Family Law

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1. Introduction

India (Bharat) is a country of immense diversity, where multiple religious and cultural traditions converge. Among the oldest components of its legal system are the personal laws applicable to Hindus and Muslims. Hindu personal law, over time, has undergone extensive statutory reform and codification. This legislative evolution underscores the principle that jurisprudence must grow alongside societal transformation, reflecting not only internal social change but also an engagement with comparative legal traditions worldwide. Muslim personal law, by contrast, has largely retained its classical, uncodified character, remaining relatively insulated from legislative reform.

Family Law occupies a central place within this broader framework of personal laws, embodying the constitutional commitment to substantive equality and justice enshrined in the Preamble. Although rooted in theology, personal law has gradually moved from theology to cosmology, from priestly interpretation to judicial reasoning. Modern legislative reforms have recast it within the domain of the state, blending tradition with rationalist ideals. Family law governs intimate aspects of life—marriage, divorce, maintenance, guardianship, adoption, and succession—areas where the tension between individual rights and social norms is most palpable.

At the heart of this Annual Survey's inquiry lies not a mere mimetic exercise in adjudicatory form or a routine catalogue of Family law jurisprudence, but an evolving conception of Family law that recognizes the performing dimension of judgments.

The Allahabad High Court, one of the nation's oldest constitutional courts, has played a pivotal role in interpreting and developing these principles. In the year 2024 it addressed significant questions concerning matrimonial disputes, child custody, women's rights within marriage, maintenance obligations, and the interplay of codified statutes with uncodified personal law. Its judgments not only resolved individual conflicts but also advanced the discourse on gender justice, the protection of vulnerable family members, and the harmonization of personal laws with constitutional mandates. The Allahabad High Court has likewise tackled procedural complexities, clarified jurisdictional boundaries under family law enactments, and mediated conflicts between statutory and customary regimes.

Family Law disputes are profoundly personal, shaped by the singular narratives of marriages irretrievably broken and children caught in custody battles. In these cases, factual

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complexity often outweighs abstract principle; the normative and the factual are inextricably entwined. Each judgment emerges at the point where lived pain, fractured intimacies, and irretrievable facts are transfigured into the language of law's normativity, and thus into jurisprudence itself. The Survey does not merely list cases; it illuminates how facts disclose norms—the fragment of a broken marriage, the silence of desertion, the tears of a child in custody,[1] the loneliness of a widow in succession; showing that these are not incidental details but the very substance through which jurisprudence breathes and law finds its voice.

This Annual Survey of Family Law therefore examines the constitutive aspects of the Allahabad High Court's decisions across five key themes: Matrimonial Disputes, addressing grounds such as mental cruelty, desertion, and jurisdictional issues; Custody and Guardianship, emphasizing the paramount interest of the child; Maintenance and Financial Relief, affirming the social obligation to support dependents as shaped by statutory interventions; Succession and Property Rights, exploring inheritance and coparcenary claims; and Muslim Personal Law, tracing the continuing vitality of classical doctrine alongside constitutional values.

2. Matrimonial Disputes

Matrimonial disputes in India cover a broad spectrum of issues, including divorce, maintenance, child custody, domestic violence, and division of property. The governing legal framework blends religion-based personal laws with secular statutes such as the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, and the Protection of Women from Domestic Violence Act, 2005 etc.

A significant segment of the Court's docket in 2024 was shaped by matrimonial disputes arising under the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, and allied legislations. The Court's pronouncements reveal a jurisprudential concern that the juridical apparatus should not allow the disintegration of conjugal bonds to harden into interminable conflict. By emphasizing mediation and reconciliation, the Court situated itself within a broader philosophy of adjudication that recognizes marriage as not only a legal institution but also an existential relation implicating affective ties, human dignity, and the ethical responsibilities of care.[2]

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[1] *Somprabha Rana* v. *State of Madhya Pradesh*, 2024 INSC 664 (holding that in child custody disputes "the only paramount consideration is the welfare of the minor" and criticizing high courts for disturbing custody without considering the emotional impact).

[2] Editor, "SC Grants Divorce Decree After Wife Resiled from Settlement Agreed in Mediation" *SCC Online Blog*, June 19, 2024, *available at:* https://www.scconline.com/blog/post/2024/06/19/sc-grants-divorce-decree-after-wife-resiled-from-settlement-agreed-in-mediation/ (last visited on Sept. 19, 2025).

In this sense, the Court's orientation resists the reduction of marital breakdown to mere procedural issue; instead it aspires to preserve, where possible, the fragile domain of interpersonal responsibility within the law's formal structures. At the same time, in cases where irretrievable breakdown was evident, the Court granted relief with sensitivity, acknowledging the right of individuals to live with dignity. This Survey would then refer to the judgments that emphasized the importance of dignity in marital ties and revoking it when it was burdened by cruelty and other form of indignities that happens in matrimonial life.

2.1 Hindu Marriage Laws

The judiciary has played a pivotal role in safeguarding the institution of marriage. In the early years, while interpreting the Hindu Marriage Act, 1955, courts often relied on ancient Hindu law and, where relevant precedents were lacking, turned to English principles to fill the gaps. Even today, courts affirm that marriage is a sacrament and cannot be dissolved at the mere whims of the parties. Yet, with changing social norms, many couples now enter relationships without formal marriage ceremonies. The judiciary has consequently addressed issues arising from such arrangements, carefully distinguishing relationships "in the nature of marriage" from those lacking legal sanctity, such as adultery, or purely transient live-in relationships.[3]

The Hindu Marriage Act mentions about cruelty being one of the grounds for divorce and as such it became necessary for understanding the phenomenal aspects of cruelty through definitional criteria. Allahabad High Court, in *Pawan Kumar Pandey v Sudha,*[4] While hearing an appeal under Section 19(1) of the Family Courts Act, 1984, challenging the dismissal of a divorce petition under Section 13 of the Hindu Marriage Act, 1955, the Court considered a case in which the appellant had approached the Family Court in 2011 seeking dissolution of marriage on the grounds of cruelty, desertion, and mental disorder, alleging that his wife suffered from schizophrenia.

The Allahabad High Court shaped the analytical discourse of cruelty by relying upon the decision of Hon'ble Supreme Court in *Rakesh Raman v Kavita*,[5] where it held that "Cruelty has not been defined under the Act. All the same, the context where it has been used, which is as a ground for dissolution of a marriage would show that it has to be seen as a 'human conduct' and 'behavior'' in a matrimonial relationship… Cruelty can be physical as well as mental, if it is physical; it is a question of fact and degree. If it is mental, the enquiry

[3] *Indra Sarma* v. *V.K.V. Sarma*, (2013) 15 SCC 755 (laying down factors to determine whether a live-in relationship is a "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).

[4] 2024 SCC OnLine All 6778.

[5] 2023 SCC OnLine SC 497.

must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse".[6] It also reiterated the decision of Supreme Court in *Debananda Tamuli* v. *Kakumoni Kataky*[7] in relation to the concept of desertion in which "the deserted spouse must prove that there is a factum of separation and there is an intention on the part of deserting spouse to bring the cohabitation to a permanent end. In other words, there should be *animus deserendi* on the part of the deserting spouse."

