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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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C. Pakkir Maideen and Others v. The
Principal Secretary to Government and
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Is the registration of adoption deed mandatory?

CONTEXT: The petitioners, C. Pakkir Maideen and others, presented an adoption deed for registration. The fourth respondent, the Sub-Registrar, refused registration on the grounds that online registration did not accommodate adoption deeds for Muslims, as Muslim Personal Law does not recognise adoption. The petitioners challenged this refusal, arguing that the Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006 (J.J. Act, 2000), and its successor, the Juvenile Justice (Care and Protection of Children) Act, 2015 (J.J Act, 2015), permit adoption irrespective of religion and that adoption by custom is permissible under Mohammedan Law.

① The Madras High Court dismissed the Writ Petition.

② The Court held that while the J.J Acts permit adoption, they prescribe procedures that must be followed, including securing consent and court orders.

③ The Court further held that the registration of adoption deeds is not mandated by law and does not confer legal sanctity.

④ The registration of such a deed is therefore unnecessary.

C. PAKKIR MAIDEEN
AND OTHERS V. THE
PRINCIPAL
SECRETARY TO
GOVERNMENT AND
OTHERS
[W.P(MD)NO.18174
OF 2018]

REGULATIONS 2(4),
2(12), 5, 51, AND 55
OF THE ADOPTION
REGULATIONS, 2017

Is a writ petition challenging the constitution of an Internal Complaints Committee (ICC) under the POSH Act, 2013 maintainable before the High Court, considering the jurisdiction of the Central Administrative Tribunal?

CONTEXT: The petitioner, a Principal Commissioner of Customs, challenged the constitution of an ICC formed to investigate a sexual harassment complaint filed against him by an IRS officer (the fourth respondent). He alleged bias within the ICC and argued the complaint was a counterblast to an investigation he was conducting against the fourth respondent. He also claimed the POSH Act was inapplicable as they didn't share a workplace and that the complaint was time-barred.

1 The High Court held that it lacked jurisdiction to entertain the writ petition as service matters, including the constitution and functioning of the ICC in this instance, fall under the exclusive jurisdiction of the Central Administrative Tribunal.

2 The Court rejected the petitioner's argument of time barred compliant stating that this case involves a disputed questions of fact and cannot be decided in a writ petition without oral and documentary evidence.

S. RAVI SELVAN VS.
CENTRAL BOARD OF
INDIRECT TAXES AND
CUSTOMS AND ORS.
[W.P.NO.17798 OF
2022]

**SEXUAL
HARASSMENT OF
WOMEN AT
WORKPLACE
(PREVENTION,
PROHIBITION AND
REDRESSAL) ACT,
2013
(POSH ACT)**

**CENTRAL CIVIL
SERVICES
(CLASSIFICATION,
CONTROL AND
APPEAL) RULES, 1965**

Is an arbitration clause that states arbitration is "optional" and requires "mutual consent" for the appointment of an arbitrator enforceable?

CONTEXT: The appellant is the legal representative of a deceased partner, Yeshwant Boolani. He invoked the arbitration clause in the deed, but the respondents contested its enforceability. The issue was with interpretation of the wording of the arbitration clause in partnership deed, which states that arbitration is “optional” and the arbitrator will be appointed by mutual consent. The respondents argued that this rendered the clause non-existent or only applicable if all parties agreed to arbitration.

1 The Supreme Court emphasized that arbitration clauses should be interpreted in light of their purpose – to provide a neutral, efficient means of dispute resolution.

2 The Court examined the clause holistically, noting that the first part unequivocally states that disputes “shall be referred to arbitration”. It interpreted the “optional” aspect to mean that an aggrieved party could choose to initiate arbitration.

3 While mutual consent is required for appointing the arbitrator, if parties fail to agree, the Court can intervene as per the Arbitration and Conciliation Act, 1996.

TARUN DHAMEJA V.
SUNIL DHAMEJA &
ANR.

[2024 INSC 973,
CIVIL APPEAL
NO.14005 OF 2024]

THE ARBITRATION
AND CONCILIATION
ACT, 1996

Entitlement of a wife to maintenance under section 24 of Hindu Marriage Act, 1955 despite sufficient income

SP V. RM
[2017 SCC ONLINE
DEL 12037]

CONTEXT: The appellant wife, an air hostess earning Rs. 55,000/- per month, filed an application under Section 24 of the Hindu Marriage Act 1955 seeking interim maintenance and litigation expenses from the respondent husband. The respondent husband, a director in a marketing company, earns a salary of approximately Rs. 59,000/- per month. The Trial Court dismissed the application on the grounds that the appellant wife had sufficient income and ability to maintain herself.

① The High Court upheld the Trial Court's decision, dismissing the appeal.

② The Court reasoned that the appellant wife had a sufficient independent income and was therefore not entitled to interim maintenance under Section 24 of the HMA.

**SECTION 24 OF THE
HINDU MARRIAGE
ACT 1955**

Does a mother's behaviour disqualify her from having custody of her children?

CONTEXT: This case concerns an appeal against a Family Court judgment which awarded custody of two children, aged ten and eight, to their father following the parents' divorce by mutual consent. The Family Court found the mother unfit to care for the children, citing reasons including her clothing choices, use of a dating app, association with male friends, use of "vituperatives" against her husband, and an attempt to engage a hacker to access her husband's computer system.

The Court set aside the Family Court judgment, **1** finding the previous judgment's reasoning flawed and prejudiced against the mother.

Custody of the children was granted to the mother, with the father given telephone access and the liberty to seek visitation or interim custody rights in the future. **2**

XX VS XX

[2024:KER:91898]

