

**Name of the Scholar: Anupama Gupta**

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**Name of the Supervisor: Prof. (Dr.) Ghulam Yazdani**

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### **ABSTRACT**

**KEY WORDS: FAMILY COURTS, DELHI, FAMILY LAW, DIVORCE, COUNSELLORS, ADR.**

Family Courts are the specialized courts that were established under the regime of the Family Courts Act, 1984 (**hereinafter referred to as “FCA, 1984”**). The objective was to promote conciliation in, and to secure speedy settlement of disputes relating to matrimonial disputes and the connected matters therein due to involvement of sensitive issues by adopting non-adversarial procedure. However, even after 13 years of establishment of Family Courts in Delhi, these courts continued to deal in a routine manner as followed by a traditional civil court. Considering the huge rate of pendency in the Family Courts of Delhi and paucity of socio-legal research on the practicalities of Family Courts in Delhi, the thesis attempts to enquire into the issues related to the role and working of Family Courts in all the 28 functional Family Courts set up and distributed among the eleven districts of Delhi namely Dwarka (3), Tis Hazari (5), Karkardooma (8), Saket (6), Patiala House (2), Rohini (4).

This research thesis has been divided into six chapters and all of these chapters have been given equal importance and are written with thorough research on the subject. The thesis covers an overview about the Family Courts including the meaning, significance of Family Courts, their interface with the constitutional law and their status across the country. It has further enumerated the special procedures to be adopted by the Family Courts including mandatory reference of the disputes for conciliation at first instance by the Family Courts; provisions related to providing auxiliary services like social welfare agencies, counsellors, medical and welfare experts; partial restraint on the entry of advocates in a Family Court; simplification of the rules of evidence and procedure etc.

Settlement of disputes through reference to a third party is a part of the *volkgiest* of India that has undergone a phenomenal metamorphosis. The mechanism of Alternative Dispute Resolution (**hereinafter referred to as “ADR”**) in Hindus has been prevalent from *vedic* times where the authority was derived from *dharmashastras*. Amongst the Muslims, the role of *Quazi* in the *Shari’ah* Courts and the practices like *Sulh*, *Tahkim*, *Med-Arb*, *Fatwa of Muftis*

were some of the significant mechanisms in the amicable settlement of family disputes. The *Parsi* Matrimonial Courts have a 150 years old tradition to resolve matrimonial disputes through a jury of co-religionists. For Christians, the Ecclesiastical Courts/ 'Church Court' were the special courts that governed personal aspects of a Christians.

The western countries such as the United Kingdom, Canada have adopted some of the practices in the area of Family Courts that may be regarded as the best ones for making the working of Family Courts more feasible as compared to those existing in India. For instance, in the United Kingdom, the division of assets at the time of separation/divorce is based on the duration of marriage and various effective measures for safeguarding the interests of both the parties to the matrimonial dispute.

Apart from elaborating the relevant provisions of the FCA, 1984, several landmark judgments of the Apex Court and High Courts like that of the Delhi High Court have made significant contributions in resolving the problem of backlog of family disputes in an efficient manner. They have provided judgments that are reflective of the pragmatic and progressive approach in resolving family disputes in the most sensitive and pragmatic way.

Based on the data collected from the parties to the dispute/litigants, advocates, judges and the counsellors annexed with the Family Courts of Delhi the current study explores the role and working of Family Courts in accordance with the FCA, 1984 and to understand the actual working of Family Courts of Delhi. The aim of this research thesis is also to critically analyze the working of Family Courts of Delhi in terms of fulfillment of the objectives laid down in the FCA, 1984 and to suggest some feasible solutions to make the system of Family Courts in Delhi to be more expeditious and efficient.

The researcher has come up with certain viable solutions to make the working of Family Courts of Delhi to be more expeditious and efficient such as the concept of *Mckenzie* friend; in cases of dispute relating to visitation rights and custody issues of a minor child the agencies prevalent in United Kingdom like CAFCASS i.e; (the Children and Family Court Advisory and Support Service) linked with the Family Courts may intervene to assist the parties in resolving disagreements about arrangements for children of the separated couples. Furthermore, an integrated forum must be introduced to serve as a one stop centre for providing relief to all the interconnected matrimonial disputes. Family Courts should also adopt the practices like Case Management Hearing followed under the newly amended Commercial Courts Act of 2019.