The crux of the decision lay in determining whether schizophrenia constitutes a condition sufficient to justify the grant of divorce. The relevant legal provision under Section 13 is set out below:

> (1) Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party-
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> (iii) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.[8]

Allahabad High Court while relying upon the decision of Supreme Court in *Ram Narain Gupta* v. *Smt. Rameshwari Gupta*[9] held that "the ground of a spouse suffering from schizophrenia, by itself is not sufficient for grant of a decree of divorce under Section 13(1)(iii) of the Hindu Marriage Act, 1955 as it may involve various degree of mental illness. The law provides that a spouse in order to prove a ground of divorce on the ground of mental illness, ought to prove that the spouse is suffering from a serious case of schizophrenia which must also be supported by medical reports and proved by cogent evidence before Court that disease is of such a kind and degree that husband cannot reasonably be expected to live with wife". Hence, it served a very pivotal moment wherein the Allahabad High Court observed that:

> Section 13 (1) (iii) of H.M. Act does not make mere existence of a mental disorder of any degree sufficient in law to justify dissolution of a marriage. The contest in which the ideas of unsoundness of mind and mental disorder

[6] *Ibid.*
[7] (2022) 5 SCC 459.
[8] Hindu Marriage Act, 1955, s. 13 (1) (iii).
[9] 1988 4 SCC 247.

> occur in section as ground for dissolution of a marriage, require assessment of degree of mental disorder and its degree must be such that spouse seeking relief cannot reasonably be expected to live with the other.[10]

In another matrimonial decision of *Dr. Bijoy Kundu* v. *Smt. Piu Kundu*,[11] where the husband filed a suit[12] before Family Court seeking divorce under Section 13(1)(i-a) and (ib) of the H.M.A., citing cruelty and desertion. The wife filed Regular Suit No. 29 of 2013 for restitution of conjugal rights under Section 9. The Family Court dismissed the divorce suit and decreed restitution. The husband appealed to the Allahabad High Court, which framed the key issue: whether the alleged cruelty proved against the wife entitled the husband to a divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. After examining various Supreme Court precedents and discussing the relevant amendments to the Act, the High Court observed that:

> Clause (i-a) of sub section (1) of section 13 of the Act, 1955 declares that a decree of divorce may be based by a court on the ground that after solemnization of marriage, the opposite party has treated the petitioner with cruelty subject to the State amendments to Section 13 (1) (i-a) in this regard. There are other grounds also mentioned in the said sub section (i) of section 13 of Hindu Marriage Act and each of these grounds are independent of each other. It has to be understood that each of these grounds are mutually exclusive to each other which is evident by use of the disjunctive 'or' to separate each ground from the other and there is no reason to read 'or' conjunctively as it will lead to absurdity. Thus, cruelty can by itself be a ground for dissolution of marriage.[13]

Therefore, the decree of divorce was granted and Section 13(1)(i-a), as amended by the U.P. Act No. 13 of 1962, treated cruelty as a standalone ground for divorce. It is not only in the sphere of interpretation of Section 13 of the Hindu Marriage Act the Court has rendered important pronouncements but also in cases of waiver of cooling period the Allahabad High Court has enunciated important decision.

In *Layak Singh* v. *Ekta Kumari*,[14] the court while emphasizing upon the "sacramental union of a man and a woman for life" which is given an "inherent respect" by the Hindu Marriage Act stressed that "there may be circumstances in which it may not

[10] *Supra* note 1.
[11] 2024 SCC OnLine All 2456.
[12] Regular Suit No. 886 of 2012.
[13] *Ibid.*
[14] 2024:AHC:54496.

reasonably be possible for the parties to the marriage to live together as husband and wife".[15] The parties were married in June 2020 and had been living separately since October 2020. They jointly sought divorce by mutual consent[16] and requested that the statutory cooling period be waived. The Family Court declined to waive the mandatory cooling-off period, observing that such power lay beyond its jurisdiction and was vested exclusively in the Supreme Court.[17] The parties challenged this order. The Court referred the history of Sec 13B (2) of the Hindu Marriage Act, 1955 which "provide for a cooling period of six months from the date of filing of the divorce petition under Section 13B (1), in case the parties should change their mind and resolve their differences".[18] In the Court's opinion, the intent to which this provision was infused was "to save the institution of marriage, by preventing hasty dissolution of marriage". "With passage of time", the Court continued, "tempers cool down and anger dissipates. The waiting period gives the spouse time to forgive and forget. If they have children, they may, after some time, think of the consequences of divorce on their children, and reconsider their decision to separate. Even otherwise, the cooling period gives the couple time to think and reflect and take a considered decision as to whether they should really put an end to the marriage for all time to come".[19]

But the crucial question before the court apart from its legislative intention, was to decide the nature of the cooling period and it relied upon the decision of Supreme Court in *Amardeep Singh* v. *Harveen Kaur*,[20] *Amit Kumar* v. *Suman Beniwal*[21] in which it was held that "the period mentioned in Section 13B (2) of the Hindu Marriage Act, 1955 is not mandatory but directory" and any construction shall be avoided which seems to confer it "pedantic rigidity". Further, relying upon the precedent of Allahabad High Court, it observed that "the

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[15] Dolly Rani v. Manish Kumar Chanchal, 2024 SCC OnLine SC 754 (observing that a Hindu marriage is a "samskara" and must be performed in accordance with s. 7(1) of the Hindu Marriage Act, 1955 (Act 25 of 1955).

[16] *Supra* note 8, s. 13B, it provides:

"Divorce by mutual consent.- (1)Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnised before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnised and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree"

[17] *Amardeep Singh* v. *Harveen Kaur*, AIR 2017 SC 4417.

[18] *Supra* note 8.

[19] *Ibid.*

[20] 2017 (8) SCC 746.

[21] 2021 SCC Online SC 1270.

amendment was inspired by a thought that forcible perpetuation of status of matrimony between unwilling partners did not serve any purpose. The object of cooling off the period was to safeguard against a hurried decision if there was otherwise possibility of differences being reconciled". Therefore, after taking consideration of facts of the case that there is no possibility of reconciliation, the marriage has broken down irretrievably and Exercising its powers under Articles 226 and 227 of the Constitution, as affirmed in *Hari Vishnu Kamath* v. *Syed Ahmad Ishaque*[22] and *ICICI Ltd.* v. *Grapco Industries Ltd.*[23] the Allahabad High Court allowed the waiver application and directed the Family Court to decide the mutual divorce petition expeditiously.

Further, in *Mahendra Kumar Singh* v. *Rani Singh*,[24] the appellant-husband instituted proceedings for divorce under Section 13 of the Hindu Marriage Act, 1955, before the Family Court at Varanasi, alleging cruelty by the respondent-wife. The grounds that were invoked by the appellant included verbal abuse, physical assault, obstruction in the performance of his mother's last rites, and the party also asserted irretrievable breakdown of the marriage owing to the parties' separation since 1999. The Family Court dismissed the petition, which led to the filling of the appeal.

The Allahabad High Court, upon review, held that the allegations of abuse, assault, and denial of information concerning the mother's death were imprecise, unsubstantiated, and lacked corroboration from independent evidence. On the contrary, the high court noted that the respondent-wife had remained committed to the marital relationship and had cared for the appellant's mother, who, in acknowledgment, had executed a testamentary disposition. Reiterating the settled principle that separation, by itself, does not constitute proof of an irretrievable breakdown of marriage, as affirmed in by the Supreme Court in *Naveen Kohli* v. *Neelu Kohli*[25] and subsequent authorities the Allahabad High Court found no infirmity in the Family Court's decision and accordingly dismissed the appeal.

