Redacted by NyayVidhan (reference arising in matrimonial appeals): the names, parentage, villages, tehsil and district of the spouses in the cause title, and the spouses' names in the title of D.B. Civil Misc. Appeal No. 1736/2021 cited at paras 2, 3 and 23 (shown as initials on nyayvidhan.in). Text otherwise as issued by the Court.

RAJASTHAN HIGH COURT

Reportable

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Reference No. 3/2025

CNR: RJHC010156022025 | URN: CREF / 3U / 2025

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

W/o Sh. D/o Sh. R/o
At Present Tehsil District

----Petitioner

Versus

S/o Sh. R/o Tehsil
Dist.

----Respondent

Members of the Bar : Mr. Vikram Choudhary
Mr. Zafar Khan
Mr. Sourabh Soni
Mr. Moti Singh,
Mr. Rajjak Haider Khan
Mr. Mrinal Khatri
Ms. Priyanka Prajapat
Mr. TC Vyas through VC
Mr. Tanay Jareda through VC

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

27/11/2026

BY THE COURT: (PER HON'BLE MR. JUSTICE VINIT KUMAR MATHUR)

1. The appeals, namely, D.B. Civil Miscellaneous Appeal No. 2677/2019, D.B. Civil Miscellaneous Appeal No. 2676/2019, D.B. Civil Miscellaneous Appeal No. 3036/2019 and D.B. Civil Miscellaneous Appeal No. 3037/2019, have been preferred against the orders passed by the learned Additional District Judges in

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proceedings under Sections 9 and 13 of the Hindu Marriage Act, 1955.

2. While hearing the aforesaid appeals, the Division Bench of this Court noticed that in the case of D.B. Civil Miscellaneous Appeal No. 1736/2021 v. Smt. the Division Bench of this Court at Jaipur Bench had not considered the consequences arising from the creation of multiple jurisdictions within the local limits of the jurisdiction of the Family Courts, particularly in view of the exclusionary jurisdiction envisaged under Section 8 of the Family Courts Act, 1984, consequent upon the establishment and designation of Family Courts.

3. The Division Bench, while expressing its respectful disagreement with the view taken in (supra), observed that the consequences flowing from Section 8 of the Family Courts Act, 1984, had not been duly considered therein. Accordingly, the Division Bench made the following reference for consideration by a Larger Bench:-

> ***"In view of the above facts and circumstances of the case and the provisions mentioned above, we, with great respect to the learned Judges, do not concur with the view taken by the Division Bench in the case of (cited supra), treating the Additional District Courts as deemed Family Courts, as the learned Judges have not considered the consequences of Section 8 of the Family Courts Act. Therefore, the matters are required to be decided by a Larger Bench."***

4. We have heard learned counsel for the parties, examined the material available on record and given our thoughtful consideration to the controversy involved in the present reference. The principal question which arises for our consideration is

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whether the orders passed by the Courts of Additional District Judges, which have been conferred with the jurisdiction and powers of a Family Court by the State Government in exercise of powers under Section 3 of the Family Courts Act, 1984 (hereinafter referred to as 'the Act of 1984'), are to be treated as orders passed by the Family Court for the purpose of determining the appellate forum under Section 19 of the Act of 1984.

5. Before proceeding to examine the aforesaid issue, it would be appropriate to notice the relevant notifications issued by the State Government from time to time, which have a direct bearing on the controversy involved in the present reference.

6. The Department of Law and Legal Affairs, Government of Rajasthan, initially issued Notification No. P.1(1) Nyay/2012 dated **10.09.2012**, whereby 15 Family Courts were established in the State of Rajasthan. By the said notification, the jurisdiction of the respective Family Courts was extended to the entire revenue district concerned. Consequently, the matters falling within the jurisdiction of the Family Courts, including proceedings under the Hindu Marriage Act, 1955 and Section 125 of the Code of Criminal Procedure, were required to be instituted and adjudicated by the respective Family Courts within their territorial jurisdiction.

