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LATEST LEGAL NEWS

Delhi High Court issues summons to Ashneer Grover in suit by BharatPe co-founder Bhavik Koladiya over company shares

Grover was directed to file an undertaking to the effect that he would not create third party rights in the shares in question, until further orders.

Bhavik Koladiya, Ashneer Grover

Prashant Jha

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The Delhi High Court on Wednesday issued summons to Ashneer Grover and fintech firm BharatPe on a suit by the company's co-founder Bhavik Koladiya seeking to reclaim shares he transferred to his former colleague.

Justice **Prateek Jalan** took note of the submission by counsel for Grover that he would not create any third party rights in the 16,110 shares in question, until further orders. The Court said in its order,

"D1 (Grover) is bound to the aforesaid statement and is directed to file an undertaking to this effect within one week from today. Reply to application in four weeks, rejoinder in two weeks thereafter."

The matter will now be heard by the court on March 16.

Appearing for Koladiya, Senior Advocate **Mukul Rohatgi** sought an interim injunction restraining Grover from creating any third party rights in the shares which are the subject matter of the suit. He argued,

"This is an unlisted company. I agreed to share 1,611 shares of a total value of around ₹87 lakh. The shares have now become 16,000. It is my case that the title need not pass to him (Grover). Even in 2021, this man on WhatsApp showed that the shares are still mine. I am asking for my goods back which I have given."

Justice Jalan responded,

"What is the material to establish this? Your case is that the sale was a device because of some reasons that were in the US against you. The way I see it, you have entered a transaction which was not intended as a transaction of sale."

Rohatgi replied,

"Transaction had to done as per an agreement. Here, the condition is that he (Grover) will pay. I will give my shares and he will pay."

"Why did he (Koladiya) give his shares?" the Court asked at this point.

"He is a gullible person what can you say?" I was the founder of this company. I am entitled to get my shares back," was Rohatgi's response.

When Justice Jalan asked whether settlement talks were underway between Koladiya and Grover, Rohatgi said,

"No. The company has filed a suit against this man (Grover)."

Counsel appearing for Grover at this point told the Court,

"The agreement is from December 2018. The agreement filed is a forged and fabricated document."

"If this agreement goes, then the transfer of shares to him will also go," Rohatgi shot back.

The Court then suggested to Grover's counsel,

"As far as these shares are concerned...apparently there have been some news reports that you want to sell shares...Instead of me reaching a prima facie finding, why don't you file your reply?"

In an attempt to explain the confusion that arose in this case, counsel for Grover told the Court that there were two agreements. Referring to one of those, he said,

"The purchase consideration shall be discharged in cash or as in the manner agreed between two sides. The agreement was executed the same day. This is the pre-execution version of the agreement."

However, Justice Jalan said,

"The number of shares is not here, the money is not here (in the agreement). For the moment, as I see it, I don't yet find a second executed agreement that even prima facie you are relying upon."

Grover's lawyer contended,

"What they have done is that page 6, which is the signed version, is totally different from the other pages. He has taken a page of the agreement signed with me and attached it to an agreement signed with other investors."

The Court then said,

"Your allegation of fraud is something that has to be proved at trial... It is possible what you are saying is true.. But there are other possibilities as well."

Grover's counsel told the Court,

"My wife has paid ₹8 crore to the plaintiff's wife."

Rohatgi intervened, saying,

"My lords, we should first establish that he has paid. His stand is that ₹8 crore has been paid and ₹88 lakh is part of this ₹8 crore."

Referring to Grover's book, the senior counsel added,

"The book says his wife gave my wife some loan. This was not part of my transaction. The fact of the matter is I gave him shares. There has to be some document somewhere to suggest that he paid me...I am only saying preserve the sales. I am not asking give it to me. He can file a reply. It is an unlisted company so the values are not in the market."

Koladiya founded the fintech firm in 2017 with Shashvat Nakrani. In 2018, they started looking for a chief executive, after which Grover came on board.

According to a news report in The Economic Times, Koladiya (the largest shareholder in the company) had to leave allegedly because his past conviction in the United States in a credit card fraud case was hindering talks with investors.

The same ET report said that as he resigned, Koladiya transferred his shares to Grover, Nakrani and one Mansukhbhai Mohanbhai Nakrani, as well as some other early-stage and angel investors.

Does NCLT have discretion to admit CIRP under Section 7, IBC? Supreme Court to reconsider Vidarbha Industries judgment

In the Vidarbha Industries case, the top Court had held that the NCLT has the discretion to admit or reject CIRP applications filed by Financial Creditors.

The Supreme Court is slated to hear a plea that has questioned the correctness of the ruling in ***Vidarbha Industries Power Limited v. Axis Bank Limited*,** which had held that the NCLT has the *discretion* to admit or reject CIRP applications filed by Financial Creditors under Section 7(5)(a) of the Insolvency and Bankruptcy Code (IBC) [***Maganlal Daga HUF v Jag Mohan Daga***].

A bench comprising Chief Justice of India (CJI) **DY Chandrachud**, Justices **PS Narasimha** and **JB Pardiwala** on January 16 issued notice returnable by February 6 in the matter.

The plea moved by Financial Creditors has challenged an order of the National Company Law Appellate Tribunal (NCLAT) which brought a corporate debtor out of the Corporate Insolvency Resolution Process (CIRP).

Pertinently, it was argued that the decision in ***Vidarbha Industries Power Limited v. Axis Bank Limited*,** which was relied on by the NCLAT, ran contrary to settled law.

In the *Vidarbha Industries* case, the Supreme Court had concluded:

"*The Adjudicating Authority (NCLT) has been conferred the discretion to admit the application of the Financial Creditor. If facts and circumstances so warrant, the Adjudicating Authority can keep the admission in abeyance or even reject the application. Of course, in case of rejection of an application, the Financial Creditor is not denuded of the right to apply afresh for initiation of CIRP, if its dues continue to remain unpaid."*

A review petition challenging this verdict was dismissed by the Supreme Court in September, last year.

On Monday, Solicitor General of India (SG) Tushar Mehta, who happened to be present in court during the hearing, also raised concerns over this ruling, submitting that the principle laid down in the *Vidarbha Industries* case is liable to dilute the substance of the IBC.

The Court took this submission on record and agreed to hear the matter further.

The appeal before the Court also highlighted the necessity of constituting a Committee of Creditors (CoC) and placing before it any offer for settlement before bringing the debtor out of the CIRP.

The appellants submitted that they were creditors of the debtor, having extended loans collectively amounting to ₹1,65,29,500 which were in default.

The NCLAT had allowed the debtor's plea on the understanding that the debtor offered to pay the entire money owed to one of the financial creditors. However, an adverse inference was made since this offer was refused by them.

"..*we find it a fit case where CIRP should not be allowed to continue when Financial Creditor proceeded for 'CIRP' not for purposes of Resolution of Insolvency of the Corporate Debtor but for other purposes with some other agenda,*" the NCLAT had held.

The creditors argued that this reasoning was a "serious error" as it failed to appreciate that the debtor had huge amounts outstanding to other creditors as well. Thus, there was no basis to bring the debtor out of the CIRP.

"*The appropriate course was to allow the Committee of Creditors ("CoC") to be constituted and direct the Corporate Debtor to place its offer for settlement before the CoC, for consideration, in accordance with provisions of the IBC*", said the plea.

It was the creditors' contention that this was a step contrary to the letter and spirit of the IBC. Further, it would set a dangerous precedent, they contended.

"*The IBC does not envisage piece meal settlements at the instance of the Corporate Debtor, rather the same are discouraged,"* the creditors submitted.

Reliance was also placed on the case of ***ES Krishnamurthy v Bharath Hi Tech Builders***, wherein the top court held that the NCLT and NCLAT, being creatures of statute, were not courts of equity and could not compel parties to enter into a settlement.

The appellants were represented by Senior Advocate **AM Singhvi**, Dhruv Mehta and advocates Aman Raj Gandhi, Parthasarathy Bose, Nidhiram Sharma, Saloni Kumar, Pranay Tuteja and Pranaya Goyal.

The respondents were represented by Advocates Anirudh Sanganeria, Patitha Paban Biswal.

Supreme Court Issues Notice On Plea Challenging Surrogacy (Regulation) Act Provisions Precluding Unmarried Women From Becoming Intending Mothers

The Supreme Court, on Friday, issued notice in a plea, inter alia, challenging Section 2(s) of the Surrogacy (Regulation) Act, 2021 to the extent that it excludes unmarried women from the ambit of the definition of 'intending woman'. Section 2(s) defines 'intending woman' as 'an Indian woman who is a widow or divorcee between the age of 35 to 45 years and who intends to avail the surrogacy'. The petitioner, who is an unmarried woman her late 30s, and had already initiated the search for a potential surrogate mother before the legislation came into place, is now aggrieved by certain provisions of the enactment. She has approached the Apex Court assailing Sections 2(r), 2(s), 2(zd) and 2(zg) read with Section 4 and 5 of the Act as unconditional, illegal, void and in violation of Articles 14, 19, 38 and 51 of the Constitution of India in as much they preclude unmarried women from embracing parenthood through surrogacy.

The petition has been filed through Advocate-on-Record, Mr. Mayank Pandey. Appearing before a Bench comprising Justice Ajay Rastogi and Justice Bela M. Trivedi, the Counsel apprised it that the petitioner has already undergone surgery for extraction of her eggs. While she was in search for a surrogate, the legislature came into force. The petition submits that the petitioner has undergone severe mental and physical stress associated with the medical procedure. It appears that the petitioner has already incurred an expense of INR 1,00,000 for extraction and a recurring payment of INR 40,000 for freezing, every six months.

It is argued in the petition that there is no illegible differential or rational nexus for treating 'unmarried' women as a separate category from other 'intending women'. It emphasises that marital status of an individual cannot be a marker for classification.

"Prohibiting unmarried or single women from accessing the benefit of surrogacy while allowing married women, widows and divorcees to access fall foul of Article 14", the petition reads. According to the petition, by impinged on a woman's right to exercise autonomy and control over her reproductive decisions, the impugned provisions are also violative of Article 21 of the Constitution of India. Among other judgments, it referred to the recent decision of the Apex Court in X v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr,

wherein it had held that -

“The law should not decide the beneficiaries of a statute based on narrow patriarchal principles about what constitutes “permissible sex”, which create invidious classifications and exclude groups based on their personal circumstances. The rights of reproductive autonomy, dignity, and privacy under Article 21 give an unmarried woman the right of choice on whether or not to bear a child, on a similar footing of a married woman.”

Section 4, which lays down the surrogacy procedure, has been assailed on the ground that it places unreasonable restrictions on exercise of reproductive rights of intending couple. Some of the unreasonable requirements pointed out in the petition are -

the requirement to not have any surviving child; the requirement that the surrogate mother should be genetically related to the intending couple or intending woman;

the condition restricting the surrogate to act as a surrogate mother more than once in her lifetime; the condition of age limit of 25-35 years for the surrogate mother to undergo surgery; and the condition that intending mother should only be a widow or divorcee between the age of 35-45 years.

The petition claims that the Legislature has failed to incorporate the recommendations given by the Law Commission in its report titled ‘Need for legislation to regulate assisted reproductive technology clinics as well as rights and obligations of parties to a surrogacy’. The report recognises the right of an unmarried woman to be an intending mother. The petition also argues that the impugned provisions are violative of international instruments.

BREAKING| Hijab Case : CJI DY Chandrachud Agrees To Consider Request For Urgent Listing; Petitioners Cite Need To Attend Govt Colleges For Exam

Senior Advocate Meenakshi Arora on Monday mentioned before the Chief Justice of India the hijab matter for urgent listing, saying that urgent interim directions are required to permit Muslim girl students to appear for exams which are conducted only in Government colleges.