The Case of *Col. Manoj Kumar Gupta* v. *Sangeeta*,[26] remain another important decision of the High Court that reiterated the contextual nature of cruelty. In this case, the appellant, an Army officer, married the respondent, a senior doctor, on 21.11.2007 after the dissolution of his first marriage. The respondent, a widow with two children, was alleged to have deserted the appellant, refused marital cohabitation for over six years, subjected him and his adopted daughter to mental cruelty, and maligned his character. The respondent denied all allegations, asserting cordial relations and regular visits.

[22] 1954 (2) SCC 881.
[23] (1999) 4 SCC 710.
[24] 2024 SCC OnLine All 3402.
[25] AIR 2006 SC 1675.
[26] 2024 SCC OnLine All 496.

The Allahabad High Court observed that "the interpretation of the word "cruelty" is that it has to be construed and interpreted considering the type of life the parties are accustomed to; or their economic and social conditions and their culture and human values to which they attach importance".

The Allahabad High Court relied upon the various pronouncements of the Supreme Court, in relation of establishing mental cruelty as a part of irretrievable breakdown of marriage. Further, it expressed its concern and angst on the need of including the irretrievable breakdown of marriage and in this regard observed that:

> On one hand, the law recognises desertion of a petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition as one of the grounds for grant of divorce, whereas on the other hand, it is not understandable as to why the ground of irretrievable break down is not being recognized as one of the grounds, when the parties are living separately for so many years and in some cases, for decades together.
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> In so many cases, the matrimonial life between the parties is only for the namesake, whereas factually the marriage has become totally unworkable and emotionally dead, even if respondent is insisting upon carrying on with such emotionally dead relationship. It is only for this reason recognizing ground realities of such dead relationship, it is being consistently felt by the Hon'ble Apex Court that continuance of such unworkable matrimonial ties is nothing but mental cruelty on the parties and at least on the petitioner, even when the divorce petition is being opposed by the other side. To our mind, irretrievable break down is an assessment of circumstances prevailing in lives of the parties to the marriage and if proved, would amount to mental cruelty.[27]

Upon reviewing the evidence and precedents, including *Sukhendu Das* v. *Rita Mukherjee*[28] *Shilpa Shailesh* v. *Varun Sreenivasan*,[29] *Shashi Bala* v. *Rajendrapal Singh*[30] and the principles laid down in *Naveen Kohli* v. *Neelu Kohli*[31] and *Samar Ghosh* v. *Jaya Ghosh*,[32] the Court held that prolonged separation, lack of emotional intimacy, and sustained

[27] *Ibid.*
[28] AIR 2017 SC 5092.
[29] 2023 SCC OnLine SC 544.
[30] 2019 SCC OnLine All 7636.
[31] AIR 2006 SC 1675.
[32] (2007) 4 SCC 511.

allegations amounted to "mental cruelty" and "desertion" under Sections 13(1) (ia) and (ib) of the Act.

In *Abhilasha Shroti* v. *Rajendra Prasad Shroti*,[33] wherein the judgment of the Court relied upon an evolving jurisprudence of matrimonial cruelty articulated by Hon'ble Supreme Court in *N.G. Dastane* v. *S. Dastane*,[34] *Parveen Mehta* v. *Inderjit Mehta*,[35] *Jaydeep Majumdar* v. *Bharti Jaiswal Majumdar*,[36] *Samar Ghosh* v. *Jaya Ghosh*,[37] *Roopa Soni* v. *Kamalnarayan Soni*,[38] among other precedents. Collectively, these decisions articulate a normative vision in which cruelty is not limited to physical or overtly abusive acts, but extends to conduct that negates companionship, undermines the integrity of the marital bond, and erodes the sacramental conception of marriage within the Hindu tradition.

The fact of the case was that the marriage, solemnised on 10 March 1989, produced a child in 1991, but the parties experienced repeated separations and failed attempts at reconciliation, ultimately living apart for over two decades. The Family Court found that the appellant-wife voluntarily withdrew from cohabitation without just cause, thereby causing mental cruelty to the respondent-husband. Allegations of dowry demands and domestic violence made by the appellant were unsubstantiated. The Court treated long period of desertion as a mental cruelty and observed that:

> Thus, subjective and inherently varied, individual human behaviour in the context of matrimonial relationship may be construed as cruelty to one's spouse, depending on facts of each case and its proven effect on the other spouse. The complete denial of company to one's spouse, without any justifiable reason, may itself amount to cruelty. It is not cohabitation or physical intimacy that may dictate the definition of cruelty.
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> At the same time, any person who enters into matrimonial relationship does undertake a social and personal obligation to enjoy and share his / her company with their chosen spouse. A spouse who out of choice completely deprives the other of his / her company, for no rhyme or reason may be seen to have committed cruelty when that conduct (continuous and unabated over years) is seen through the eyes of other spouse. A Hindu marriage is a

[33] 2024 SCC OnLine All 4390.
[34] 1975 2 SCC 326.
[35] (2002) 5 SCC 706.
[36] (2021) 3 SCC 742.
[37] (2007) 4 SCC 511.
[38] 2023 SCC OnLine SC 1127.

> sacrament and not just a social contract where one partner abandons the other without reason or just cause or existing or valid circumstance necessitating that conduct, the sacrament loses its soul and spirit, though it may continue to hold its external form and body.
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> That death of the spirit and soul of a Hindu marriage may constitute cruelty to the spouse who may be thus left alone devoid of not only physical company completely deprived of company of their spouse, at all planes of human existence.[39]

The Allahabad High Court's judgment is a jurisprudential commitment to preserving the ethical core of marriage as an institution is not as a mere contractual arrangement reducible to rights and duties, but as a site of relational responsibility, whose violation, whether through abandonment or neglect through large period of desertion, constitutes cruelty in a legally cognizable sense.

The acts of cruelty also remain embedded in the social discourse and also takes different forms where it transcend its unique factual existence and move to the intersectional discrimination aspect of our social and cultural life. In *Saurabh Sachan* v. *Garima Sachan*[40] appellant alleged that the respondent-wife repeatedly humiliated him due to caste differences, insulted him publicly, left the matrimonial home in 2011, established her own business ventures, and deprived him of marital companionship and access to their son. The respondent, despite service of summons, remained absent before both the Family Court and the High Court, and the matter was heard ex parte. The Allahabad High Court, while relying upon the judicial concept of *animus deserendi*[41] to assess the mental cruelty, held that the the respondent's continuous separation since 2011, her refusal to resume cohabitation in 2015, and her failure to contest the pleadings or offer justification for living apart demonstrated both cruelty and desertion. It further emphasized that reconciliation efforts are not a precondition for divorce, and inferences could be drawn from uncontroverted evidence since civil cases are decided on a preponderance of probabilities. Thus, where the ethical essence of companionship has been eroded by sustained withdrawal, the juridical form of marriage ceases to embody its purpose. In this way, the high court judgment affirms a philosophical movement in matrimonial jurisprudence which recognizes that the dissolution of marriage may sometimes represent not the destruction of a sacramental union, but the acknowledgement that the bond, in its lived reality, no longer subsists.

