

## 1. FAMILY COURTS (AMENDMENT) BILL 2005

Shri C K Chandrappan, Hon'ble MP had moved a private Members Bill which seeks to amend the Family Courts Act 1984. The Bill seeks to amend section 7(2), 8 and 18(3) of the family Courts Act. The salient features of the amendments proposed are :-

1. Section 7(2) Subject to the other provisions of this Act a Family Court shall also have and exercise;
  - a. The jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and
  - b. Such other jurisdiction as may be conferred on it by any other enactment

Amendment proposed

***In section 7 (2) after the words Code of civil procedure 1972 the following shall be inserted "and under the Muslim women (protection of rights on divorce) Act 1986***

2. Section 8 **Exclusion of jurisdiction and pending proceedings.** -  
Where a Family Court has been established for any area:
  - a. No district Court or any subordinate Civil Court referred to in sub-section (1) of Sec. 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the Explanation to that sub-section;

- b. No Magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);
- c. Every suit or proceeding of the nature referred to in the Explanation to sub-section (1) of Sec. 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973(2 of 1974)-
  - ( i ) which is pending immediately before the establishment of such Family Court before district Court or subordinate Court referred to in that sub-section or, as the case may be, before any Magistrate under the said Code; and
  - ( ii ) which would have been required to be instituted or taken before or by such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act has come into force and such Family Court had been established,

Shall stand transferred to such Family Court on the date on which it is established;

Amendment proposed

***In section 8 after clause (c) insert the following “provide that all orders and judgments passed under sec 17 shall also be executed by the respective civil or criminal courts as the case may be having jurisdiction”***

3. **18. Execution of decrees and orders** (3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary Civil Court to which it is sent for execution.

Amendment proposed

***In section 18(3) after the word execution add the following “or by the respective civil or criminal courts, as the case may be having jurisdiction”***

### **RECOMMENDATION OF THE NCW**

1. *Section 7(2) of the Family Courts Act, 1984 in order to bring within its purview the Muslim Women (Protection of Rights on Divorce) Act, 1986 be amended in the following way. A new clause be added which may be couched in the following words:-*

*(aa) The jurisdiction exercisable by a Civil Judge under the Muslim Women (Protection of Rights on Divorce) Act, 1986.*

2. *To ensure speedy execution of decrees or orders passed by the Family Courts, the local Civil and Criminal Courts situated in the respective localities be conferred with jurisdiction to execute the orders and decrees of the Family Courts. Hence Section 18(3) of Family Courts Act, 1984 may be amended by inserting words” or Criminal” after the word Civil and before word “ Court” in section 18(3) of the said Act as given below:-*

*“Section 18(3) --- A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil or criminal court to which it is sent for execution”*