The senior counsel was referring to the appeals challenging the Karnataka High Court's judgment which upheld the ban imposed by the State Government on Muslim girls wearing religious headscarf in government colleges. In October 2022, a two-judge bench had delivered a split verdict in the appeals, with Justice Hemant Gupta upholding the hijab ban and Justice Sudhanshu Dhulia ruling against it.

CJI Chandrachud said that he will examine the matter and list it before a third bench. Arora said that the students have already lost one academic year and the Muslim girl students had to move to private institutions after the government Pre University Colleges prohibited hijab.

"But the exams are to be held in government colleges. So the private colleges can't conduct exam. The practicals will start on 6th of February. We are only praying to take up the matter for interim directions", Arora submitted.

Basic Structure Doctrine A North Star Which Guides Interpretation Of Constitution : CJI DY Chandrachud

Chief Justice of India Dr DY Chandrachud has called the 'basic structure doctrine' a north star "which guides and gives a certain direction to the in interpreters and implementers of the Constitution when the path ahead is convoluted."
The basic structure doctrine had evolved in the celebrated 13-Judge Constitution Bench judgement of the Supreme Court almost five decades back. It, however, had come under attack by the Vice President of India Jagdeep Dhankhar recently, when he said that the judgment set a bad precedent and questioned if the judiciary could put fetters on the Parliament's powers to amend the Constitution and frame laws in a democratic nation.
The doctrine had evolved in the famous Kesavananda Bharati v. State of Kerala where well known jurist Nani Palkhivala had represented Bharati. Talking about Palkhivala's contribution to the doctrine the CJI said, "If not for Nani, we would not have had the basic structure doctrine in India."

"The basic structure of our Constitution, like a north star, guides and gives a certain direction to the interpreters and implementers of the Constitution when the path ahead is convoluted," he added.

CJI also added, "Amend as you may even the solemn document which the founding fathers are committed to your care for. You know the best needs of your generation, but the Constitution is a precious heritage. Therefore, you cannot destroy its identity. The only thing which I will add to this expression is the use of the phrase founding mothers, along with founding fathers of the Constitution".

The CJI also charted out the global migration of the basic structure doctrine through the years. "Whenever a legal idea is transported from another jurisdiction, it ends up undergoing a transformation in its identity dependent on local markets. After India adopted the basic structure doctrine, it migrated to our neighbouring countries such as Nepal, Bangladesh and Pakistan. Different formulations of the basic structure doctrine have now emerged in South Korea, Japan, certain Latin American countries and African countries as well.The migration, integration and the formulation of the doctrine of basic structure in constitutional democracies across continents is a rare success story of the diffusion of legal ideas of the world. What greater tribute can we have than this?" he said.

Justice Chandrachud also emphasised that the journey of the doctrine of basic structure had shown that it might be beneficial for a judge to look at how other jurisdictions have dealt with similar problems. "Nonetheless, the larger picture of

legal culture and local dimensions of law, which are dictated by the context, should never be obfuscated. Law is always grounded in social realities. Just as the House must be in harmony with its environment and then context, so must law and legal ideas become part of the landscape and embody the express embody and express our local values" he added. "If you look at our institution then it does not favour unbounded economic liberalism. Rather, our Constitution seeks to find the right balance." On how the judges should interpret the Constitution, Justice Chandrachud said, "The craftsmanship of a judge lies in interpreting the text of the Constitution with the changing times while keeping its soul intact". The CJI Chief was delivering a lecture in Mumbai on 'Traditions & Transitions: Palkhivala's Legacy in an Interconnected World'. The event was organised by the Nani Palkhivala Memorial Trust.

The CJI sought to contextualise Nani's life and ideas from the standpoint of the historic events which shaped his own personal evolution. "In living through these times, Nani shaped the history of contemporary India as well."
"And he was a true constitutionalist who revealed the Constitution of India and dedicated his entire life to preserving the integrity of our Constitutionalism", CJI added.

CJI recalled that once emergency was declared, Nani Palkhivala stopped representing former Prime Minister Indira Gandhi. CJI spoke about a hearing in the Minerva Mills case in which a judge was talking about the merits of socialism. He recalled Palkhivala's response to the judge – "Only an imbecile would try and jump the Berlin Wall from the West to the East". The CJI shared that Nani suffered from a stammer as a child and overcame it. "At the age of 11, Nani participated in an elocution competition. To overcome his stammer, his father encouraged young Nani to practice speaking while rolling almonds in his mouth. Fittingly, Nani gave a speech on the topic 'try and try until you succeed'…True to the essence of the topic, Nani overcame his stammer and then went on to become an orator, par excellence", the CJI recalled.

"Nani's life has been a witness to historic traditions and transitions in India both in the fields of law and economics. Modern nations often require the great imaginative capacity of individuals to transcend the barriers of space and time", he added. He said that, from time to time, we require people like Nani Palkhivala to hold candles in their steady hands to light the world around us. "He told us that our Constitution has a certain identity which cannot be ordered. That we as a people are entitled to a rights-based democracy. And that we as a nation can aspire for a better economic future. Cultures across the world believe in prophets who appear during times of despair, to warn people that they are walking on the wrong path. Nani was one such prophet," the CJI said.

He concluded the lecture by referring to a poem by Alexander Pushkin stating that it succinctly

CURRENT AFFAIRS

Google Policy Change In line with CCI direction

Our smartphones come with pre–installed apps like Gmaps, Gmail, Google search engines, etc. We cannot uninstall these apps even if we do use them. Apart from Google apps some smartphones also come with third-party apps (supported by Google). Google uses its dominance and influences smartphone makers to pre–install apps. This creates a nuisance to the ..

MEITY Grievance Appellate Committees

The IT Rules of 2021 say that Social Media Companies such as Facebook should compulsorily appoint Grievance officers. These officers should be from India. They will oversee the complaints made by social media users. Now the Ministry of Electronics and Information Technology is forming a committee to which these officers will report to. The committee ..

India's Stand on Implementation of 13A in Sri Lanka

In 1987, India and Sri Lanka signed an agreement to implement the 13th amendment of the Sri Lankan constitution. According to the agreement, the Sri Lankan Government will provide powers to the Tamil community in the country. Recently, External Affairs Minister Jai Shankar declared that India ponders the implementation of 13A "CRITICAL". According to India, ..

Major Ports Adjudicatory Board Rules, 2023

The Government of India legislated the Major Port Authorities Act in 2021. Section 54 of the act brings in the need for the constitution of an Adjudicatory Board to regulate the major ports in the country. Section 58 of the act gives the function of the board. The Government of India recently issued a notice ..

Supreme Court on IT relief of Sikkimese women

The Supreme Court of India has recently ruled that the exclusion of Sikkimese women who marry non-Sikkimese men after April 1, 2008 from exemptions under the Income Tax Act is unconstitutional and amounts to gender discrimination. The court, in its judgment, held that this discrimination is based on gender, which is violative of Articles 14, ..

What is Doctrine of Basic Structure of the Constitution?

Recently, Vice President Jagdeep Dhankhar sparked a debate on the separation of powers between the executive and the judiciary. He criticized the Supreme Court for using the doctrine of basic structure to strike down the constitutional amendment that introduced the National Judicial Appointments Commission Act. In his maiden speech in the Rajya Sabha, Dhankhar had ..

Uttarakhand Women Reservation Bill

Uttarakhand Governor Lt Gen (Retd) Gurmit Singh has approved a bill providing 30% horizontal reservation for domiciled women citizens of the state in public services and posts. The bill, known as the Uttarakhand Public Services (Horizontal Reservation for Women) Bill 2022, was passed by the Uttarakhand assembly during the winter session on November 30. This ..

LATEST JUDGMENTS

Munna Lal v. State of Uttar Pradesh

1. These two criminal appeals, arising out of the same occurrence, call in question the judgment and order of the High Court of Judicature at Allahabad dated 9th July, 2014 dismissing Criminal Appeal No. 539 of 1986 [being an appeal under section 374(2) of the Code of Criminal Procedure (hereafter "Cr. P.C.", for short)] carried by the appellants from the judgment and order dated 29th January, 1986 of the Court of IInd Additional Sessions Judge, Shahjahanpur, Uttar Pradesh, in S.T. No. 499 of 1985.

(S. Ravindra Bhat and Dipankar Datta, JJ.)

Criminal Appeal No. 490 of 2017, decided on January 24, 2023

Munna Lal ____ Appellant;

v.

State of Uttar Pradesh ______________________________ Respondent.

With

Criminal Appeal No. 491 of 2017

Sheo Lal ____ Appellant;

v.

State of Uttar Pradesh ______________________________ Respondent.

Criminal Appeal No. 490 of 2017 and Criminal Appeal No. 491 of 2017

The Judgment of the Court was delivered by
Dipankar Datta, J.

THE CHALLENGE

1. These two criminal appeals, arising out of the same occurrence, call in question the judgment and order of the High Court of Judicature at Allahabad dated 9th July, 2014 dismissing Criminal Appeal No. 539 of 1986 [being an appeal under section 374(2) of the Code of Criminal Procedure (hereafter "Cr. P.C.", for short)] carried by the appellants from the judgment and order dated 29th January, 1986 of the Court of IInd Additional Sessions Judge, Shahjahanpur, Uttar Pradesh, in S.T. No. 499 of 1985.

FIRST INFORMATION REPORT (F.I.R.)

2. Narayan, father of Ram Vilas, was murdered in the morning of 5th September, 1985 round about 10.00 hours. A written complaint was lodged soon thereafter, at about 12.10 hours, by

Ram Vilas leading to registration of an F.I.R. under section 302 of the Indian Penal Code (hereafter "IPC", for short). One Dr. Mohd. Hanif Khan was the scribe of the said FIR. Munna Lal, Sheo Lal, Babu Ram, and Kalika were accused of committing such murder.

INQUEST

3. Consequent upon registration of the F.I.R., Shailendra Bahadur Chandra, the Station Police Officer of Police Station Tilhar (who was also the Investigating Officer) proceeded to the place of occurrence, along with Ram Pal Sagar, S.I., and Udham Singh, constable. Inquest had been conducted by Ram Pal Sagar in course whereof a bullet was recovered at the place of occurrence from the blood oozing out from one of the injuries suffered by Narayan.

CHARGE(S)

4. Upon completion of investigation, charge-sheet under section 302 was filed before the concerned court against each of the 4 (four) accused. Kalika had passed away in the meanwhile. Upon committal, the trial court framed the following charges:

"Charge

I, Sanwal Singh, II Addl. Sess. Judge, Shahjahanpur, do hereby charge you:—

1. Shiv Lal

2. Munna Lal

3. Babul Ram, as follows:

That you along with Kalika on 05.09.85 at about 10.00 A.M. in village Fatehpur Bujurg alias Mohaddipur, police station Tilhar, District: Shahjahanpur, at the field of Budhu Khan situated in the west of village Abadi did commit murder by intentionally and knowingly causing the death of Narain in that you Munna caused injuries by gunshot, you Babu Ram caused injuries by tamancha and you Shiv Lal caused injuries by Kanta and your associate Kalika deceased caused injuries by lathi and all of you intentionally co-operated in the commission of the said offence and that you thereby committee an offence punishable under section 302 I.P.C. and within the cognizance of this court of sessions.

And I hereby direct that you be tried by this court of sessions on the said charge.

TRIAL

5. The prosecution examined 5 (five) witnesses to support its case and more than a dozen of documentary evidence. None was examined on behalf of the defence.