7. Hindi version of the Notifications dated 10.09.2012 is reproduced as hereunder:-

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग

क्रमांकः– प. 1(1)न्याय/2012 **जयपुर, दिनांकः– 10/9/2012**

::अधिसूचना::

पारिवारिक न्यायालय अधिनियम, 1984 (1984 का केन्द्रीय अधिनियम संख्या–66) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राजस्थान उच्च न्यायालय के परामर्श के पश्चात्

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राजस्थान सरकार उक्त अधिनियम द्वारा पारिवारिक न्यायालय को प्रदत्त शक्तियों व क्षेत्राधिकार का प्रयोग करने हेतु एतद्द्वारा निम्नलिखित स्थानों पर जिला एवं सत्र न्यायाधीश स्तर के पारिवारिक न्यायालयों का सृजन एवं स्थापन करती है जिसके स्थानीय क्षेत्राधिकार या सीमाएं कॉलम संख्या 4 में अंकित अनुसार विनिर्दिष्ट की जाती है। :–

क्र.सं.	न्यायालय का नाम	बैठक का स्थान	स्थानीय क्षेत्राधिकारी
1	2	3	4
1.	पारिवारिक न्यायालय, अलवर	अलवर	राजस्व जिला, अलवर
2.	पारिवारिक न्यायालय, बांसवाड़ा	बांसवाड़ा	राजस्व जिला, बांसवाड़ा
3.	पारिवारिक न्यायालय, भरतपुर	भरतपुर	राजस्व जिला, भरतपुर
4.	पारिवारिक न्यायालय, दौसा	दौसा	राजस्व जिला, दौसा
5.	पारिवारिक न्यायालय, डूंगरपुर	डूंगरपुर	राजस्व जिला, डूंगरपुर
6.	पारिवारिक न्यायालय, गंगानगर	गंगानगर	राजस्व जिला, गंगानगर
7.	पारिवारिक न्यायालय, मेड़ता	मेड़ता	राजस्व जिला, मेड़ता
8.	पारिवारिक न्यायालय, सवाई माधोपुर	सवाई माधोपुर	राजस्व जिला, सवाई माधोपुर
9.	पारिवारिक न्यायालय, चुरू	चुरू	राजस्व जिला, चुरू
10.	पारिवारिक न्यायालय, चित्तौड़गढ़	चित्तौडगढ़	राजस्व जिला, चित्तौडगढ़
11	पारिवारिक न्यायालय, झुन्झुनू	झुन्झुनू	राजस्व जिला, झुन्झुनू
12.	पारिवारिक न्यायालय, पाली	पाली	राजस्व जिला, पाली
13	पारिवारिक न्यायालय, राजसमन्द	राजसमन्द	राजस्व जिला, राजसमन्द
14.	पारिवारिक न्यायालय, सीकर	सीकर	राजस्व जिला, सीकर
15.	पारिवारिक न्यायालय, टोंक	टोंक	राजस्व जिला, टोंक

राज्यपाल के आदेश से
प्रकाश गुप्ता
(प्रमुख शासन सचिव)

8. Subsequently, the State Government, in exercise of the powers conferred under Section 3 of the Act of 1984 and in consultation with the Rajasthan High Court, issued Notification No. P.2(4) Nyay/2014 dated **05.02.2015**, whereby the territorial jurisdiction of the Family Courts established earlier was modified and restricted to the Metropolitan/Municipal Council/Municipal areas, as applicable. In respect of the remaining areas of the concerned revenue districts, excluding the aforesaid municipal areas, the powers and jurisdiction exercisable by the Family Courts were conferred upon the District Courts, Additional District Courts, Chief Judicial Magistrates, Additional Chief Judicial Magistrates, Judicial Magistrates and Additional Judicial Magistrates having territorial jurisdiction over such areas.

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9. The effect of the aforesaid notification was that the jurisdiction in family matters, which had earlier been vested exclusively in the Family Courts for the entire revenue district, stood distributed in accordance with the territorial demarcation specified therein. The Family Courts retained jurisdiction over the notified municipal areas, whereas the courts specifically mentioned in the notification were empowered to exercise jurisdiction in respect of the remaining areas of the concerned revenue districts.

10. Thereafter, the State Government issued another Notification No. P.2(4) Nyay/2014 dated **01.06.2016**, again in exercise of the powers conferred under Section 3 of the Act of 1984 and in consultation with the Rajasthan High Court. By the said notification, the jurisdiction of the Family Courts was extended to the local jurisdiction of the concerned District Courts in respect of family matters. At the same time, the jurisdiction conferred upon the District Courts by virtue of the earlier notification dated 05.02.2015 was withdrawn.