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[39] *Supra* note 28.

[40] 2024:AHC-LKO:57079-DB.

[41] *Parveen Mehta* v. *Inderjit Mehta*, (2002) 5 SCC 706; *Debananda Tamuli* v. *Kakumoni Kataky*, (2022) 5 SCC 459.

In *Mahendra Prasad* v. *Bindu Devi*,[42] the Allahabad High Court delivered an important judgment underscoring the concept of cruelty in relation to a spouse's independent nature. Among the allegations of cruelty, the petitioner claimed that the respondent was "a free-willed person who would go out on her own to the market and other places and did not observe *parda*." The Court scrutinized this contention and observed that:

> Difference of perception towards life may give rise to different behaviours by individuals. Such difference of perception and behaviour may be described as cruel by the others by observing the behaviour of another. At the same time, such perceptions are neither absolute nor such as may themselves give rise to allegations of cruelty unless observed and proven facts are such as may be recognized in law to be acts of cruelty. The act of of the respondent being free-willed or a person, who would travel on her own or meet up with other members of the civil society without forming any illegal or immoral relationship, may not be described as an act of cruelty committed, in these facts.[43]

Further, the appellant argued that the respondent subjected him to mental cruelty and wilful desertion. The record showed that the parties had lived together for a very short period and had been living separately since at least 2001 and all attempts at reconciliation failed, and the respondent opposed the divorce despite admitting the long period of separation.

The Court founded that the allegations of cruelty based on the respondent's independent conduct and unsubstantiated claims of adultery were not proved. However, relying on *Samar Ghosh* v. *Jaya Ghosh*[44] and *Rakesh Raman* v. *Kavita*[45] the Court held that the prolonged separation of over twenty-three years and the respondent's refusal to resume cohabitation amounted to mental cruelty and wilful desertion, thereby granted the appellant the decree of divorce and the same law was reiterated in *Arti Tiwari* v. *Sanjay Kumar Tiwari*,[46] wherein the Family Court found that the respondent's testimony and supporting evidence established a clear case of desertion, as the appellant demonstrated no intent to resume cohabitation. While the specific allegations of cruelty regarding false accusations were not proved in the court, the long period of desertion, coupled with hostile conduct,

[42] 2024 SCC OnLine All 7729.
[43] *Ibid.*
[44] (2007) 4 SCC 511.
[45] 2023 SCC OnLine SC 497.
[46] 2024:AHC:143726-DB.

threats, and the pursuit of criminal litigation after the divorce petition was held to amount to mental cruelty. The High Court observed that the marriage had irretrievably broken down, with more than two decades of separation, and upheld the decree of divorce.

It is not only the substantive reading of the legislative intentions which matters before the Court, the matrimonial proceedings being a proceeding of civil nature, that deals with rights and liabilities of the parties are also bound by the procedure that govern the admission and rejection of evidence in the suit, which constitute relevant facts in the suit.

In this sense, one of the matrimonial suits namely *Pooja Gautam* v. *Neeraj Gautam*,[47] the appeal under Section 19 of the Family Courts Act, 1984, challenged the order dated 25 July 2024 of the Principal Judge, Family Court, Hathras, which directed the medical examination of the appellant in the course of a divorce petition. The appellant contended that a similar application had earlier been deferred to the stage of final disposal, and that revisiting it at the stage of evidence was premature. The appellant further argued that the observations contained in the impugned order carried the risk of prejudicing the outcome, and sought instead the constitution of a medical board under the Chief Medical Officer (CMO).

The Allahabad High Court observed that the trial court had initially sought a report from Aligarh Muslim University, a non-government facility, and held that in judicial proceedings, evidentiary reliability demanded recourse to a formally constituted medical board under the CMO, Hathras. The Court clarified that the trial court's observations were merely tentative and would bear no weight on the final adjudication of the divorce petition. It further noted that the earlier order postponing consideration of the application was interlocutory in nature and did not foreclose the trial court's obligation to secure expert evidence at the appropriate stage.

At a deeper level, the decision refers to a vital jurisprudential truth which is that procedural law is not a secondary or technical dimension of adjudication but the architecture through which justice becomes possible. Particularly in matrimonial disputes, where questions of mental health implicate dignity, autonomy, and capacity for relationship, relates to the decision of rights and liabilities in suits, the law cannot proceed on speculation or assumption.

It requires the discipline of evidence, which is objective, authoritative, and procedurally secured in order to safeguard both parties against conjecture and prejudice. The insistence on a CMO constituted medical board reflects the idea that the justice rests not merely on the substantive norms of family law but on the integrity of the procedures that give

[47] 2024 SCC OnLine All 5237.

those norms life. The judgment of the High Court affirmed that evidence is not an accessory to adjudication but its foundation, and that procedural safeguards are themselves an ethical demand of justice.

Jurisdiction is a key concern in Family Court proceedings, which, by their very nature, are civil in character. In *Vinay Kumar* v. *Suman,*[48] the issue centred on territorial jurisdiction. Citing the inconvenience caused by the parties living in different locations and their frequent non-appearance, the Court dismissed the divorce petition, granting liberty to re-file in a jurisdiction more convenient to both parties. Under the Hindu Marriage Act,[49] territorial jurisdiction is generally confined to the district court where the marriage was solemnized, the respondent resides at the time of filing, or the parties last resided together, among other specified grounds.

Since the parties' marriage was solemnized in Chandauli and their last residence was there, the Family Court at Chandauli had proper jurisdiction. The Allahabad High Court criticized the trial court's casual and laconic approach, noting that the proceedings had been pending for three years, during which pleadings were exchanged, mediation was conducted, and interim maintenance was awarded to the respondent.

The Allahabad High Court also observed that neither party raised jurisdictional objections, nor was a transfer application filed. The dismissal, made on grounds not pleaded by either party, undermined judicial responsibility, disregarded procedural justice, and effectively nullified prior orders. The Allahabad High Court emphasized that procedural law is a “handmaid of justice” and that courts have 'no lis' of their own. Finding the trial court's reasoning unsustainable, the appellate court set aside the order and remitted the matter to the Family Court, Chandauli, directing expedited adjudication

The Allahabad High Court in its pronouncement highlighted the delay in the adjudication in matrimonial suit, and in this vein it went on to observe cautiously that:

> All judicial proceedings especially matrimonial case may be dealt with in a time bound frame and undue adjournment may not be granted as a rule or a regular practice. At the same time, as an appeal court, we may not loose sight of the reality that exists and in the environment in which Family Courts function. Long pendency of cases, shortage of judicial officers, less

[48] 2024:AHC:123536-DB.

[49] *Supra* note 8, s. 19. It provides that every petition under the Act shall be presented to the district court within the local limits of whose ordinary civil jurisdiction (i) the marriage was solemnised, or (ii) the respondent, at the time of presentation of the petition, resides, or (iii) the parties last resided together, or (iv) the petitioner resides if the respondent is outside India or not heard of for seven years, etc.

than efficient Bar and also at times hardship and approach of the parties along-with other factors cumulatively contribute to delays.