6. PW-1 was Dr. Ramesh, who conducted *post-mortem*. The following *ante-mortem* injuries were found on the cadaver of Narayan:

(1) Lacerated wound 2 cm × 1 cm over forehead 3 cm above left eye brow wall maggots present.

(2) Lacerated wound 4 cm × 1 cm over chin 1 cm below lower lip. Maggots were present.

(3) Lacerated wound 3 cm × 1 cm left side face 2 cm left lateral to left side of mouth.

(4) Incised wound 17 cm × 8 cm over front of abdomen cavity deep 5 cm above umbilicus. Visceral organs prolapsing.

(5) Gunshot wound of entry 2 cm × 1 cm over front of abdomen 3 cm right lateral to umbilicus tattooing present. Direction backward downward.

(6) Gunshot wound of exit 6 cm × 5 cm over left side of hip 5 cm below iliac crest.

(7) Gunshot wound of entry 2 cm × 1 cm over front of right thigh 15 cm below ilicae spine (ant) with direction backward lateral.

(8) Gunshot wound of exit 3 cm × 2 cm over lateral side of right thigh 12 cm below iliae crest."

7. According to PW-1, "*death of Narayan occurred due to shock and haemorrhage and much bleedings"*; injury nos. 5 and 6 and likewise injury nos. 7 and 8 noted above were respectively the entry and exit wounds corresponding with each other, which could be caused by gun and tamancha shots, whereas injury nos. 1, 2, and 3 were possible by lathi and injury no. 4 could be caused by "kanta".

8. Ram Vilas, son of the deceased, while deposing as PW-2 stated that a quarrel had taken place 10 (ten) years before between Narayan and Jaswant (father of Sheo Lal) and Sheo Lal and that Jaswant died in that quarrel. One 'Aajudhi', on the side of Sheo Lal, was murdered. Narayan was, however, acquitted. PW-2 identified, *inter alia*, Munna Lal and Sheo Lal who were present in the Court. According to PW-2, on the date of the fateful incident, he along with his father Narayan after ploughing their field had reached the field of Budhu Khan when the 4 (four) accused persons suddenly came out from the field belonging to Sheo Lal. The said accused viz., Munna Lal, Sheo Lal, Babu Ram and Kalika, were armed with 'bandook' (gun), 'kanta' (sharp edged weapon), 'tamancha' (locally made gun), and 'lathi' (stick) respectively. They were hurling abuses, and exhorting to kill Narayan. Narayan received gunshot injuries from Munna Lal and Babu Ram, whereas Sheo Lal and Kalika inflicted blows on him by kanta and lathi, respectively. Such incident was also witnessed by Kedar, Hemraj, Khamkaran and Chhange Lal. Kedar and Hemraj requested not to kill. It was reiterated that Hemraj had come at the time of incident and had seen the incident. After the accused persons fled, other persons had reached there. PW-2 finding that Narayan was dead, reached the shop of Dr. Hanif and narrated the incident to him whereupon Dr. Hanif had written the complaint and read over the contents to PW-2. PW-2 neither signed nor affixed his thumb impression on the report written by Dr. Hanif but when PW-2 took the report to the police station, he had affixed his thumb impression on the report which was written by the 'munshi' in the police station.

9. In course of cross-examination, PW-2 disclosed that Narayan had made an application for cancelling the license of the gun of Jaswant and had made 'pairvi'. Narayan had earlier been tried in a case under section 302, IPC and he also filed a cross-case; further, a case under section 107/116, Cr. P.C. was pending against Narayan; also, a case under section 145, Cr. P.C. was pending wherein PW-2 and his father Narayan were the accused persons. In the

latter case, Munna Lal was a witness against them. Since the murder of 'Aajudhi', there has been constant enmity with Sheo Lal. However, till the murder of Narayan, there was no 'marpeet' or 'pairokari' with PW-2 or his father. PW-2 "had not affixed thumb impression on the report at the police station" but had affixed his thumb impression on it at the 'dukaan' (shop) of Hanif and handed over the same to the munshi.

10. Hemraj, an eye-witness, deposed as PW-3. Sister of PW-3 resides in Gopalpur Dhadhipura and he is on visiting terms. The distance between Mohaddipur and Gopalpur is 1-2 miles. Whenever PW-3 used to travel to Gopalpur from his village, he used to take the outer road of village Mohaddipur. When he reached near the field of Budhu Khan, the accused persons armed with gun, kanta, tamancha, and lathi, were killing Narayan. PW-2 was present at the place of occurrence. Two passersby viz., Chhange Lal and Khemkaran had reached there. Apart from PW-3, Kedar who was grazing two buffaloes had also seen the incident. After inflicting blows on Narayan, the accused persons fled towards the southern direction. Narayan had died.

11. In course of cross-examination, PW-3 denied the suggestions that he was related to the family of Narayan. PW-3 reiterated that Kedar was grazing animals near the place of occurrence and Khemkaran and Chhange Lal came there in his (PW-3) presence. By the time PW-3 left the place of occurrence, 20 (twenty) to 25 (twenty-five) persons assembled there of whom one old lady and one girl from the family of Narayan were weeping. Neither could PW-3 identify the wife of Ram Vilas nor did he know the name of villagers who reached there later.

12. Ram Pal Sagar, who conducted inquest, was PW-4. PW-4 deposed that in course of inquest, he found a bullet in the blood oozing out from the injury at the hip of the deceased. He proved the charge-sheet and the seizure memo pertaining to the bullet that was recovered. PW-4 also deposed that, among others, he could find Kedar on reaching the place of occurrence.

13. Constable Udham Singh deposed as PW-5. PW-5 had accompanied the Investigating Officer to the place of occurrence, where PW-4 had conducted the inquest.

14. Significantly, Dr. Hanif, Kedar, Chhange Lal, Khemkaran and the Investigating Officer were not examined by the prosecution. Further, neither the gun and the tamancha nor the kanta and lathi were seized. Also, there were no forensic laboratory or ballistic reports.

15. Ultimately, upon consideration of the evidence on record, the Sessions Judge held that the consistent and unimpeachable direct evidence proved the case, which was supported by dependable probabilities, existence of motive, medical evidence and all other circumstances. In so holding, the ocular account of PWs 2 and 3 weighed with the trial court while holding Munna Lal, Sheo Lal and Babu Ram guilty of the offences with which they were charged. It was also held that the prompt F.I.R. presented a guarantee about the truthfulness of the case. Consequently, by his judgment dated 29th January, 1986, the judge convicted the surviving accused, viz., Munna Lal, Sheo Lal and Babu Ram, and imposed upon them the sentence of life imprisonment.

APPEAL

16. As noted above, the aforesaid judgment and order of the Sessions Judge was carried in appeal before the High Court of Judicature at Allahabad by Munna Lal, Sheo Lal and Babu Ram.

17. During the pendency of the appeal, Babu Ram passed away; hence, the appeal at his instance stood abated.

18. Upon hearing arguments advanced on behalf of Munna Lal and Sheo Lal as well as on behalf of the State of Uttar Pradesh and on consideration of the materials on record, the High Court concurred with the findings returned by the Sessions Judge and observed that there was no sufficient ground to interfere. While dismissing the said appeal, the High Court directed Munna Lal and Sheo Lal, who were on bail, to surrender before the trial court to serve out the remaining period of their sentences within 30 days, failing which the trial court was directed to ensure their arrest and to send them to jail for serving sentences in accordance with law.

PROCEEDINGS BEFORE THIS COURT

19. Aggrieved by the dismissal of Criminal Appeal No. 539 of 1986 by the High Court, Munna Lal and Sheo Lal applied for special leave to appeal whereupon leave was granted by this Court by an order dated 6th March, 2017.

20. In the meanwhile, Munna Lal and Sheo Lal had been taken into custody after dismissal of their appeal by the High Court. Both the appellants having served their respective sentences in excess of 11 years and 11 months, they applied for bail. While considering the application(s) for bail on 10th January, 2023, this Court directed the parties to return better prepared the following day to address on the merits of the appeals.

21. Mr. Mukesh K. Giri, learned counsel appearing for the appellants viz., Munna Lal and Sheo Lal, and Mr. Sanjay Kumar Tyagi, learned counsel for the respondent, have been heard at sufficient length.

APPELLANTS' ARGUMENTS

22. Mr. Giri took serious exception to the findings returned by the trial court and the High Court. According to him, from the evidence on record, it is absolutely clear that there was a long-standing enmity between Narayan and Jaswant (father of Munna Lal) and the courts below failed to take note that it was a clear case of false implication. Further, he contended that the statement of Hemraj, PW-3, under section 161, Cr. P.C. was recorded on 29th September, 1985, i.e., more than 24 (twenty-four) days after Narayan was allegedly murdered by the appellants. In the absence of the Investigating Officer entering the witness box, there was no justifiable explanation for this delay in recording such statement and the same deeply prejudiced the appellants. Next, referring to non-production of Dr. Hanif, Kedar, Chhange Lal and Khemkaran, as prosecution witnesses, it was contended by him that the same ought to have been held fatal for the prosecution case.

23. Continuing further, Mr. Giri contended that PW-3 was only a chance witness, and being a resident of a village different from the village where the appellants and Narayan with his family members resided, he had no reason to be there at the place of occurrence at 10.00 hours in the morning and no plausible explanation was proferred by him. For supporting his contention that the evidence of a chance witness requires cautious and close scrutiny, that his

presence at the place of occurrence must be adequately established, and that deposition of a chance witness, whose presence at the place of occurrence remains doubtful, should be discarded, reliance was placed by Mr. Giri on the decision of this Court reported in (2009) 9 SCC 719 (*Jarnail Singh* v. *State of Punjab*).

24. Mr. Giri further contended that Munna Lal's double barrel gun was covered by a licence and no attempt was ever made to seize such gun. Interestingly, a bullet having been seized at the place where Narayan's dead body lay, there was also no attempt to obtain the opinion of a ballistic expert to ascertain whether the bullet could have been fired from Munna Lal's gun.

25. Also, Mr. Giri contended that failure of the prosecution to have the testimony of the Investigating Officer recorded ought to be regarded as a serious flaw which lends credence to the defence version that Narayan might have been murdered by someone else but because of the previous enmity, Munna Lal and Sheo Lal were falsely arraigned as accused.

ARGUMENTS OF THE STATE

26. *Per contra*, Mr. Tyagi, learned counsel for the common respondent, contended that the trial court as well as the High Court meticulously scanned the evidence on record and returned findings that Munna Lal and Sheo Lal along with Babu Ram were guilty of the offence of murder. Mere flaws in the process of investigation, according to him, would not be sufficient for dislodging the findings so returned. The versions of PW-2 and PW-3, the eyewitnesses, were found to be reliable and trustworthy by the courts below and there being nothing on record to impeach such versions, no interference is called for. He also contended that omission to seize the weapons of offence and/or mere non-production of ballistic report cannot by itself be fatal for the prosecution case where credible ocular evidence is available on record unmistakably pointing to the guilt of the accused. He concluded by submitting that the appeals being devoid of any merit, deserve dismissal.

THE QUESTION

27. The question that this Court is tasked to decide on these criminal appeals is, whether the trial court, on the basis of the materials before it, was justified in recording conviction and consequently, sentencing the appellants to spend the rest of their lives in prison. Since the High Court has upheld the judgment and order of the trial court, the answer to this question would guide this Court to decide the appeals one way or the other.

DECISION

28. Before embarking on the exercise of deciding the fate of these appellants, it would be apt to take note of certain principles relevant for a decision on these two appeals. Needless to observe, such principles have evolved over the years and crystallized into 'settled principles of law'. These are:

(a). Section 134 of Indian Evidence Act, 1872, enshrines the well-recognized maxim that evidence has to be weighed and not counted. In other words, it is the quality of evidence that matters and not the quantity. As a sequitur, even in a case of murder, it is not necessary to insist upon a plurality of witnesses and the oral evidence of a single witness, if found to be reliable and trustworthy, could lead to a conviction.