11. Hindi version of the Notifications dated 05.02.2015 and 01.06.2016 are reproduced as hereunder:-

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग

क्रमांकः– प. 2(4)न्याय/2014 **जयपुर, दिनांकः– 5/2/2015**

::अधिसूचना::

पारिवारिक न्यायालय अधिनियम, 1984 (सन् 1984 का केन्द्रीय अधिनियम संख्या–66) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राज्य सरकार, राजस्थान उच्च न्यायालय के परामर्श से एतद्द्वारा, पूर्व में सृजित एवं स्थापित समस्त पारिवारिक न्यायालयों का क्षेत्राधिकार परिवर्तित कर उनकी क्षेत्राधिकारिता महानगर/नगर परिषद्/नगरपालिका सीमाक्षेत्र तक यथा लागू सीमित करती है। साथ ही उक्त सीमा क्षेत्र को छोड़कर शेष राजस्व जिला क्षेत्र की पारिवारिक न्यायालय की शक्तियां एवं क्षेत्राधिकारिता, संबंधित स्थानीय क्षेत्राधिकार वाले जिला न्यायालय/अपर जिला न्यायालय/मुख्य न्यायिक मजिस्ट्रेट/अपर

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मुख्य न्यायिक मजिस्ट्रेट/न्यायिक मजिस्ट्रेट/अपर न्यायिक मजिस्ट्रेट न्यायालय को प्रदान की जाती है।

राज्यपाल के आदेश से
प्रमुख शासन सचिव

XXX XXX XXX

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग

कमांक प. 2(4) न्याय/2014 **जयपुर, दिनांक 01.06.2016**

अधिसूचना

पारिवारिक न्यायालय अधिनियम, 1984 (1984 का केन्द्रीय अधिनियम संख्या 66) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राजस्थान उच्च न्यायालय से परामर्श के पश्चात् एतद्द्वारा अधिसूचना दिनांक 05.02.2015 की निरन्तरता में समस्त पारिवारिक न्यायालयों का क्षेत्राधिकार संबंधित जिला न्यायालयों के पारिवारिक प्रकरणों से संबंधित स्थानीय क्षेत्राधिकार तक बढ़ाया जाता है एवं अधिसूचना दिनांक 05.02.2015 द्वारा जिला न्यायालयों को प्रदत्त पारिवारिक न्यायालय से संबंधित मुकदमों की सुनवाई का क्षेत्राधिकार समाप्त किया जाता है।

राज्यपाल के आदेश से
मनोज कुमार व्यास
(प्रमुख शासन सचिव)

12. A conjoint reading of the notifications dated 05.02.2015 and 01.06.2016 makes it evident that the subsequent notification specifically withdrew the jurisdiction in family matters which had been conferred upon the District Courts under the earlier notification. However, the notification dated 01.06.2016 does not expressly provide for withdrawal of the jurisdiction which had independently been conferred upon the Additional District Courts and the Courts of Chief Judicial Magistrates, Additional Chief Judicial Magistrates, Judicial Magistrates and Additional Judicial Magistrates under the notification dated 05.02.2015.

13. It is significant to notice that the notification dated 05.02.2015 had made a specific reference to the District Courts as well as the Additional District Courts and various Magistrate Courts while conferring jurisdiction in family matters upon them.

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However, the subsequent notification dated 01.06.2016, while withdrawing the jurisdiction conferred under the earlier notification, referred to the jurisdiction of the District Courts. The distinction in the language employed in the two notifications cannot be overlooked. Had the intention of the State Government been to withdraw the jurisdiction conferred upon all the courts mentioned in the notification dated 05.02.2015, it could have expressly provided so in the subsequent notification. In the absence of such an express stipulation, the withdrawal of jurisdiction cannot be extended by implication to the other courts specifically empowered under the earlier notification.

14. It is also relevant to notice that the State Government, Department of Law and Legal Affairs, subsequently issued Notification No. P.2(4) Nyay/2014 dated 26.06.2018, in continuation of the notification dated 05.02.2015, whereby the powers of the Family Courts were conferred upon the Additional District Courts specified in Column No. 2 of the said notification, for exercising jurisdiction over the territorial areas mentioned against their respective names in Column No. 4. The said notification further fortifies the position that the State Government intended to confer upon the specified Additional District Courts the jurisdiction and powers exercisable by a Family Court in respect of the areas assigned to them.

15. Hindi version of the Notifications dated 26.06.2018 is reproduced as hereunder:-

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RAJASTHAN HIGH COURT

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग

क्रमांक प. 2(4) न्याय/2014 **जयपुर, दिनांक 26.06.2018**

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–:अधिसूचना:–

पारिवारिक न्यायालय अधिनियम, 1984 (सन् 1984 का केन्द्रीय अधिनियम संख्या–66 की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राज्य सरकार, राजस्थान उच्च न्यायालय के परामर्श के पश्चात्, एतद्द्वारा दिनांक 05.02.2015 के पश्चात् मुख्यालय से बाहर स्थित निम्नलिखित कॉलम संख्या 2 में वर्णित अपर जिला न्यायालयों को उनके सम्मुख कॉलम संख्या 4 में वर्णित क्षेत्राधिकार में पारिवारिक न्यायालय की शक्तियां एवं क्षेत्राधिकार प्रदान करती है:–