With long time that passes in completion of the proceeding of the Court and the judgment on issues by the Court remain in state of abeyance, and if one of the party to the suit suffers death, and the party is survived by his parents, then the question arises that whether a party could be substituted for completion of the suit. In the case of *Shatakshi Mishra* v. *Deepak Mahendra Pandey (Deceased) And 2 Others*,[50] the husband, Deepak Mahendra Pandey died during the pendency of proceedings and his parents sought substitution under Order 22 Rule 3 of the Code of Civil Procedure (C.P.C.) to continue the petition. The Family Court allowed substitution, which was assailed in this appeal. The Law that governs the provision relating to the substitution of the parties in a civil proceeding is Order 22, Rule 3 of C.P.C. Rule 3[51] deals with the procedure in case of death of one of several plaintiffs or of sole plaintiff.

The Allahabad High Court framed two key issues which were in relation to the applicability of the provisions of Order 22, Civil Procedure Code, 1908 apply to Family Court proceedings under Section 11 of the Act and whether legal representatives of a deceased spouse can be substituted to pursue a petition under Section 11. The High Court while expounding the law in relation to Sec 10 observed that "a bare reading of the provisions quoted above would clearly reflect that the provisions of C.P.C. other than the proceedings under Chapter IX of the Cr.P.C. would be applicable in all proceedings pending before the Family Court and that for the purpose of the said provision of the Code, a family court shall be deemed to be a Civil Court"[52] and the "provisions of Order 22 C.P.C. are applicable in the proceedings pending before the Family court under Section 11 of the Act".[53] On the second issue, the Allahabad High Court expounded the term "either party thereto" in affirmation of the precedent of the Allahabad High Court in *Garima Singh* v. *Pratima Singh*,[54] where the term was given purposive and expansive interpretation for the family court act being a social welfare legislation and the high court observed that:

[50] 2024 SCC OnLine All 4863.

[51] Civil Procedure Code, 1908, O.22, r. 3. It states that:
"(1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to the sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.
(2) Where within the time limited by law no application is made under sub-rule (1), the suit shall abate so far as the deceased plaintiff is concerned, and, on the application of the defendant, the Court may award to him the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff."

[52] *Ibid.*

[53] *Ibid.*

> In Garima Singh (supra) the Court was mainly considering the terms "either party thereto" and it was held that the narrow interpretation given to the phrase "either party thereto" should not apply in cases where provisions of social welfare legislation are invoked. It was also observed that if the first wife is deprived of seeking a remedy under Section 11 of the Act, it would defeat the very purpose and intent of the Act. The protection offered to legally wedded wives under Sections 5, 11 and 12 of the Act would become insignificant in such a scenario. It was also observed that the Court should lean towards an interpretation that serves the interprets of justice and aligns with the broader objectives of the law and by doing so, the Court can ensure that the remedies available under Section 11 are not unduly limited and the individuals seeking relief are not unjustly deprived of their rights.[55]

The Allahabad High Court went on to held that, "the Legal Representative who is not either of the parties and was not one of the spouse to the marriage in question can pursue the petition filed under Section 11 of the Act that marriage should be declared void and therefore, their application filed under Order 22 Rule 3 C.P.C. would be maintainable."[56] Further, the personal law's protective mantle extends from the status of marriage to the well-being of children, and protecting their best interest, which embodies a shift from questions of conjugal validity to the lived realities of nurture, care, and responsibility.

2.2 Muslim Marriage Laws

In *Smt Hasina Bano* v. *Mohammad Ehsan*[57] an appeal under Section 19 of the Family Courts Act, 1984 challenged judgments by which the Family Court, Jhansi dismissed a joint suit seeking a declaration that the parties were divorced under Muslim personal law by *mubara'at* (mutual consent).

The parties married, separated, and mutually dissolved the marriage; recording the divorce in a notarised *Talaqnama Tehreer*. The Family Court dismissed the suit for non-production of the original *Talaqnama* at filing and for a 20-year delay in seeking declaratory relief.

Allowing the appeal, the Allahabad High Court held that dismissal on these technical grounds was untenable. Citing Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937,[58] it reiterated that *mubara'at* is a recognised extra-judicial divorce

[54] 2023 (9) ADJ 101 (DB).
[55] *Supra* note 41.
[56] *Ibid.*
[57] 2024 SCC OnLine All 519458.

effective upon mutual agreement, without need for judicial intervention, and may be oral or written.

Relying on *Shayara Bano* v. *Union of India*[59] and *Asbi K.N.* v. *Hashim M.U.*[60] (Kerala HC), the Court affirmed that Family Courts have jurisdiction under Section 7 of the 1984 Act to formally record such divorces through summary proceedings.

The Court further observed that a declaratory decree merely provides a public record and does not create new rights, so strict evidentiary requirements are inappropriate. Invoking Section 58 of the Indian Evidence Act, 1872,[61] it noted that facts admitted by both parties including execution of the Talaqnama need not be re-proved, particularly since the original document was later produced without objection.

On limitation, the Court found no statutory bar, noting that neither the Family Courts Act, 1984 nor the Limitation Act, 1963 prescribes a period for suits seeking matrimonial declarations, with Section 29(3) of the Limitation Act, 1963[62] explicitly excluding its application to marriage and divorce matters.

Citing *Ajaib Singh* v. *Sirhind Cooperative Society*,[63] the Court underscored that courts cannot impose limitation where the legislature has consciously omitted it, and even where none is prescribed, the only requirement is that parties approach the court within a "reasonable time" as explained in *State of Punjab* v. *Bhatinda District Cooperative Milk Producers Union*[64] and *North Eastern Chemicals Industries* v. *Ashok Paper Mill*.[65] Considering that the divorce was undisputed and of continuing effect, the delay was held not to bar relief and insisting on limitation in such uncontested matrimonial matters would undermine the welfare nature of the legislation.

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[58] Muslim Personal Law (Shariat) Application Act, 1937, s.2: Application of personal law to Muslims.—Notwithstanding any custom or usage to the contrary, in all questions regarding intestate succession, special property of females including personal property inherited or obtained under contract or gift or any other provision of personal laws, marriage, dissolution of marriage, including talaq, ila, zihar, lian, khula and mubaraat, maintenance, dower, guardianship, gifts, trusts and trust properties and wakfs (other than charities and charitable institutions and charitable and religious endowments), the rules of decision in cases where the parties are Muslims, shall be the Muslim Personal Law (Shariat).

[59] (2017) 9 SCC 1.

[60] 2021 SCC OnLine Ker 3945.

[61] Indian Evidence Act, 1872, s.58: Facts admitted need not be proved: No fact need not be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings.

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

[62] The Limitation Act, 1963, s.29(3): Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.

[63] (1999) 6 SCC 82.

Allowing the appeal, the Court set aside the Family Court's orders this decision clarifies that Family Courts possess declaratory jurisdiction over extra-judicial divorces, that technical procedural lapses cannot defeat uncontested matrimonial declarations, and that limitation principles do not rigidly apply to recognition of marital status under Muslim law, reinforcing a jurisprudence prioritizing substantive justice over procedural formalism.