(b). Generally speaking, oral testimony may be classified into three categories, viz.:

(i) Wholly reliable;

(ii) Wholly unreliable;

(iii) Neither wholly reliable nor wholly unreliable.

The first two category of cases may not pose serious difficulty for the court in arriving at its conclusion(s). However, in the third category of cases, the court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial, as a requirement of the rule of prudence.

(c). A defective investigation is not always fatal to the prosecution where ocular testimony is found credible and cogent. While in such a case the court has to be circumspect in evaluating the evidence, a faulty investigation cannot in all cases be a determinative factor to throw out a credible prosecution version.

(d). Non-examination of the Investigating Officer must result in prejudice to the accused; if no prejudice is caused, mere non-examination would not render the prosecution case fatal.

(e). Discrepancies do creep in, when a witness deposes in a natural manner after lapse of some time, and if such discrepancies are comparatively of a minor nature and do not go to the root of the prosecution story, then the same may not be given undue importance.

29. On appreciation of the oral evidence tendered by PW-2 and PW-3, this Court is of the view that its conclusions would have been no different from those arrived at in the judgments impugned but for certain vital factors, proposed to be discussed a little later, which unfortunately did not engage the attention of the courts below. Also, had the lacunae been of a minor nature, it may not have been at all difficult for this Court to accept what PW-2 and PW-3 deposed, in the light of the medical evidence tendered by PW-1, and uphold the finding that Narayan succumbed to the gunshot and other injuries inflicted upon him by the appellants. Truly, it would have been an open and shut case of murder in which Narayan was the victim and the appellants were the perpetrators of the crime.

30. However, the situation takes a turn for the worse for the prosecution in view of the previous history of enmity, spread over almost 10 (ten) years prior to the murder of Narayan, between him (Narayan) and the appellants. Not only did the appellants testify in course of examination under section 313, Cr. P.C. that Munna Lal was a witness on behalf of Sheo Lal in proceedings under section 145, Cr. P.C. relating to a property dispute between the predecessors-in-interest of Sheo Lal and Ram Vilas (PW-2), it is evident from the deposition of PW-2 himself that there was a long standing quarrel during the last 10 (ten) years between Narayan on the one hand and Jaswant (father of Sheo Lal) and Sheo Lal on the other; further that, Jaswant and one other person had died in that quarrel; and that, such enmity continued since Sheo Lal wanted to take forcible possession of the residential land prior to the murder of Narayan, for which a case under section 145, Cr. P.C. had been registered and in which Munna Lal was a witness against PW-2. The endeavour on the part of the appellants has been to demonstrate before this Court that Munna Lal and Sheo Lal have been falsely implicated since PW-2 intended to ensure that they are put behind the bars and thereby an end to the property dispute is brought about in a manner not countenanced by law.

31. This part of the contention of the appellants cannot be totally brushed aside. By reason of the uncontroverted evidence of a continued enmity existing from 10 (ten) years preceding the alleged murder of Narayan by and between the two groups, it could be established that PW-2 nurtured personal ill-will towards the appellants and the possibility of PW-2 having acted with intention to keep the appellants away from legal proceedings as well as interference in property rights cannot be totally ruled out; hence, PW-2 being inimical to the appellants, his testimony has to be taken with a pinch of salt and a deeper scrutiny of the other evidence on record is also indeed called for bearing the settled principles, referred to above, in mind.

32. Having found from the oral evidence of PW-2 what transpired on the fateful morning, it is considered necessary to look into the oral testimony of PW-3. There was indeed an attempt on the part of the appellants to establish that PW-3 was a relative of PW-2 and that being an interested witness apart from a 'chance witness', his testimony is not wholly reliable. It is not clear from the testimony of PW-3 as to why, so early in the morning, he had the occasion to pass by the place of occurrence. It is found that PW-3 is a resident of Nevdiya, Police Station Khudaganj, District Shahjahanpur whereas PW-2 happened to be a resident of Fatehpur Bujurg, Police Station Tilhar, District Shahjahanpur. The distance between the two places is 1-2 miles. The incident of murder happened within the jurisdictional limits of Police Station Tilhar. It has not surfaced from the evidence of PW-3 very clearly from where he started and where he was headed for. Gopalpur Dhadipura could be the village, where the matrimonial home of the sister of PW-3 is; but for what purpose he had left is not too clear. It was not said by PW-3 that he was on his way to his sister's residence. In cross-examination, PW-3 denied having resided in "Fatehpur Bujurg urf Mohaddipur".

33. In order to prove the guilt of the appellants beyond reasonable doubt, some more particulars were required given the circumstance that PW-3 was at best a 'chance witness'. Incidentally, PW-2 had denied being related to PW-3 and it was not elicited by the prosecution from PW-2 as to how he came to know the name of PW-3, given the fact that the latter was a resident of a different village. Similarly, PW-3 too did not say that he knew PW-2 or his father from before. The nature of acquaintance that PW-2 and PW-3 had, ought to have been brought out by the prosecution. That apart, although it is true that PW-3 gave a vivid description of how Narayan was shot by Munna Lal, no specific role was attributed insofar as Sheo Lal is concerned except that all 4 (four) accused were "beating" (as deciphered from the evidence recorded in Hindi) and not "killing" (as available from the translated version in the paper-book) Narayan. Again, in course of cross-examination, PW-3 deposed that Munna Lal had shot Narayan without elaborating whether Sheo Lal also inflicted any injury on Narayan. There is an apparent inconsistency between the versions of PW-2 and PW-3 insofar as the role attributed to Sheo Lal by PW-2 is concerned, which can hardly be overlooked.

34. However, what is of prime importance is that the circumstances as appearing from the record do not justify the presence of PW-3 at the place of occurrence. This Court is, therefore, of the firm view that the oral testimony of PW-2 and PW-3 is not free from doubt and their evidence not being of unimpeachable quality, the rule of prudence would demand a corroboration of their versions from other witnesses who, according to PW-2 and PW-3, were present at the place of occurrence and witnessed the murder of Narayan.

35. As per the evidence of PW-2 and PW-3, there were other eye-witnesses of whom Kedar was a key witness, and Chhange Lal and Khemkaran were independent witnesses. Since it was the version of PW-2 and PW-3 that Kedar, Chhange Lal and Khemkaran were present at

the place of occurrence and had also witnessed, *inter alia*, the incident of "beating" of Narayan with a 'kanta' by Sheo Lal and firing of a gunshot at him by Munna Lal, direct evidence could have been provided by either of the three (Kedar, Chhange Lal and Khemkaran) corroborating the versions of PW-2 and PW-3. For reasons best known to the prosecution, these three individuals, named both by PW-2 and PW-3 as other eye-witnesses, were not examined leading this Court to draw an inference that had they been examined, the prosecution story would not have been supported by them.

36. Not only were Kedar, Chhange Lal and Khemkaran not examined, the prosecution also did not examine Dr. Hanif to whom PW-2 had approached and allegedly narrated the incident of murder for being transcribed into a report. Whether at all Dr. Hanif had taken down the version of PW-2 in writing could have been deposed by him but in the absence thereof, a cloud of doubt is formed for which this Court is again compelled to draw an inference that Dr. Hanif may not have been in the picture at all. This Court, however, does not attach much importance to the clear inconsistency in the deposition of PW-2 as to where precisely he affixed his thumb impression on the report, i.e., in the shop of Dr. Hanif or at the police station. It is a minor discrepancy which can be discarded.

37. The aforesaid circumstances have to be appreciated in the light of three other circumstances, which could be viewed as extenuating.

38. First, statement of PW-3 under section 161, Cr. P.C. was recorded nearly 24 days after the incident. Since the Investigating Officer did not enter the witness box, the appellants did not have the occasion to cross-examine him and thereby elicit the reason for such delay. Consequently, the delay in recording the statement of PW-3 in course of investigation, is not referred to and, therefore, remains unjustified. The possibility of PW-3, being fixed up as an eye-witness later during the process of investigation, cannot be totally ruled out.

39. Secondly, though PW-4 is said to have reached the place of occurrence at 1.30 p.m. on 5th September, 1985 and recovered a bullet in the blood oozing out from the injury at the hip of the dead body, no effort worthy of consideration appears to have been made to seize the weapons by which the murderous attack was launched. It is true that mere failure/neglect to effect seizure of the weapon(s) cannot be the sole reason for discarding the prosecution case but the same assumes importance on the face of the oral testimony of the so-called eyewitnesses, i.e., PW-2 and PW-3, not being found by this Court to be wholly reliable. The missing links could have been provided by the Investigating Officer who, again, did not enter the witness box. Whether or not non-examination of a witness has caused prejudice to the defence is essentially a question of fact and an inference is required to be drawn having regard to the facts and circumstances obtaining in each case. The reason why the Investigating Officer could not depose as a witness, as told by PW-4, is that he had been sent for training. It was not shown that the Investigating Officer under no circumstances could have left the course for recording of his deposition in the trial court. It is worthy of being noted that neither the trial court nor the High Court considered the issue of non-examination of the Investigating Officer. In the facts of the present case, particularly conspicuous gaps in the prosecution case and the evidence of PW-2 and PW-3 not being wholly reliable, this Court holds the present case as one where examination of the Investigating Officer was vital since he could have adduced the expected evidence. His non-examination creates a material lacuna in the effort of the prosecution to nail the appellants, thereby creating reasonable doubt in the prosecution case.

40. As far as non-obtaining of ballistic report is concerned, it is no doubt true that its essentiality would depend upon the circumstances of each case. Here, since no weapon of offence was seized, no ballistic report was called for and obtained. Although Mr. Giri contended that Munna Lal had a licensed gun, this Court has not been able to trace any evidence in the records in regard thereto. However, nothing turns on it. The failure/neglect to seize the weapons of offence, on facts and in the circumstances of the present case, has the effect of denting the prosecution story so much so that the same, together with non-examination of material witnesses constitutes a vital circumstance amongst others for granting the appellants the benefit of doubt.

41. Thirdly, the medical evidence tendered by PW-1, if believed in its entirety, leads this Court to form an opinion that the evidence of PW-4 of he having recovered a bullet leading to its seizure at the place of occurrence as doubtful. Injury nos. 5 and 7, according to PW-1, were the entry points of the shots fired at the victim whereas injury nos. 6 and 8 were the exit points of such shots. The bullets having pierced the abdomen and right thigh of the victim and there being corresponding exit points, what is of concern is how could PW-4 still find a bullet "in the blood oozing out from the injury at the hip of the dead body". Despite there being distinct exit points, it is quite improbable that after the injury at Sr. No. 6, a bullet could still be found by PW-4 in the blood oozing out from the injury at the hip being one of two exit points. In any event, such bullet though seized under a seizure memo does not appear to have been exhibited at the trial which renders the version of PW-4 unacceptable.

42. Although, mere defects in the investigative process by itself cannot constitute ground for acquittal, it is the legal obligation of the Court to examine carefully in each case the prosecution evidence *de hors* the lapses committed by the Investigating Officer to find out whether the evidence brought on record is at all reliable and whether such lapses affect the object of finding out the truth. Being conscious of the above position in law and to avoid erosion of the faith and confidence of the people in the administration of criminal justice, this Court has examined the evidence led by the prosecution threadbare and refrained from giving primacy to the negligence of the Investigating Officer as well as to the omission or lapses resulting from the perfunctory investigation undertaken by him. The endeavour of this Court has been to reach the root of the matter by analysing and assessing the evidence on record and to ascertain whether the appellants were duly found to be guilty as well as to ensure that the guilty does not escape the rigours of law. The disturbing features in the process of investigation, since noticed, have not weighed in the Court's mind to give the benefit of doubt to the appellants but on proper evaluation of the various facts and circumstances, it has transpired that there were reasons for which PW-2 might have falsely implicated the appellants and also that PW-3 was not a wholly reliable witness. There is a fair degree of uncertainty in the prosecution story and the courts below appear to have somewhat been influenced by the oral testimony of PW-2 and PW-3, without taking into consideration the effect of the other attending circumstances, thereby warranting interference.