क्र.सं.	न्यायालय का नाम	न्याय क्षेत्र	क्षेत्राधिकार
1	2	3	4
1	अपर जिला न्यायालय, संख्या 2, किशनगढ़	अजमेर	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
2	अपर जिला न्यायालय, संख्या 2, केकड़ी	अजमेर	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
3	अपर जिला न्यायालय, मुण्डावर	अवलर	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
4	अपर जिला न्यायालय, संख्या 2, तिजारा	अलवर	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
5	अपर जिला न्यायालय, संख्या 2, बाड़मेर	बालोतरा	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
6	अपर जिला न्यायालय, संख्या 2, निम्बाहेड़ा	चित्तौड़गढ़	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
7	अपर जिला न्यायालय, संख्या 2, राजगढ़	चुरु	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
8	अपर जिला न्यायालय, संख्या 2, बॉदीकुई	दौसा	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
9	अपर जिला न्यायालय, सागावाड़ा	डूंगरपुर	स्थानीय क्षेत्राधिकार
10	अपर जिला न्यायालय, ह ाड़साना	श्रीगंगानगर	स्थानीय क्षेत्राधिकार
11	अपर जिला न्यायालय, संख्या 2, कोटपूतली	जयपुर जिला	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
12	अपर जिला न्यायालय, संख्या 3, कोटपूतली	जयपुर जिला	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
13	अपर जिला न्यायालय, संख्या 2, सॉभरलेक	जयपुर जिला	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
14	अपर जिला न्यायालय, दूदू	जयपुर जिला	स्थानीय क्षेत्राधिकार
15	अपर जिला न्यायालय, पोकरण	जैसलमेर	स्थानीय क्षेत्राधिकार
16	अपर जिला न्यायालय, भावनीमण्डी	झालावाड़	स्थानीय क्षेत्राधिकार
17	अपर जिला न्यायालय, चिडावा	झुन्झुनू	स्थानीय क्षेत्राधिकार
18	अपर जिला न्यायालय, संख्या 2, नागौर	मेड़ता	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
19	अपर जिला न्यायालय, संख्या 2, परबतसर	मेड़ता	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण

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20	अपर जिला न्यायालय, फतेहपुर	सीकर	स्थानीय क्षेत्राधिकार
21	अपर जिला न्यायालय, संख्या 2, आबूरोड़	सिरोही	समय–समय पर सुनवाई हेतु अन्तरित किये जाने वाले प्रकरण
22	अपर जिला न्यायालय, खैरवाडा	उदयपुर	स्थानीय क्षेत्राधिकार

राज्यपाल के आदेश से
(प्रमुख शासन सचिव)

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16. From the aforesaid notifications, the legislative and administrative scheme emerging in the State of Rajasthan is that the jurisdiction of Family Courts was initially extended to the entire revenue districts; subsequently, such jurisdiction was territorially restructured by the notification dated 05.02.2015; and thereafter, by the notification dated 01.06.2016, the jurisdiction of the Family Courts was restored over the local jurisdiction of the concerned District Courts, while the jurisdiction conferred upon the District Courts under the earlier notification was withdrawn. The jurisdiction conferred upon the specified Additional District Courts, however, is required to be examined in the light of the specific terms of the notifications dated 05.02.2015 and 26.06.2018.

17. At this stage, it would be apposite to consider the effect of Section 8 of the Act of 1984, which provides for the exclusion of the jurisdiction of other Courts in respect of matters falling within the jurisdiction of a Family Court. The object underlying the said provision is to ensure that, upon establishment of a Family Court for a particular area, the jurisdiction ordinarily exercisable by the District Court or subordinate Civil Courts in respect of the matters enumerated in the Explanation to Section 7(1) stands excluded.

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18. However, the applicability of Section 8 cannot be considered in isolation or divorced from the notifications issued by the State Government in exercise of its statutory powers under Section 3 of the Act of 1984. The exclusion contemplated under Section 8 has to be understood with reference to the territorial jurisdiction and the allocation of powers brought about by the relevant notifications. Where the State Government has specifically conferred the powers and jurisdiction of a Family Court upon an Additional District Court for a particular territorial area, such Court, while exercising the jurisdiction so conferred, does not act merely as an ordinary Civil Court or as an Additional District Court exercising its usual jurisdiction. Rather, it exercises the jurisdiction and powers statutorily assigned to it in the capacity of a Court empowered to adjudicate family matters under the scheme of the Act of 1984.