Matrimonial jurisprudence in India balances the preservation of marriage with the protection of individual dignity and rights. Courts recognize that cruelty, desertion, or prolonged separation can justify divorce, while procedural safeguards ensure fair and reliable adjudication. The law accommodates diverse personal and religious frameworks, emphasizing both reconciliation and the practical realities of irretrievable breakdown, always aiming to uphold justice, fairness, and the ethical core of marital relationships.

3. Children's Best Interest and their Legal Custody

The "best interest of the child" is a central principle guiding decisions on custody, guardianship, and adoption. Enshrined in Article 3(1) of the United Nations Convention on the Rights of the Child (C.R.C.), it obliges decision-makers to prioritize the child's welfare over parental rights. In India, this principle has evolved through statutes such as the Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956, as well as through judicial rulings tailored to the specific facts of each case.[66]

The concept of visitation rights, though having not seen an evolutionary jurisprudence in Indian Courts but the Supreme Court has held the rights of visitation in relation to the Child and his best interest. The Supreme Court seems to concern that "child has a human right to have the love and affection of both the parents",[67] for "a child of tender years requires the love, affection, company, protection of both parents. This is not only the requirement of the child but is his/her basic human right".[68] Therefore, "the other parent must have sufficient visitation rights to ensure that the child keeps in touch with the other parent and does not lose social, physical and psychological contact with any one of the two parents. It is only in extreme circumstances that one parent should be denied contact with the child".[69]

In the connection to visitation rights, the Allahabad High Court in *Priyanka Agarwal* v. *Abhishek Agarwal*,[70] the Family Court granted the respondent-father visitation rights to meet his minor child once a month for three hours at a public place and the order was

[64] (2007) 11 SCC 363.

[65] AIR 2024 SC 436.

[66] Samparna Tripathy and Amit Sama, "The Best Interest of the Child in Custody Disputes" 6 *Journal on the Rights of the Child of National Law University of Odisha* 124 (2025).

[67] *Yashita Sahu* v. *The State of Rajasthan*, AIR 2020 SC 577.

[68] *Ibid.*

challenged because of jurisdictional issue. The High Court rejected this argument, emphasizing that a child's natural right to know and meet both parents is of near-absolute significance. Relying on the principle of welfare of the child as paramount consideration the Court observed that visitation arrangements, when limited and supervised, do not alter the custody status and are designed to serve the best interests of the child and the high court dismissed the appeal on illegality or jurisdictional error.

Further, in *Dheeraj* v. *Chetna Goswami*[71] the question of the best interest of the child was related to the place of ordinary residence of the child and the competent court in relation to the Guardians and Wards Act, 1890. In this case, appeal was made as the family court dismissed the appellant-father's application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (C.P.C.) seeking rejection of the respondent-mother's guardianship petition under Section 25 of the Guardians and Wards Act, 1890 (G.W.A.). Rule 11 of Order VII of the Code of Civil Procedure, 1908 states about the conditions relating to the rejection of plaint.

The appellant also argued that the Family Court lacked territorial jurisdiction under Section 9(1) of the GWA because the child was residing in Bhiwani, Haryana, and therefore was not "ordinarily residing" within Ghaziabad's jurisdiction. The High Court examined the statutory scheme of Section 9(1) of the G.W.A., which mandates that a guardianship petition must be filed in the district where the minor "ordinarily resides."

The Allahabad High Court reiterated that, as consistently interpreted, the term "ordinary residence" refers to the child's habitual place of abode, determined by settled intention and surrounding circumstances, and cannot be altered by temporary or strategic relocations. It further underscored that Section 17 of the Guardians and Wards Act, 1890 makes the welfare of the child the paramount consideration, in harmony with the constitutional mandate of Article 39(f).

In addressing the plea for rejection under Order VII Rule 11 C.P.C., the Court relied on precedents such as *Srihari Hanumandas Totala* v. *Hemant Vithal Kamat*,[72] *Saleem Bhai* v. *State of Maharashtra*[73] and *Kamla* v. *K.T. Eshwara Sa and others*[74] which clarify that rejection of a plaint is permissible only where the bar to maintainability is evident on the face of the plaint, without recourse to extraneous facts. Since the mother's petition disclosed a cause of action and determination of jurisdiction required evidence, summary rejection was unwarranted.

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[69] *Ibid.*
[70] 2024:AHC:107425-DB.
[71] 2024 SCC OnLine All 1610.
[72] (2021) 9 SCC 99.
[73] (2003) 1 SCC 557.

The Court further referred to *Ruchi Majoo* v. *Sanjeev Majoo*,[75] *Jagdish Chandra Gupta* v. *Vimla Gupta*[76] and *Prashant Chanana* v. *Seema*[77] to reiterate that "ordinary residence" must reflect a child's settled home environment rather than transient stays. The appellant's jurisdictional objection therefore, could only be adjudicated at trial after consideration of evidence and not at the preliminary stage of considering a Rule 11 application. The High Court dismissed the appeal, affirming that the Family Court acted within jurisdiction in refusing to reject the petition. It emphasized that technical objections must yield to the welfare principle embedded in Sections 9, 17, and 25 of the G.W.A., and that a child's best interests cannot be undermined by procedural challenges.

The question relating to the custody of child has also came to be raised before the high court in relation to writ of habeas corpus which extends to cases of wrongful custody of a minor and may be issued under Article 226 of the Constitution to secure the welfare of the child. In this legal paradigm, in the case of *Ayra Khan and another respondent* v. *State of U.P*,[78] the writ petition of habeas corpus was filed by the biological mother of a minor girl, who was two and half years of age and the mother was seeking custody from her paternal grandmother, after she was ousted from her matrimonial home. The Court relied upon Sec. 17 of the Guardians and Wards Act and the principles of *parens patriae* jurisdiction, and emphasised that the welfare of the child is paramount in custody determinations.

The Family Law being a personal law, that goes along with the person and the parties were of muslim faith, the court quoted the authority on the guardianship under the Principles of Mahomedan Law, wherein the "mother is entitled to the custody (hizanat) of her male child until he has completed the age of seven years and of her female child until she has attained puberty.[79] The right continues though she is divorced by the father of the child (e), unless she marries a second husband in which case the custody belongs to the father." The Court stressed that the remedy under *Habeas corpus* proceeding is "in the nature of an extraordinary remedy", and "habeas corpus would be issued where it is demonstrated that the detention of minor child, is illegal or without any authority of law."[80] The High Court held that the detention of the minor by her grandmother was held prima facie illegal. Given the tender age

[74] (2008) 12 SCC 661.
[75] (2011) 6 SCC 479.
[76] AIR 2003 All 317.
[77] AIR 2010 P&H 99.
[78] 2024 SCC OnLine All 2426.
[79] Mulla, *Principles of Mahomedan Law* 352 (LexisNexis, New Delhi, 22nd edn., 2022) (stating that under Muslim law the mother is entitled to the custody (hizanat) of her male child until he completes seven years of age and of her female child until she attains puberty).

of the child and the absence of the father, the Court held that continuing custody with the biological mother would serve the child's best interests.