CONCLUSION

43. For the reasons aforesaid, this Court is of the opinion that the charge that the appellants had murdered Narayan, cannot be said to have been proved beyond reasonable doubt; hence, they were and are entitled to the benefit of doubt. The trial court's judgment of conviction and order of sentence contained in its decision dated 29th January, 1986 being unsustainable, stands set aside; consequently, the impugned judgment and order dated 9th July, 2014 passed by the High Court, upholding the conviction and sentence, too stands set aside. The

appellants having been lodged in the correctional home since the appellate judgment and order was made shall be set free immediately, if not wanted in any other case.

44. The appeals, thus, stand allowed without any order for costs.

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Criminal Appeal No. 490/2017

Munna Lal.….Appellant(s)

Versus

The State of Uttar Pradesh.….Respondent(s)

(Before S. Ravindra Bhat and Dipankar Datta, JJ.)

(IA No. 151655/2022 – GRANT OF BAIL)

WITH

Crl.A. No. 491/2017 (II)

Date: 24-01-2023 These matters were called on for pronouncement of judgment today.

45. Hon'ble Mr. Justice Dipankar Datta pronounced the reportable judgment of the Bench comprising Hon'ble Mr. Justice S. Ravindra Bhat and His Lordship.

46. This Court is of the opinion that the charge that the appellants had murdered Narayan, cannot be said to have been proved beyond reasonable doubt; hence, they were and are entitled to the benefit of doubt. The trial court's judgment of conviction and order of sentence contained in its decision dated 29th January, 1986 being unsustainable, stands set aside; consequently, the impugned judgment and order dated 9th July, 2014 passed by the High Court, upholding the conviction and sentence, too stands set aside. The appellants having been lodged in the correctional home since the appellate judgment and order was made shall be set free immediately, if not wanted in any other case.

47. The appeals are allowed in terms of signed reportable judgment.

48. Pending applications, if any, are disposed of.

Baini Prasad (D) Thr. Lrs. v. Durga Devi

Civil Appeal No.6182-6183 of 2009

Baini Prasad (D) Thr. LRs.

...Appellants

Versus

Durga Devi

...Respondents

J U D G M E N T

C.T. RAVIKUMAR, J.

1. The respondent in R.S.A. No.276 of 1996 who was the defendant in Civil Suit No. 70 of 1988 on the file of Subordinate Judge's Court, Kullu in Himachal Pradesh, is the original appellant in these appeals by special leave Subsequent to his death the legal heirs got themselves impleaded as appellants 1(a) to 1(g). The former appeal is directed against the judgment and final order in R.S.A.No.276 of 1996 dated 27.12.2007 and the later appeal is directed against the order dated 27.03.2008 in CivilReview Petition No.4 of 2008, in the said Second Appeal, passed by the High Court of Himachal Pradesh at Shimla.The respondent herein (plaintiff) filed Civil Suit No.70 of 1988 for possession of land measuring 11 Biswancies comprised in Khasra No. 994/1-A/1 as per Talima by demolition of the structure put up thereon in Phati Dhalpur, Kothi Maharaja, Tehsil and District Kullu and for permanent prohibitory injunction restraining the defendant (the appellant herein) from interfering on disputed land and other land appurtenant to it, owned by her. The suit was decreed and upon holding the respondent herein/plaintiff as the owner of the encroached land handing over the same after demolition of the structures put up there was ordered. The original appellant/defendant took up the matter in appeal. As per the judgment in Civil Appeal No.9 of 1992, the findings on ownership and the question of encroachment were confirmed. Nonetheless, the First Appellate Court modified the judgment and decree holding that the plaintiff/respondent herein is not entitled to recovery possession of 11 Biswancies of land after demolition of the structures put up thereon based on the principles of acquiescence. Consequently, she was found entitled to a decree of compensation at the market value prevalent at the time of filing of the suit in lieu of that relief and the compensation therefor was assessed at Rs.5500/-. Over and above the said amount, the respondent herein (the plaintiff) was held entitled to recover interest at the rate of 12 % per annum from the date of filing of the suit till

realization. RSA No.276 of 1996 was filed challenging the modification of the judgment and decree of the Trial Court to above extent by the respondent herein. As per the impugned judgment dated 27.12.2007, the High Court allowed the Second Appeal and set aside the judgment and decree of the First Appellate Court for compensation to the respondent in lieu of recovery of possession and the judgment and decree of the Trial Court dated 18.01.1992 for demolition and handing over of the

possession of the encroached land was restored. The review petition being; Civil Review Petition No.4 of 2008 filed by the appellant herein in the said Second Appeal was dismissed by the High Court as per order dated 27.03.2008. Hence, these appeals. 2. Heard, Ms. Kiran Suri, learned Senior Counsel for the appellants and Mr. Rajesh Srivastava, learned counsel for the respondent. 3. The succinct narration of facts as above would make it abundantly clear that there are concurrent findings of the Trial Court, the First Appellate Court as also the High Court on the questions of ownership over the land in question viz., land measuring 11 Biswancies, as described above and its encroachment by the original appellant. In the said circumstances, we find absolutely no reason to revisit the factual findings on the questions of ownership and encroachment based on the settled judicial principle well-established by precedents that concurrent finding of fact does not call for interference in an appeal under Article 136 of the Constitution of India in the absence of any valid ground for interference. (See the decisions in

Janak Dulari Devi and Anr. v. Kapildeo Rai and Anr.

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1 (2011) 6 SCC 555

Ram Prakash Sharma v. Babulal

2 and Ghisalal v.

Dhapubai

4. RSA No.276 of 1996 was filed by the respondent herein/plaintiff, rightly, against the setting aside of the judgment and decree of the trial Court for demolition and handing over the possession of land measuring 11 Biswancies in Khasra No.994/1-A/1 and holding and decreeing that in lieu of the same she is entitled to a decree of compensation at the market value prevalent at the time of filing of the suit and interest at the rate of 12% per annum on the assessed amount of Rs.5500/- from the date of filing of the suit till its realization. In this context, it is pertinent to note that as against the judgment of the First Appellate Court confirming the findings on ownership and encroachment against him and further ordering payment of compensation after rejecting his denial of encroachment, the original appellant had neither filed an independent appeal nor a cross appeal.

5. In short, for the foregoing reasons, the scope of consideration in these appeals is to be confined to the

2 (2011) 6 SCC 449

3 (2011) 2 SCC 298

question whether the reversal by the High Court of the modification effected by the First Appellate Court warrants interference in exercise of power under Article 136 of the Constitution of India.

6. According to the appellants, the respondent herein did not object and resort to civil remedy against the construction effected on the land in dispute within a reasonable time and, therefore, she is estopped from claiming recovery of the land in question after demolition of the structure raised

thereon. True, that the original appellant had also raised a contention that he had effected the construction on the bona fide belief that he was effecting construction on his own land and therefore,

the construction raised by him on the land in question is protected under Section 51 of the Transfer of Property Act, 1882 (hereinafter, 'the TP Act'). This was pressed into

service by the appellants. 7. At the very outset we may say that we are of the considered view that the contention of the appellants founded on Section 51 of the TP Act is totally misplaced

and misconceived. This position would be revealed if ground 'b' raised in these appeals is juxtaposed to ground 'd'. Noticeably, the appellants assail the reversal of the modification of the judgment and decree passed by the First Appellate Court and attempting to sustain the modification based on contentions founded on the principle of estoppel and relying upon Section 51 of the TP Act. Conceptually, the underlying principles in Section 51, TP Act and the principle of estoppel under Section 115 of the Indian Evidence Act, 1872 are converse and cannot co-exist. Section 51 of the TP Act reads thus: - "51. Improvements made by bona fide holders under defective titles.—When the transferee of immoveable property makes any improvement on the property, believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted there from by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market value thereof irrespective of the value of such improvement. The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction. When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them."

8. A perusal of Section 51, TP Act would reveal that even after the pre-requisites for the enforceability of equity enacted in it are satisfied, the right to election for one of the two alternatives provided under that Section would still rest with the person evicting. In other words, he may elect either to pay the value of improvements made by the defendant who satisfies a description of "transferee" for the purpose of this Section and take the land or sell out his interests in the land to the transferee at the market value of the property, irrespective of the value of such improvements.

9. Section 51, TP Act is a general provision dealing with improvements effected by a transferee to the transferred property in the manner specifically provided thereunder. Thus, a bare perusal of Section 51, TP Act would reveal that in order to acquire the 'right to require' in the manner provided thereunder one should be a 'transferee' within the meaning of the TP Act and for the purpose of

the said section. In short, Section 51 applies in terms to a transferee who makes improvements in good faith on a property believing himself to be its absolute owner. In this context, the seemingly, paradoxical statements in grounds 'b' and 'd' raised in the appeals are worthy to refer and they read thus:- Grounds 'b' and 'd' in the appeals read as under:- 'b'. "That the Hon'ble High Court has committed a serious error in holding that estoppel, waiver is averments in written statement specifically state all the facts leading to estoppel. The petitioner has specifically pleaded in his written statement as under: - "The defendant constructed the house on the land along with land in dispute with verandah and completed it in the month of September, 1986. At the time, neither the plaintiff nor her husband who was living at Raghunathpur adjoining the land of the defendant raised any objection." That plea of estoppel is clearly made out from the pleadings of the parties, their conduct, oral as well as documentary evidence. The said plea has been raised to put to trial and therefore, the plea of estoppel being the issue of law cannot be raised at any time. 'd'. That the petitioner was under

bona fide belief that he has constructed on its own land and the construction raised by the petitioner is protected by virtue of Section 51 of TP Act. The petitioner has acted under the bona fide defective title and therefore has been fighting the litigation since last 20 years on the belief that he has constructed on hisown land but ultimately after holding several demarcations, one of the witnesses found the trespass to an extent of 9 biswasies whereas the other found it 11 biswasies. However, admittedly the area involved is very small and the encroachment is not intentional and therefore, Section 51 of TP Act will apply to the facts and circumstances of the case.” 10. The original appellant has failed to establish that he is a “transferee” within the meaning of the TP Act and for the purpose of Section 51, TP Act. In order to attract the Section the occupant of the land must have held possession under colour of title, his possession must not have been by mere possession of another but adverse to the title of the true owner and he must be under the bone fide belief that he has secured good title to the property in question and is the owner thereof. In short, Section 51 gives only statutory recognition to the above three things. At the same time, in the case on hand, the concurrent findings of the courts below is that the respondent herein is the owner of the land in question and the original appellants had encroached upon it and effected construction. The appellants herein have failed to establish the above mentioned three things. The evidence on record would also go to show that even the construction was effected in deviation of the approved plan.

11. In the light of the concurrent findings on the questions of ownership and encroachment, as noted

above, it can only be held that it was after encroaching upon the land in question and ignoring the absence of any title that he made structures thereon at his own risk. Once it is so found, the original appellant cannot be treated as a ‘transferee’ within the meaning of the TP Act and for the purpose of Section 51, TP Act. Therefore, we have no hesitation to hold that the appellants are not entitled to rely on the provision under Section 51, TP Act to seek for restoration of the modification made by the

First Appellate Court with respect to demolition and possession. The appellants, rightly, did not take up the plea of adverse possession and in the circumstances, being not a transferee for the purpose of Section 51 TP Act, he cannot legally require the respondent either to pay the value of improvements and take back the land or to sell out the land to him at the market value of the property, irrespective of the value of the improvements.