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19. Although, on a reading of the order, it can be inferred that the order passed by the Presiding Officer was in the capacity of a Family Court, however, it would be in the fitness of things that the Presiding Officer, while acting as a Family Court Judge in a particular case, should mention at the top "**Family Court**" in brackets, his original designation, so as to certify the fact that the case has been decided in the capacity of a Family Court while exercising its jurisdiction. Needless to say, such jurisdiction can be exercised by the Court concerned only if the same has been notified as a Family Court in the notification issued by the State Government while exercising powers under Section 3 of the Family Courts Act, 1984.

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20. Although the nomenclature of a Court cannot be the sole determining factor for deciding the nature of jurisdiction exercised by it. What is material is the source of the jurisdiction, the nature of the powers conferred and the capacity in which the Court has adjudicated the dispute. Once the State Government, in exercise of its statutory powers, has conferred the jurisdiction and powers of a Family Court upon a particular Additional District Court, the proceedings conducted by such Court in exercise of the said jurisdiction would partake the character of proceedings before a Family Court. Merely because the presiding officer or the Court continues to be designated as an Additional District Judge, the nature of the jurisdiction exercised by such Court would not undergo any change. However, such an indication would clarify, beyond any doubt or inference, the capacity in which the order has been passed and would leave no ambiguity as to whether the Presiding Officer has passed the order while exercising the powers and jurisdiction of a Family Court. Therefore, it would be desirable to specifically mention that the order has been passed by the Presiding Officer in the capacity of a Family Court while exercising the powers conferred under the Family Courts Act, 1984.

21. The aforesaid interpretation also finds support from the scheme of Section 19 of the Act of 1984, which provides for an appeal against every judgment or order, not being an interlocutory order, passed by a Family Court to the High Court, both on facts and on law. Sub-section (6) of Section 19 further provides that an appeal under this section shall be heard by a Bench consisting of two or more Judges.

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22. The appellate mechanism prescribed under Section 19 is a special statutory mechanism governing judgments and orders passed in the exercise of jurisdiction under the Act of 1984. Therefore, where an Additional District Court has been specifically vested with the powers and jurisdiction of a Family Court by virtue of the notifications issued by the State Government, the orders passed by such Court in exercise of the said jurisdiction would be amenable to the appellate remedy contemplated under Section 19 of the Act of 1984.

23. We are, therefore, of the considered opinion that the view taken by the Division Bench in ***v. Smt.*** (supra), to the extent that an Additional District Court, having been conferred with the powers and jurisdiction of a Family Court under the relevant notifications issued by the State Government, would be treated as a deemed Family Court for the purpose of determining the appellate forum, does not suffer from any infirmity. The consequences arising from Section 8 of the Act of 1984 cannot be construed in a manner so as to nullify or render ineffective the specific conferment of jurisdiction made by the State Government under Section 3 of the Act of 1984.

24. It is, however, clarified that the aforesaid conclusion would apply only to those Additional District Courts and other Courts upon which the powers and jurisdiction of a Family Court have been specifically conferred by the relevant notifications of the State Government, and only in respect of the territorial areas and subject matters covered thereby. It cannot be construed as conferring the status of a Family Court upon every Additional

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District Court in the State of Rajasthan irrespective of any such statutory conferment of jurisdiction.

25. Consequently, we answer the reference by holding that an Additional District Court, which has been specifically conferred with the powers and jurisdiction of a Family Court by the State Government in exercise of powers under Section 3 of the Act of 1984, shall be treated as a deemed Family Court for the purpose of adjudication of the matters falling within the jurisdiction so conferred. Accordingly, the judgments and orders passed by such Courts in exercise of the said jurisdiction shall be appealable before this Court in accordance with Section 19 of the Act of 1984, and such appeals shall be heard by a Division Bench in terms of Section 19(6) thereof.

26. The reference is answered accordingly.

27. All Courts exercising the powers and jurisdiction of a Family Court shall clearly mention at the top of every order the designation "Family Court", followed by their original designation in brackets. Further, while signing the order, the Presiding Officer shall specifically indicate that the order has been passed by the Family Court and shall affix the official seal/stamp accordingly.

28. The Registrar General of this Court is directed to circulate a copy of this order to all the subordinate Courts in the State of Rajasthan for necessary compliance.

(YOGENDRA KUMAR PUROHIT),J (VINIT KUMAR MATHUR),J (SANJAY K. AGRAWAL),CJ

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