The doctrinal position on the issuance of habeas corpus to be issued in the cases of minor custody was reaffirmed by the Allahabad High Court in *Mithilesh Maurya* v. *State of U.P.*[81] relying on settled jurisprudence, the Court reiterated that habeas corpus, though a writ of right, is not a writ of usual course and is issued only upon proof of unlawful detention as discussed in *Mohammad Ikram Hussain* v. *State of U.P.*[82] and *Kanu Sanyal* v. *District Magistrate, Darjeeling*.[83] As the legal authority established through judgements in *Nithya Anand Raghavan* v. *State (NCT of Delhi)*[84] and *Tejaswini Gaud* v. *Shekhar Jagdish Prasad Tewari*,[85] in custody matters, the scope of writ is limited to assessing whether the child is illegally detained and whether welfare demands a change in custody.

The High Court referred the Supreme Court observation in *Nithya Anand Raghvan* v. *State*,[86] where the Court observed that "the paramount consideration must be about the welfare of the child" in the issuance of the writ. And referred to the the role of the "High Court in examining the cases of custody of a minor, on the touchstone of principle of *parens patriae* jurisdiction."[87]

These 2024 rulings reaffirm that the welfare of the child remains the paramount consideration[88] in all custody, guardianship, and visitation matters. Courts consistently prioritize the child's best interests over procedural or technical objections, ensuring that decisions reflect the child's settled environment, emotional needs, and right to maintain meaningful contact with both parents.

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[80] *Ibid.*

[81] 2024:AHC:66116.

[82] AIR 1964 SC 1625.

[83] 1973) 2 SCC 674.

[84] (2017) 8 SCC 454.

[85] (2019) 7 SCC 42.

[86] SLP (Crl.) No.5751 of 2016.

[87] In this wake the High Court observed that: "It is therefore seen that in an application seeking a writ of habeas corpus for custody of a minor child, as is the case herein, the principal consideration for the court would be to ascertain whether the custody of the child can be said to be unlawful and illegal and whether the welfare of the child requires that the present custody should be changed and the child should be handed over in the care and custody of somebody else other than in whose custody the child presently is. It is well settled that in matters of custody the welfare of child would be of a paramount consideration and the role of the court in examining the cases of custody of a minor is on the touchstone of 'principle of parens patriae jurisdiction."

[88] *Shazia Aman Khan and Ors.* v. *State of Orissa and Ors.*, 2024 SCC OnLine SC 225 (holding that in child custody disputes the "welfare of the child is of paramount consideration and not personal law or statute").

4. Maintenance and Financial Reliefs

Maintenance is the legal obligation to provide financial support for a dependent spouse or child to meet basic living expenses such as food, shelter, clothing, and medical care. In this context, "financial relief" often refers to interim support or alimony granted during or after divorce or separation. Indian law offers multiple avenues for a wife to claim maintenance, with the appropriate remedy depending on her marital status, religion, and the specific circumstances of separation or dispute. Each statute addresses distinct situations, enabling a wife to seek the most suitable form of relief.

In 2024, the Allahabad High Court reaffirmed that the right to maintenance arises from a husband's or father's social obligation to support his dependents, irrespective of personal law. When determining the quantum, the Court considered the respondent's earning capacity, the family's standard of living, and the claimant's legitimate needs. Significantly, it clarified that even an unemployed husband cannot escape liability by citing lack of income; instead, the focus must be on his capacity to earn.[89]

The Allahabad High Court further addressed overlapping claims under Section 125 Cr.P.C., the Domestic Violence Act, and the Hindu Adoptions and Maintenance Act, holding that these remedies are complementary, not mutually exclusive.

In *Kamal* v. *State of U.P. through Secretary, Home, Lucknow & Anr.*, a criminal revision under Section 19(4) of the Family Courts Act, 1984 challenged the order of the Principal Judge, Family Court, Unnao, directing the revisionist-husband to pay ₹2,000 per month as maintenance to his wife under Section 125 of the Code of Criminal Procedure, 1973, from the date of her application, with arrears payable in five quarterly instalments. The husband contended that his wife had left the matrimonial home without justification, was self-sufficient as a schoolteacher, and that a restitution petition under Section 9 of the Hindu Marriage Act, 1955 was pending. Invoking Section 125(4) of the Code of Criminal Procedure, 1973, he further argued that she was disentitled to maintenance because she was living separately without sufficient cause and was allegedly in an adulterous relationship.

The Allahabad High Court, after examining the evidence found no proof of the wife's independent income or of any adultery. The husband's plea of ill health and lack of income was also rejected, as he was a healthy adult capable of earning wages with access to agricultural income. The Court relied on the principle affirmed by the Supreme Court in *Anju*

[89] Maintenance disputes; particularly under Section 125 of the Code of Criminal Procedure, 1973, and the Protection of Women from Domestic Violence Act, 2005 received careful judicial scrutiny. The Court emphasized that maintenance is preventive rather than punitive, intended to ensure that dependents are not left destitute.

Garg v. *Deepak Kumar Garg*[90] that a husband's duty to maintain his wife is absolute, even if he earns by manual labour and that poverty or unemployment does not absolve him of this responsibility. It held that the wife was entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973 which is a measure of social justice aimed at preventing destitution, as laid down in *Bhuwan Mohan Singh* v. *Meena*.[91]

Finding no illegality or perversity in the Family Court's decision, and noting the modest amount awarded, the revision was dismissed. The order of maintenance was upheld and the trial court was directed to take coercive steps to secure recovery. The judgment reiterates that Section 125 of the Code of Criminal Procedure, 1973 is a beneficial provision ensuring sustenance of wives and allegations of adultery or self-sufficiency must be strictly proved to deny relief.

In *Rana Pratap Singh* v. *Neetu Singh & Others*[92] a criminal revision under Section 19(4) of the Family Courts Act, 1984 challenged the judgment of the Principal Judge, Family Court, Unnao. That order directed the revisionist-husband to pay maintenance of ₹15,000 per month to his wife and ₹5,000 per month to each of their two minor children under Section 125 of the Code of Criminal Procedure, 1973, effective from the date of the maintenance application.

The husband argued that his wife had left the matrimonial home without sufficient cause, was living in adultery, and was gainfully employed with substantial income. He also relied on an ex parte decree of restitution of conjugal rights obtained under Section 9 of the Hindu Marriage Act, 1955, contending that it barred maintenance under Section 125(4) of the Code of Criminal Procedure, 1973.

The Allahabad High Court rejected these arguments, noting that the restitution decree had been set aside by the Lok Adalat, rendering Section 125(4) inapplicable. Allegations of adultery were dismissed for lack of credible evidence, no FIRs, corroborating testimony, or documentary proof were produced. Likewise, the claim of the wife's independent income was unsubstantiated, as no salary slips, employment records, or other materials were provided to counter her assertion of financial dependence.

These 2024 rulings underscore that maintenance is a fundamental social obligation; ensuring dependents are not left destitute regardless of the husband's employment status or personal law. Courts emphasized that ability to earn, not current income, determines liability, and that overlapping statutory remedies remain complementary. Allegations of

[90] (2022) SC 805.
[91] (2015) 6 SCC 353.
[92] AIR 1978 Cal 525.

adultery or self-sufficiency must be strictly proven; absent such proof, the right to maintenance stands as a measure of social justice and dignity.

5. Succession and Property Rights

Succession refers to the inheritance of property or title from one's ancestors. Succession laws apply when property is transferred by operation of law, typically in cases of intestate succession when a person dies without leaving a will or other legal instrument such as a gift or settlement.