12. Now, what remains to be considered is whether the appellant herein/defendant has pleaded and proved his plea of estoppel. The appellants would contend that non-framing of the question of estoppel as an issue is not fatal in the facts and circumstances as also in view of the evidence available on record, in the case on hand. To buttress the contention, the appellants rely on the decision of this Court in Nedunuri Kameswaramma v. Sampati Subba Rao

4. The relevant recital in the paragraph 5 of the said decision reads thus:- “5. ...No doubt, no issue was framed, and the one, which was framed, could have been more elaborate; but since the parties went to trial fully knowing the rival case and led all the evidence not only in support of their contentions but in refutation of those of the other side, it cannot be said that the absence of an issue was fatal to the case, or that there was that mistrial which vitiates proceedings. We are, therefore, of opinion that the suit could not be dismissed on this

4 AIR 1963 SC 884

narrow ground, and also that there is no need for a remit, as the evidence which has been led in the case is sufficient to reach the right conclusion.” The position of law revealed from the afore-extracted recital from the said decision cannot be disputed. In fact, for the very same reason despite the non-framing of the issue of estoppel we are inclined to consider the contentions founded on the principle

of estoppel. We may hasten to add that indubitably the position is that to invoke the concept of estoppel the defendant has to specifically plead each and every act or omission, as the case may be, that constitutes representation from the plaintiff. Before delving into the said question it is only appropriate to refer to the enunciation of the settled position in respect of the concept of estoppel.

12.1In the decision in R.S. Madanappa v.

Chandramma

5. this court considered the object of estoppel. It was held that its object is to prevent fraud and secure justice between the parties by promotion of honesty and good faith. It was therefore, further held that when one party makes a representation to the other

5 AIR 1965 SC 1812

about a fact he would not be shut out by the rule of estoppel if that other person knew the true state of facts and must consequently not have been misled by the misrepresentation.

12.2In the decision in Pratima Chowdhury v. Kalpana

Mukherjee

6. while considering Section 115 of the Evidence Act, this Court held that four salient conditions are to be satisfied before invoking the rule of estoppel. Firstly, one party should make a factual representation to the other party. Secondly, the other party should accept and rely upon the aforesaid factual representation. Thirdly, having relied on the aforesaid factual representation, the second party should alter his position. Fourthly, the instant altering a position, should be such, that it would be iniquitous to require him to revert back to the original position. After holding so, it was further held that the doctrine of estoppel would apply only when, based on a representation by the first party, the second party alters his position, in such manner, that it would be unfair to restore the initial position.

6 AIR 2014 SC 1304

12.3In the decision in B.L. Shreedhar v. K.M.

Munnireddy

7. this Court held that when rights are invoked estoppel may with equal justification be described both as a rule of evidence and as a rule creating or defeating rights. The appellant relies on this decision, more particularly paragraph 30 of the said decision and it reads thus :- "30. If a man either by words or by conduct has intimated that he consents to an act which has been done and that he will not offer any opposition to it, although it could not have been lawfully done without his consent, and he thereby induces others to do that which they otherwise might have abstained from, he cannot question the legality of the act he had sanctioned to the prejudice of those who have so given faith to his words or to the fair inference to be drawn from his conduct." It is to be noted that in the said decision this Court

clarified that a legal status expressly denied by a statute could not be conferred on the basis of estoppel.

13. The appellant has also relied on the decision of this

Court in Chairman, State Bank of India & Anr. v. M.J.

7 AIR 2003 SC 578

James

8. more particularly, paragraph 39 which read thus:-

"39. Before proceeding further, it is important to clarify distinction between "acquiescence" and "delay and laches". Doctrine of acquiescence is an equitable doctrine which applies when a party having a right stands by and sees another dealing in a manner inconsistent with that right, while the act is in progress and after violation is completed, which conduct reflects his assent or accord. He cannot afterwards complain. In literal sense, the term acquiescence means silent assent, tacit consent,

concurrence, or acceptance, which denotes conduct that is evidence of an intention of a party to abandon an equitable right and also to denote conduct from which another party will be justified in inferring such an intention. Acquiescence can be either direct with full knowledge and express approbation, or indirect where a person having the right to set aside the action stands by and sees another dealing in a manner inconsistent with that right and in spite of the infringement takes no action mirroring acceptance. However, acquiescence will not apply if lapse of time is of no importance or consequence." The position expounded as above certainly request consideration with reference to the facts of this case. In that regard we will have to consider whether there was acquiescence on part of the respondent and if so, whether

8 (2022) 2 SCC 301

lapse of time, if any, is of no importance or consequence, with reference to the factual position, in view of the exposition thereunder 'that acquiescence would not apply if lapse of time is of no importance or consequence'.

14. What is crystal clear from the enunciation of law in catena of cases is that the equity will follow the law and it would tilt in favour of law and further that to claim equity the party must explain previous conduct.

15. Besides, bearing in mind, the enunciation of law on the principle of estoppel we will have to take note of certain crucial aspects borne out of the records in the case. The case of the original appellant is that he had carried out the construction of the varandah in the land in dispute as part of his residential house in the year 1986 bona fidely believing it to be his own land before the acquirement of land in question by the respondent. This contention is incoherent with that of acquiescence viz., the contention claims to be embedded in ground 'b' that the respondent remained silent and thereby, made a representation persuading him to alter his position and to go ahead with the construction in the land in question Actually, the original appellant took up the contention thereunder that neither the plaintiff (respondent herein) nor her husband who were living at Raghunathpur adjoining his land raised any objection during the construction. Obviously, this contention was taken up jesuitically as what is stated in the preceding sentence is that he constructed house on the land along with land in dispute with verandah and completed it in the month of September, 1986; whereas, admittedly, the respondent herein purchased the land only in the year 1987. But the evidence on record, dealt with by the Courts below, would reveal that the respondent herein had objected to the carrying out of the construction by the original appellant in the land in question. It is evident from the record that the respondent sent telegraphic notice Ex. PW-18/A dated 22.09.1987 to the original appellant for stopping construction thereon. It is also on record that she made a complaint before the Deputy Commissioner through her husband under Ex. PW-12/A on 10.12.1987 which ultimately resulted in a report pursuant to an inspection by PW-12, the then Tehsildar, Kullu of the suit land on

12.01.1988. The suit was instituted thereafter on

11.05.1988.

16. Contextually, it is relevant to note that the trial court took note of the factual position that despite raising the specific contention that he had affected the construction of his residential house along with varandah in the year 1986, the appellant herein had not produced the completion certificate of building including the construction on the land in question from the local body to establish the asserted fact.

17. We are of the considered view that when the First Appellate Court also took note of the issuance of Ext. PW- 18/A dated 22.09.1987 and also the submission of Ext. PW-12/A dated 10.12.1987 it should have taken into account the following facts which are explicit from the records and duly considered by the Trial Court. Firstly, being the party propounding the application of the principle of acquiescence it was the burden of the original appellant to establish the fact that the respondent herein had acquiesced in the infringement of his legal right and still stood by and allowed the construction. In that regard, it should have taken into account the fact that despite asserting that the construction on the land in question was carried out while carrying out the construction of the residential building on his own land in the year 1986 as per the approved plan he had failed to establish the same by producing the completion certificate from the local authority. Secondly, if that contention is taken as true, he could not have taken up the contention of acquiescence on the respondent as it was also his case that the respondent had purchased the land in question only in the year 1987. Thirdly, the oral evidence and the documentary evidence on behalf of the respondent would reveal the factum of raising objection on "carrying out the construction, in the absence of any title over the same, at least a defective title, the original appellant could not have claimed bona fides on his action in carrying on the construction. In the said circumstances, the mere delay in instituting the suit, especially when it was filed well within the period of limitation prescribed, should not have been held as amounting to acquiescence. As noticed hereinbefore, the respondent herein after sending telegraphic message on 22.09.1987 approached the Deputy Commissioner and ultimately obtained report revealing encroachment on the part of the original appellant on 10.12.1987 and then, brought the suit on 11.05.1988. How can it be said, in the circumstances, that the respondent has not immediately taken proceedings against the original appellant and therefore, she should ever be debarred from asserting her right for recovery of possession of her land from the encroacher even after establishing her title over the encroached land in a suit instituted well within the prescribed period of limitation.

18. In the situation and circumstances expatiated above it is only apposite to refer to the decision in Abdul Kader v. Upendra

9 . It was held therein that in the case of acquiescence the representations are to be inferred from silence, but mere silence, mere inaction could not be construed to be a representation and in order to be a representation it must be inaction or silence in circumstances which require a duty to speak and therefore, amounting to fraud or deception. 9 40 C.W.N 1370

19. There can be no doubt with respect to the position that estoppel is a principle founded on equity and as held by the court in Madanappa's case (supra) its object is only to prevent and secure justice between the parties. In the proven circumstances that the original appellant was not having title over the property, that the respondent herein is the owner of the land in question, that the concurrent finding is that the original appellant was the encroacher and further that objection was raised by the respondent herein against the construction she should not have shut out by the rule of acquiescence or by the rule of estoppel for having made a representation to make the original appellant to believe that she had consented for the construction.

20. The entire circumstances revealed from the evidence on record unerringly point to the fact that the appellant had encroached upon land belonging to the respondent and without bona fides effected constructions which is verandah which is extension of residential building. The object of estoppel, as held in Madanappa's case, would be defeated if the said illegality is recognized and allowance is granted therefor. In the contextual situation, a decision of a learned Single Judge of High Court of

Andhra Pradesh in N.C. Subbayya v. Pattan Abdulla Khan

10 extracted in agreement in the decision by the learned Single Judge of High Court of Madras in the decision in Bodi Reddy v. Appu Goundan

11 , is worthy to be looked into. In the decision the learned Single Judge of the High Court of Andhra Pradesh after posing a question "has the court an absolute discretion to award damages instead of a mandatory injunction where there is a trespass by the defendant on the plaintiff's land?" held thus:- "To say the building erected in such circumstances should not be directed to be removed and only damages could be awarded would, in my opinion, be ineffective, to sanction a condemnation of the plaintiff's property and an appropriation of it for the defendant's use.... To confine the relief to compensation in such a case is tantamount to allowing a trespasser to purchase another man's property against that man's will. No man should be compelled to sell his property against his will at a valuation and no person should be encouraged to do 10 (1956) 69 LW (Andhra) 52 11 (1971) ILR 2 Madras 155 a wrongful act or commit a trespass relying on the length of his purse and his ability to pay damages for it. To say that a small strip of building site could thus be appropriated by a trespasser would be to admit a rule of law which can be applied limitlessly. In cases of trespass, the Court should ordinarily grant an injunction directing the defendant to remove the encroachment and restore possession of the vacant site to the plaintiff. Neither serious inconvenience to the defendant—trespasser nor the absence of serious injury to the plaintiff is a ground for depriving the latter for his legal right to the property."

