issue of granting maintenance to women will be one of the issues to be debated at a round conference, organised by the Apex Court, scheduled to be held in Lucknow tomorrow where the Principal District Judges, presiding over the family courts in the states of UP, MP, Chhattisgarh and Jharkhand will be participating.

A whopping 3,42,774 cases are pending in the four states of UP, MP, Chhattisgarh and Jharkhand. UP tops the list with 2,34,717, followed by MP 41,886, Jharkhand 14,865 and Chhattisgarh 11,312.

The committee, headed by Justice Dipak Misra of the Supreme Court, has Justice Navin Sinha, Chief Justice of Rajasthan High Court as another member.

Maintaining that the judges should be sensitive and kind hearted in dealing with the family disputes, Justice Patel said that they need to decide the maintenance applications filed under Section 125 of CrPC quickly for the dignified survival of women. "These applications should not take years to decide. If a judge is not able to decide the permanent maintenance quickly, he should grant interim maintenance soon after an application is filed," he pointed out.

"The guiding principle behind awarding maintenance is the same for women from any religion," he maintained. The object of maintenance is to prevent immorality and destitution and ameliorate the economic condition of women and children.

He pointed out that the Supreme Court has already decided the issue on the entitlement of divorced Muslim women to seek maintenance from their ex-husbands under the Criminal Procedure Code.

Notably, the Supreme Court's order in Shah Bano case on maintenance that although the Muslim Personal Law limits the husband's liability to provide for maintenance of the divorced wife to the period of iddat (period of waiting during which a woman must observe after a divorce, generally three months), it does not contemplate or countenance the situation envisaged by Section 125 of the Cr PC, 1973, had created lot of controversies.

Then then Rajiv Gandhi Government had overturned the SC order and later enacted another law- Muslim Women (Protection of Rights on Divorce) Act, 1986. This law too came under challenge, but the Supreme Court concluded that if the divorced wife is able to maintain herself, the husband's liability ceases with the expiration of the period of iddat but if she is unable to maintain herself after the period of iddat, she is entitled to have recourse to Section 125 of the CrPC.

During the day-long brainstorming session, the judges from the four states will also discuss the issues of divorce and restitution of conjugal rights, custody of a child and shared parenting. Also, the issues of 'streedhan' and division of properties, adoption besides, other incidental matters will come up for discussion.

Justice Patel said that the special drive launched by the Jharkhand High Court in the State to settle the long pending family cases from October 3 to October 16 last through mediation has been quite successful. "Altogether 237 cases were settled, including reunion of 95 families," he added.

**"Words have the power to both destroy and heal.
When words are both true and kind, they can change our world." — Buddha**



Printed & Distributed by :

Jharkhand State Legal Services Authority

Nyaya Sadan, Near A.G. Office, Doranda, Ranchi, Phone : 0651-2481520, 2482392,

Fax : 2482397, Email : jhalsaranchi@gmail.com, Website : www.jhalsa.org

This Special Bulletin is also available on official website of JHALSA "www.jhalsa.org"

Year of Publication : 2016