In India, inheritance is governed by distinct personal laws: Hindu succession law for Hindus, Muslim law for Muslims, and the Indian Succession Act, 1925 for others. If the deceased leaves a valid will, the property is distributed according to that will; otherwise, intestate succession rules determine the heirs and their shares.[93]

Succession disputes before the Allahabad High Court in 2024 primarily revolved around the interpretation and application of the Hindu Succession Act, 1956, and the Indian Succession Act, 1925.

In *Phagoo* v. *Gokaran and others*[94] the dispute arose from a partition suit concerning the estate of late Tirath Ram. The plaintiff sought a one-third share based on a sale deed executed in his favour by Jashoda, the deceased's mother. The defendants contested the claim, asserting that Lakhraji, Tirath Ram's widow, was the absolute owner under Section 14 of the Hindu Succession Act, 1956, and that the sale deeds executed by her were valid. The Trial Court dismissed the suit, holding that Lakhraji became full owner of her husband's estate under Section 14 and that the plaintiff's deed was invalid. On appeal, the Lower Appellate Court reversed the decision, relying on *Sankar Prasad Khan* v. *Smt. Ushabala Dasi*[95] and *Gangadhar Charan Naga Goswami* v. *Sm. Saraswati Bewa*[96] and awarded one-third share to the plaintiff and the remaining two-thirds to Tirath Ram's daughters, reasoning that Lakhraji had remarried and thus lost her rights.

In second appeal, the Allahabad High Court initially reinstated the Trial Court's dismissal. The Supreme Court, however, remanded the case for determination of substantial questions regarding jurisdiction, the effect of dismissal of a prior partition suit, and the interplay between Section 14 of the Hindu Succession Act, 1956, and Section 2 of the Hindu Widows' Remarriage Act, 1856.

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[93] 2024 SCC OnLine All 905.

[94] *Gurupad Khandappa Magdum* v. *Hirabai Khandappa Magdum*, AIR 1978 SC 1239 (affirming that, absent a valid will, property devolves according to the applicable personal law of the deceased).

[95] 2024 SCC OnLine All 4654.

[96] AIR 1962 Ori 190.

On remand, the Allahabad High Court held that the District Judge had proper pecuniary jurisdiction, that dismissal of the earlier suit did not operate as res judicata, and that because succession opened after 1956, Lakhraji's rights vested absolutely under Section 14 of the Hindu Succession Act. It further ruled that these rights could not be divested by remarriage or custom. The decree was modified to allot one-fourth share each to the plaintiff, Lakhraji (through her transferees), and the two daughters, affirming the overriding effect of the Hindu Succession Act, 1956 on the succession rights of widows after its commencement.

In *Rajni Rani* v. *State of U.P. & Others*,[97] the Allahabad High Court dismissed a writ petition seeking release of the retiral benefits of late Sri Bhojraj Singh, a retired Assistant Teacher who died on 02.10.2021. The petitioner, Rajni Rani—named as nominee in the service book and claiming to have lived with the deceased as his wife—argued that the legally wedded wife, Usha Devi (Respondent No. 10), had long separated, allegedly remarried, and compromised maintenance proceedings under Section 125 Cr.P.C., thereby forfeiting her rights.

The Court rejected these contentions, holding that nomination does not confer beneficial ownership but merely authorizes receipt of dues, which must ultimately devolve upon legal heirs under succession law. Relying on *Shipra Sengupta* v. *Mridul Sengupta*[98] and *Suneeta* v. *Union of India (All HC, 2022)*, it reiterated that a nominee is only a custodian and statutory benefits must pass to lawful heirs. As Usha Devi remained the undisputed legally wedded wife and no divorce had occurred during the deceased's lifetime, she retained her succession rights despite the maintenance compromise. The writ petition was accordingly dismissed.

In *Mukti Nath Giri and another* v. *State of U.P. and others*[99] (decided 12 April 2024), the Allahabad High Court dismissed a writ petition seeking retiral dues and compassionate appointment following the death in harness of Constable Smt. Durgawati Giri in 1991. The petitioners, her alleged husband Mukti Nath and their son relied on service records naming Mukti Nath as husband. However, benefits had already been disbursed to Rakesh Bihari Srivastava, whom the deceased had nominated shortly before her death, on the basis of a 1995 succession certificate. Although the petitioners later secured a 1999 succession certificate declaring Mukti Nath as husband and heir, the Court held that Section 372 of the Indian Succession Act, 1925 is confined to authorising collection of debts and securities and does not determine ownership or marital status. Citing *Shipra Sengupta v. Mridul*

[97] 2024 SCC OnLine All 94.
[98] (2009) 10 SCC 680.
[99] 2024 SCC OnLine All 4691.

Sengupta,[100] it reiterated that neither nomination nor a succession certificate confers beneficial entitlement; both merely enable receipt of dues to be distributed per succession law.

Because the dispute involved contested questions; such as whether Durgawati was divorced or had a valid subsequent marriage, the Court ruled that such issues require adjudication in a civil suit, not a writ petition. Given the decades-long delay and prior disbursal under a valid certificate, the petition was dismissed without costs, underscoring the limited scope of Section 372 proceedings and the necessity of civil remedies for declaratory relief in succession and marital-status disputes.

The succession rulings of 2024 reaffirm that inheritance in India is governed by clear statutory principles rather than personal arrangements or administrative designations. The Hindu Succession Act, 1956 ensures that a widow's absolute rights, once vested, cannot be curtailed by remarriage or custom. Nomination or a succession certificate merely authorizes receipt of dues and does not create ownership; the property must ultimately pass to the lawful heirs under the applicable personal law. Disputes over marital status or heirship require adjudication through proper civil proceedings, not summary writ petitions. These principles collectively reinforce the primacy of succession law, the protection of legitimate heirs, and the need for careful judicial process in settling inheritance matters.

6. Conclusion

The 2024 decisions of the Allahabad High Court reaffirm that family law in India is not a static inheritance but a living, adaptive system. Through its nuanced engagement with matrimonial disputes, child custody, maintenance, succession, and Muslim personal law, the Court has demonstrated how constitutional values of equality, dignity, and justice can animate long-standing personal law traditions without erasing their distinctiveness.

Each judgment reflects a dialogue between fact and norm, showing that jurisprudence grows from lived realities, the fractures of relationships, the needs of children and the vulnerabilities of dependents rather than from abstract doctrine alone. Transformative constitutionalism, these decisions suggest, is not achieved through the wholesale rejection of tradition but through its continuous reinterpretation in light of contemporary social change.

This Annual Survey traces the Court's careful movement across terrains where procedure becomes an ethic of fairness and where the concrete pain of lived life enters the

[100] (2009) 10 SCC 680.

domain of judgment. In these rulings, jurisprudence emerges not merely as an interpretive science but as an existential act; a passage through suffering toward the affirmation of dignity. Law appears not simply as an instrument of governance but as a fragile bridge between the ethical and the juridical, between the intimate singularities of life and the abstractions of normative order.

Thus, the jurisprudential task of family law is not to secure finalities but to remain attentive to the unfinished: the interstitial spaces where law and life touch without ever fully coinciding. To write this survey, therefore, is not merely to record cases but to testify to the quiet transcendence that dwells within the most ordinary disputes where, through law, human beings seek not only remedies but meaning.