21. True that the learned Single Judge further held that if the plaintiff is guilty of laches amounting to acquiescence or has knowingly permitted the defendant to make the construction and made him to incur heavy expenditure without protest or objection, mandatory injunction could be declined and damages could be given. As held by the learned Single Judge we are of the considered view that in a case where the owner of the land filed suit for recovery of possession of his land from the encroacher and once he establishes his title, merely because some structures are erected by the opposite party ignoring the objection, that too without any bona fide belief, denying the relief of recovery of possession would tantamount to allowing a trespasser/encroacher to purchase another man's property against that man's will. In Bodi Reddy's decision (supra) the learned Judge held that in a suit for recovery of possession filed within the period of limitation provided under Limitation Act, the doctrine of laches or acquiescence has no place to defeat the right of the plaintiff to obtain the relief on his establishing his title. We may hold that in such a situation in the absence of any misrepresentation by an act or omission, the mere fact after making objection the plaintiff took some reasonable time to approach the Court for recovery of possession cannot, at any stretch of imagination, be a reason to deny him the relief him of recovery of possession of the encroached land on his establishing his title over it.

22. Considering all the aforesaid circumstances, we do not find any flaw, legal error, perversity or patent illegality in the findings on the substantial questions of law by the High Court ultimately, in favour of the respondent herein and in setting aside the judgment and decree of the First Appellate Court and also in restoring the judgment and decree of the Trial Court.

23. Resultantly the appellants are bound to fail and the appeals are accordingly dismissed.

24. There is no order as to cost.

......................., J.

(B.R. Gavai)

RLA

MCQ'S

Q1: Lakshmi Bai National College of Physical Education is located at

(a)Bhopal

(b)Gwalior

(c)Karnal

(d)Patiala.

Q2: Which of the following reformation movements was the first to be started in the 19th century?

(a)Arya Samaj

(b)Prarthana Samaj

(c)Brahmo Samaj

(d)Ramakrishna Mission.

Q3: Where is Sriharikota, the Indian Satellite launching Centre?

(a)Kerala

(b)Andhra Pradesh

(c)Karnataka

(d)Tamil Nadu.

Q4: Who is the author of the book 'Two Lives'?

(a)Vikram Seth

(b)Anita Nair

(c)Khushwant Singh

(d)Jaswant Singh.

Q5: In which yea Sir Edmund Hillary reached the summit of Mount Everest?

(a)1952

(b)1953

(c)1954

(d)1955.

Q6: Survey of India s under the Ministry of

(a)Defence

(b)Environment and Forest

(c)Home Affairs

(d)Science and Technology.

Q7: The first woman President of Indian National Congress was

(a)Sucheta Kriplani

(b)Rajkumari Amrit Kaur

(c)Annie Besant

(d)Sarojini Naidu.

Q8: The theory of Economic Drain from India to England was propounded by

(a)R.C. Dutt

(b)Bal Gangadhar Tilak

(c)Dadabhai Naoroji

(d)Mahatma Gandhi.

Q9: Which of the following is not an eligibility criterion for election as President of India?

(a)He should be citizen of India

(b)he should be at least 35 years of age

(c)He should be qualified for election to the House of people

(d)He should be elected as a member of the House of the People.

Q10: Fundamental Rights are contained in which Part of the Constitution of India?

(a)Part II

(b)Part III

(c)Part IV

(d)Part IV A.

Q11: How many elected members are there in the Council of States?

(a)250

(b)240

(c)238

(d)235.

Q12: In which year was the Council of States first constituted?

(a)1951

(b)1952

(c)1956

(d)1947.

Q13: The term of office of the President of India is

(a)5 years from date of his election

(b)5 years from date of his entering upon his office

(c)7 years from date of his election

(d)7 years from date of his entering upon his office.

Q14: Habeas Corpus literally means

(a)Produce the body

(b)Produce the record

(c)Produce the evidence

(d)Produce the testimony.

Q15: The basic structure doctrine with respect to the Constitution of India:

(a)was propounded first in the judgment of the Supreme Court in Kesavananda Bharati V. State of Kerala

(b)is contained in the Constitution itself

(c)was propounded first in the judgment of the Supreme Court in Golaknath V. State of Punjab

(d)was propounded first in Privy Purse case.

Q16: Besides its permanent seat at Delhi, the Supreme Court can also meet at

(a)any other metropolitan city

(b)any other place as decided by the President

(c)any other place as decided by the Chief Justice of India

(d)any other place as decided by the Chief Justice of India in consultation with the President.

Q17: The Bombay High Court does not have a Bench at which one of the following places?

(a)Nagpur

(b)Panaji

(c)Pune

(d)Aurangabad.

Q18: In India, the power to increase the number of judges in the Supreme Court lies with

(a)President

(b)Chief Justice of India

(c)Parliament

(d)President in Consultation with Chief Justice of India.

Q19: The special status of Jammu and Kashmir implies the State has

(a)a separate defence force

(b)a separate Constitution

(c)a separate Judiciary

(d)all of the above.

Q20: The idea of incorporation of the concurrent list in the Constitution has been borrowed from the Constitution of

(a)Ireland

(b)Britain

(c)Australia

(d)Canada.

Q21: The Constitution of India was amended for the first time in

(a)1950

(b)1951

(c)1952

(d)1956.

Q22: Which of the following Constitutional Amendment banned floor crossing in Parliament?

(a)42nd

(b)44th

(c)52nd

(d)54th.

Q23: The Calcutta session of the Indian National Congress held in September 1920, passed a resolution which led to the

(a)Non-Cooperation Movement

(b)Civil Disobedience Movement

(c)Home Rule Movement

(d)Quit India Movement.

Q24: National Law Day is observed every year on

(a)March 1

(b)April 30

(c)June 16

(d)November 26.

Q25: Which of the following States is a permanent member of the Security Council?

(a)Germany

(b)Japan

(c)France

(d)South Korea.

Q26: Election Commission of India is a

(a)constitutional body

(b)political body

(c)quasi-judicial and quasi-political body

(d)both (a) and (b).

Q27: The writ of Prohibition and Certiorari are available against

(a)Legal and Semi-legal authorities

(b)Implied authorities

(c)Non-statutory authorities

(d)Judicial or quasi-judicial authorities.

Q28: Economic Justice, an important objective of the Constitution of India is embedded in the

(a)Preamble

(b)Directive Principles of State Policy

(c)Fundamental Rights

(d)Both (a) and (b).

Q29: The Competition Act was passed in the year 2002 to replace

(a)The Monopolies and Restrictive Trade Practices Act, 1969

(b)The Consumer Protection Act, 1996

(c)The Unlawful Activities (Prevention) Act, 1967

(d)The Companies Act.

Q30: How many Schedules are there in the Constitution of India?

(a)8

(b)10

(c)12

(d)14.

Q31: Panchayati Raj was started in India in

(a)1957

(b)1959

(c)1977

(d)1992.

Q32: A person to be qualified for standing in a Panchayat election must have attained the age of

(a)21 years

(b)25 years

(c)30 years

(d)18 years.

Q33: A Judge of the Supreme Court is to hold office until he attains the age of

(a)60 years

(b)62 years

(c)65 years

(d)68 years.

Q34: Who according to the Anti-Defection Act, is the final authority to decide whether a member of Lok Sabha has incurred disqualification due to defection?

(a)speaker

(b)President

(c)Election Commission

(d)High Court.

Q35: The Constitution of India does not mention the post of

(a)the Deputy-Chairman of the Rajya Sabha

(b)the Deputy-Prime Minister

(c)the Deputy-Speaker of the Lok Sabha

(d)the Deputy-Speaker of State Legislative Assemblies.

Q36: Which one of the following is the largest committee of the Parliament?

(a)The Public Accounts Committee

(b)The Estimates Committee

(c)The Committee on Public Undertakings

(d)The Committee on Petitions.

Q37: Which of the following Committees does not consist of any member from the Rajya Sabha?

(a)Estimates Committee

(b)Pubic Accounts Committee

(c)Public Grievances Committee

(d)Committee on Public undertakings.

Q38: Which of the following does the President not appoint?

(a)Finance Commission

(b)Planning Commission

(c)Commission on official Languages

(d)UPSC.

Q39: If the President wants to resign from office, he may do so by writing to the

(a)Vice-President

(b)Chief Justice of India

(c)Prime Minister

(d)Speaker of Lok Sabha.

Q40: Which Article of the Constitution prescribes Hindi in Devanagari script as the official language of the Union?

(a)Article 34

(b)Article 342

(c)Article 343

(d)Article 348.

Q41: Match the following

A. Part I	1. Fundamental Rights
B. Part III	2. Panchayati Raj
C. Part IX	3. Citizenship
D. Part II	4. The Union and its Territory

Code:

	A	B	C	D
(a)	4	2	3	1
(b)	3	1	2	4
(c)	2	1	3	4
(d)	4	1	2	3

Q42: The Capital of Australia is

(a)Melbourne

(b)Sydney

(c)Canberra

(d)Victoria.

Q43: Seine River flows through

(a)Myanmar

(b)Egypt

(c)France

(d)South Korea.

Q44: Seisomograph is used to study the

(a)Stars

(b)Earthquakes

(c)Rivers

(d)volcanoes.

Q45: The deepest ocean is

(a)Arctic

(b)Pacific

(c)Atlantic

(d)Indian.

Q46: The first Governor of Haryana was

(a)B.D. Sharma

(b)Bansi Lal

(c)B.N. Chakravarti

(d)Dharamvir.

Q47: Haryana emerged as a separate State on

(a)October 2, 1966

(b)November 1, 1966

(c)October 2, 1947

(d)November 1, 1947.

Q48: The number of members in Haryana Legislative Assembly is

(a)70

(b)75

(c)90

(d)95.

Q49: the district of Haryana which was one of the prime centers of Harappan Culture is

(a)Bhiwani

(b)Sirsa

(c)Hissar

(d)Kurukshetra.

Q50: Kalesar Forest is located at

(a)Panchkula

(b)Sonipat

(c)Jhajjar

(d)Yamuna Nagar.

Q51: Who was appointed as Secretary General of FICCI in October 2012?

(a)Rajiv Kumar

(b)Lalit Bhasin

(c)Didar Singh

(d)Ravi Narain.

Q52: World Food Day is celebrated every year on

(a)October 8

(b)October 16

(c)October 18

(d)October 28.

Q53: Eric Hobsbawm who passed away in October 2012 was an eminent

(a)Historian

(b)Economist

(c)Scientist

(d)Painter.

Q54: Hilary mantel won the prestigious Man Booker Prize for her novel

(a)Wolf Hall

(b)Bring up the Bodies

(c)The Casual Vacancy

(d)The Audacity of Opinion.

Q55: which Indian Cricketer was conferred with the Membership of the Order of Australia in 2012?

(a)Sachin Tendulkar

(b)VVS Laxman

(c)Virendra Sehwag

(d)Rahul Dravid.

Q56: Lance Armstrong who was banned for life was associated with which sport?

(a)Football

(b)Swimming

(c)Cycling

(d)Shooting.

Q57: India's first Child Witness Court Room was inaugurated in September 2012 at

(a)Delhi

(b)Haryana

(c)Punjab

(d)Kerala.

Q58: Queens Berry Rules is the name given to roles in

(a)Cricket

(b)Tennis

(c)Hockey

(d)Boxing.

Q59: B.C. Roy Award is given in the field of

(a)Journalism

(b)Medicine

(c)Music

(d)Environment.

Q60: The six official languages of the UN are Chinese, English, Russian, French, Spanish and

(a)Hindi

(b)Urdu

(c)Arabic

(d)Japanese.

Q61: In the year 2011 between which two cities India's first double decker air-conditioned train was started?

(a)Delhi-Jaipur

(b)Delhi-Chandigarh

(c)Howrah- Dhanbad

(c)Howrah-Patna.

Q62: The State of India having longest coastline of about 1600 kms:

(a)Andhra Pradesh

(b)Gujarat

(c)Tamil Nadu

(d)West Bengal.

Q63: Which of the following countries is not a part of BRICS – an association of emerging world economics?

(a)Bangladesh

(b)Chile

(c)Switzerland

(d)All of the above.

Q64: Who amongst the following holds the distinction of being the youngest ever President of the India National Congress?

(a)Jawaharlal Nehru

(b)Maulana Abul Kalam Azad

(c)Sarojini Naidu

(d)Subash Chandra Bose.

Q65: State of India having highest coal reserve:

(a)Bihar

(b)Jharkhand

(c)Chhattisgarh

(d)Madhya Pradesh.

Q66: Who holds the distinction of having won both a Nobel Prize and an Oscar Award?

(a)Henry Dunant

(b)Dag Hammarshjoeld

(c)George Berbard Shaw

(d)Garrywaldy.

Q67: As per Indian law, the time period required to acquire title by adverse possession is

(a)14 years

(b)12 years

(c)15 years

(d)20 years.

Q68: Which one of the following is not a form of divorce in Muslim Law?

(a)Fasid

(b)Ila

(c)Zihar

(d)Lian.

Q69: While determining damages, which of the following is taken into account?

(a)Inconvenience caused by non-performance

(b)Motive of breach

(c)Manner of breach

(d)All of the above.

Q70: Quid pro quo means

(a)Something in return

(b)Adequacy of consideration

(c)Sufficiency of consideration

(d)Value of promise.

Q71: The leading case of Carlill V. Carbolic Smoke Ball Co. is related to

(a)General offer

(b)Counter offer

(c)Invitation to offer

(d)Lapsed offer.

Q72: The doctrine of privity of contract means that

(a)A contract is a private affair between the parties

(b)Consideration can be supplied only by the parties to contract

(c)The contract can be enforced only by a civil and private action

(d)Only parties to contract can sue and be sued upon the contract.

Q73: Quasi-contracts are the situations where

(a)Law creates obligations for a non-contracting party

(b)Law creates obligations for breach of contract

(c)Law creates obligations for contingent contracts

(d)Law creates obligations for mistake of fact.

Q74: 'A' threatens to set a savage dog at 'Z', if 'Z' goes along a path which 'Z' has a right to go. In this case 'A' commits

(a)Offence of hurt

(b)Wrongful restraint

(c)Wrongful confinement

(d)No offence.

Q75: In which of the following provision of the India Penal Code 'forgery' is defined?

(a)Section 460

(b)Section 461

(c)Section 462

(d)Section 463.

Q76: 'A' a Police officer, tortures 'B' in order to induce 'B' to confess that he committed a crime. Under which section of the Indian Penal Code, the Police officer is guilty of ab offence?

(a)Section 325

(b)Section 326

(c)Section 328

(d)Section 330.

Q77: How many kinds of hurt are designated as 'grievous hurt' under section 320, IPC?

(a)Five

(b)Six

(c)Seven

(d)Eight.

Q78: A, finds a rupee on the highway not knowing to whom the rupee belongs. A picks up the rupee. A, has committed the offence of

(a)Dishonest appropriation of property

(b)Theft

(c)Dishonestly receiving stolen property

(d)None of the above.

Q79: Tape recorded statement are

(a)Documentary evidence

(b)Oral Evidence

(c)Both (a) and (b)

(d)None of the above.

Q80: Which one of the following sections of Indian Evidence Act deals with relevancy of opinion as to digital signature?

(a)Section 48A

(b)Section 46A

(c)Section 49A

(d)Section 47A

Q81: Defence of Insanity is developed on which of thefollowing

(a)Automatism

(b)McNaughton's rules

(c)Irrestible impulse

(d)All of the above.

Q82: The section inserted by Criminal Procedure (Amendment) Act, 2005 making it mandatory for the police to give information about the arrest of the person as well as the place where he is being held to any nominated person is

(a)Section 50A

(b)Section 53A

(c)Section 54A

(d)Section 164A.

Q83: The Supreme Court recognised sexual harassment at work place a human rights violation in the case of

(a)Ahmad Khan V. Shah Bano Begum

(b)Tukaram V. State of Maharashtra

(c)Birdichand Sharda V. State of Maharashtra

(d)Vaisakha V. State of Rajasthan.

Q84: A party to a contract can be discharged from performing it, if it has become

(a)expensive

(b)onerous

(c)commercially inviable

(d)None of the above.

Q85: Lodging of a caveat under section 148A of CPC

(a)entitles the caveator to receive notice of receive notice of the application

(b)makes the caveator a party to the suit

(c)both (a) and (b)

(d)neither (a) nor (b).

Q86: Interpleader suit has been defined under which section of Code of Civil Procedure?

(a)Section 88

(b)Section 89

(c)Section 90

(d)Section 92.

Q87: The question whether a suit is of a civil nature will depend on

(a)status of the parties to the suit

(b)subjects-matter of the suit

(c)both (a) and (b)

(d)neither (a) nor (b).

Q88: "If two or more courts have jurisdiction to try the suit, it is open to the parties to select a particular forum. Such an agreement would be legal, valid and enforceable". This was held in

(a)Mathura Prasad V. Dossibai

(b)Hakam Singh V. Gammon (India) Ltd.

(c)Kiran Singh V. Chaman Paswan

(d)Mathai V. Varkey.

Q89: In a summons trial case instituted on a complaint wherein the summons has been issued to the accused, the non-appearance or death of the complaint shall entail

(a)discharge of the accused

(b)acquittal of the accused

(c)either discharged or acquittal depending on the facts and circumstances of the case

(d)None of the above.

Q90: The doctrine of privity of contract was laid down in the case of

(a)Carlill V. Carbolic Smoke Ball Co.

(b)Balfour V. Balfour

(c)Harvey V. Facey

(d)Dunlop Pneumatic Tyre Co. Ltd Selfridge and Co.

Q91: 'A' offers to sell his car to 'B' for Rs. 50,000 'B' agrees to buy the car offered for Rs. 45000. The reply of 'B' amounts to

(a)offer

(b)counter-offer

(c)invitation to an offer

(d)standing offer.

Q92: Section 210 of Code of Criminal Procedure 1973, provides for

(a)stay of police investigation

(b)stay of proceedings in complaint case

(c)both (a) and (b)

(d)None of the above.

Q93: A contract of insurance is

(a)Standard form of contract

(b)wagering agreement

(c)Agreement enforceable by law

(d)Contingent contract.

Q94: Remedy of rescission of contract

(a)is the same as specific performance

(b)is opposite of specific performance

(c)does not affect specific performance

(d)makes specific performance easy.

Q95: Under section 25 of the Limitation Act, 1963, the easement rights are acquired by continuous and uninterrupted use for

(a)12 years

(b)15 years

(c)20 years

(d)30 years.

Q96: Section 27 of the Limitation Act, 1963

(a)bars the remedy

(b)extinguishes the right

(c)both (a) and (b)

(d)neither (a) nor (b).

Q97: Section 79 of the Evidence Act contains

(a)an Irrebuttable presumption of law

(b)a rebuttable presumption of law

(c)both (a) and (b)

(d)neither (a) nor (b).

Q98: Under section 19(1) of the Partnership Act, 1932, the acts of a partner which are done to carry on in usual way, business of the firm

(a)binds the firm

(b)binds the managing partner

(c)binds the dormant partner

(d)None of the above.

Q99: Where the local limits of jurisdiction of courts are uncertain, the place of institution of suit shall be decided according to which provision of CPC?

(a)Section 17

(b)Section 18

(c)Section 21

(d)Section 21A.

Q100: Section 144 of the CPC

(a)confers a new substantive right

(b)is exhaustive

(c)is equitable in nature

(d)all the above.

Q101: Amendment of pleadings shall be effective

(a)from the date of the pleading

(b)from the date of the application

(c)from the date of the order

(d)either (b) or (c).

Q102: Who is Amicus Curiae?

(a)A friend of the court

(b)The public interest litigant

(c)The counsel for Minor

(d)None of the above.

Q103: Osteomalacia is caused due to the deficiency of

(a)Vitamin A

(b)Vitamin B

(c)Vitamin C

(d)Vitamin D.

Q104: Hunter Commission was appointed by the British to probe into the

(a)Quit India Movement

(b)Jallianwala Bagh Tragedy

(c)Chauri-Chaura Incident

(d)Khilafat Agitation.

Q105: The famous Prince of Wales Museum is located in

(a)Mumbai

(b)Kolkata

(c)London

(d)New York.

Q106: Where in India would you find Netaji Subhash National Institute of Sports?

(a)Jalandhar

(b)Patiala

(c)Karnal

(d)Sonipat.

Q107: The capital of Lakshadweep is

(a)Silvassa

(b)Kavaratti

(c)Port Blair

(d)Lakshadweep.

Q108: 'Peseta' is the currency of

(a)Portugal

(b)Philippines

(c)Spain

(d)Norway.

Q109: First woman to get Bharat Ratna was

(a)Indira Gandhi

(b)Sarojini Naidu

(c)Mother Teresa

(d)Aruna Asaf Ali.

Q110: Rowlett Act was passed in

(a)1916

(b)1917

(c)1918

(d)1919.

Q111: Organisation and independence of Supreme Court (including Judicial Revie) has been adopted in Constitution of India from

(a)USA

(b)UK

(c)Australia

(d)Canada.

Q112: The total number of High Courts in India is

(a)18

(b)19

(c)20

(d)None of the above.

Q113: A proclamation under Article 356 is required to be approved by resolution of both Houses of Parliament by

(a)Simple Majority within one Month

(b)Special Majority within one Month

(c)Special Majority within two Months

(d)Simple Majority within two Months.

Q114: Who among the following makes appointment to all India Services?

(a)The President of India

(b)Parliament

(c)UPSC

(d)Both (a) & (c).

Q115: The residuary powers of the Centre provided in Article 248 has been taken from

(a)USA

(b)Ireland

(c)Canada

(d)Great Britain.

Q116: A gratuitous or bare promise devoid of consideration, is called

(a)Res extincta

(b)Nudum pactum

(c)Uberrima fides

(d)Ex contractu.

Q117: In Kidnapping, the consent of Minor is

(a)wholly immaterial

(b)partly material

(c)if freely given condones the offence

(d)both (b) and (c).

Q118: A Child marriage according to Hindu Marriage Act is

(a)Void

(b)punishable

(c)Immoral

(d)All of the above.

Q119: Who is not a natural guardian?

(a)Father

(b)Mother

(c)Husband

(d)Uncle.

Q120: Muta Marriage is recognised as valid form of marriage in

(a)Sunni Law

(b)Shina Law

(c)Both (a) & (b)

(d)Neither (a) nor (b).

Q121: Delegation of the power to the wife or to a third person to pronounce the Talak is called as:

(a)Khula

(b)Talak-i-Mubaraat

(c)Talak-i-Tadweez

(d)Talak-ul-Biddat.

Q122: Which one of the following organisation is directly related to child welfare?

(a)UNESCO

(b)ILO

(c)UNICEF

(d)WTO.

Q123: The Universal Declaration of Human Rights was adopted by U.N General Assembly on

(a)10th December, 1945

(b)10th December, 1946

(c)10th December, 1948

(d)24th October, 1945.

Q124: The quorum o the International Court of Justice is

(a)9 Judges

(b)10 Judges

(c)12 Judges

(d)15 Judges.

Q125: The limits of territorial waters of India extends to

(a)6 nautical miles

(b)12 nautical miles

(c)18 nautical miles

(d)32 nautical miles.

ANSWER KEY

1(B)
2(C)
3(B)
4(A)
5(B)
6(D)
7(C)
8(C)
9(D)
10(D)
11(C)
12(B)
13(B)
14(A)
15(A)
16(D)
17(C)
18(C)
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121(C)
122(C)
123(C)
124(A)
125(B)