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- ## Marriage Equality | 5 Reasons Why Supreme Court Didn't Include Same-Sex Unions Under Special Marriage Act

On October 17, 2023, a Supreme Court Constitution Bench unanimously held that it could not strike down or read down the provisions of the Special Marriage Act (SMA),1954 to include non-heterosexual unions within the ambit of 'marriage'. In doing so, the Supreme Court effectively denied legal recognition for queer marriages in India. Despite the Constitution bench having pronounced four judgements– written by CJI DY Chandrachud, Justice SK Kaul, Justice Ravindra Bhat and Justice PS Narasimha respectively, with Justice Hima Kohli concurring with the view of Justice Bhat, all five judges, in one voice, agreed to not strike or read the SMA down. The court stated that reading the provisions of the SMA to bring within its fold queer marriages would amount to a legislative exercise which fell exclusively within the domain of the Parliament.

The petitioners had urged the Court to read the Special Marriage Act, particularly the words "man" and "woman" used in Section 4, in a gender neutral way so that queer marriages can also be registered as per its provisions.

I. Reading Down SMA To Include Queer Marriages Has A 'Complex Workability'

As per the judgement written by CJI DY Chandrachud, Section 21A of the SMA linked the Act to personal and non-personal laws of succession, making the issue extremely complex in nature. Highlighting the said complexity, the CJI stated that even the petitioners themselves had to submit lengthy charts on workability of reading SMA down down to include queer marriages within its ambit. On a similar note, Justice Kaul, in his judgement, also stated that the entitlements devolving from marriage were spread out across a "proverbial ‘spider’s web’ of legislations and regulations" and thus, tinkering with the scope of marriage under the SMA could have "a cascading effect" across various laws.

II. Holding SMA As Void Would Take India Back To Pre-Independence Era The CJI, in his judgement, stated that the SMA was enacted to enable persons of different religions and castes to marry. In this context, if the SMA was held void for excluding queer couples from its ambit, it would take India back to the pre-independence era, where persons of different religions and castes could not get married. He added that "such a judicial verdict would not only have the effect of taking the nation back to the era when it was clothed in social inequality and religious intolerance but would also push the courts to choose between eradicating one form of discrimination and prejudice at the cost of permitting another." Justice Kaul, concurring with the CJI also stated that SMA postulated a "special form of marriage" available to any person in India irrespective of faith and as such provided a secular framework for solemnization and registration

of marriage.

III. Reading Words Into SMA Would Amount To Entering Realm Of Legislature

The CJI, in his judgement, stated that reading words into the provisions of the SMA and other allied laws would mean entering into the realm of the legislature. He added that the Court was not equipped to undertake an exercise of such wide amplitude because of its "institutional limitations". The CJI remarked in his judgement– "This Court would in effect be redrafting the law(s) in the garb of reading words into the provisions. It is trite law that judicial legislation is impermissible." Elaborating further, he stated that whether a change should be brought into the legislative regime of the SMA was for the Parliament to determine as the Parliament had access to varied sources of information and represented in itself "a diversity of viewpoints in the polity". Expressing a word of caution, the CJI stated that the Court in the exercise of the power of judicial review must be careful not to tread into the legislative domain. While Justice Kaul, in his judgement, held that SMA was unconstitutional as it violated Article 14 of the Indian Constitution, he agreed with the CJI in stating that due to limited institutional capacity, the Supreme Court did not possess an adequate form of remedy as the same fell within legislative domain.

IV. Constitutionality Of SMA

The issue of constitutionality of the SMA was one where different opinions of different judges came up. Justice Kaul held that the SMA was unconstitutional as it violated Articles 14 and 15 of the Indian Constitution. He stated that if the intent of the SMA was to facilitate inter-faith marriages, then there would be no rational nexus with the classification it makes, that is, excluding non- heterosexual relationships would be unconstitutional, especially after the Supreme Court's judgement in Navtej Johar v. Union of India, which prohibited discrimination on the basis of sexual orientation.

Per contra, Justice Bhat, speaking for himself and Justice Kohli, stated that SMA could not be held as unconstitutional. He stated that the sole intention of the SMA was to enable marriage, as it was understood at the time the 1954 Act was passed (i.e., for heterosexual couples), of persons of different faiths. He added– "There was no idea to exclude non- heterosexual couples, because at that time, even consensual physical intimacy of such persons, was outlawed by Section 377 IPC." Thus, the Act did not include same-sex marriages within its fold. In this context, he stated that as per the decisions of the court, as long as an objective was clearly discernible, it could not be attacked merely because it did not make a better classification. Further, he added that the original rationale for SMA, that is, to facilitate inter-faith marriages could also not be condemned on the ground of irrelevance, due to passage of time. He stated that–

"The relevance of SMA has gained more ground, because of increasing awareness and increasing exercise of choice by intending spouses belonging to different faiths. It cannot be said, by any stretch of the imagination that the exclusion of non-heterosexual couples from the fold of SMA has resulted in its ceasing to have any rationale, and thus

becoming discriminatory in operation. Without a finding of that kind, it would not be open to the court to invoke the doctrine of “reading down”." Justice PS Narasimha agreed with the view of Justice Bhat and Justice Kohli.
V. Gender Neutral Terms In SMA Would Result In 'Anomalous' Outcomes Justice Bhat, in his judgment, delved into the complexities of interpreting the SMA in a gender-neutral manner. He argued that such an interpretation, while seemingly progressive, might not always be equitable and could expose women to unintended vulnerabilities.

He pointed out that terms like 'wife,' 'husband,' 'man,' and 'woman' in marriage laws, as well as laws addressing sexual violence and harassment, were intended to protect socially marginalized individuals. These terms were designed to ensure that those facing violence and injustice, particularly women had legal recourse. For instance, the Domestic Violence Act guarantees protection and relief to women facing violence at the hands of their partners. Provisions in the SMA, such as alimony and maintenance (Section 36 and 37), confer specific rights to women. Additionally, certain grounds for divorce(like the conviction of a husband for bigamy or rape) offer the wife additional grounds to seek divorce (Section 27). According to Justice Bhat, the

According to Justice Bhat, the general pattern of these provisions, along with the specific benefits they offer to women, would result in anomalous and unworkable outcomes if the SMA were to be interpreted in gender-neutral terms.

Other reports about the judgment can be read here. Case Title: Supriyo v. Union of India | Writ Petition (Civil) No. 1011 of 2022 + connected matters

- ## [S.29 POCSO Act] Allegations Not Supported By Medical Evidence, Presumption Against Accused Not Mechanical: Madras High Court Acquits Army Jawan

The Madras High Court recently set aside the conviction of an Army Jawan who was sentenced to ten years imprisonment and a fine of Rs.10,000 by a POCSO Court.

Justice Sathi Kumar Sukumara Kurup observed that though the prosecution had claimed that there was insertion resulting in bleeding, there was no evidence to prove aggravated sexual assault and thus the allegations were without any medical evidence. The court further observed that when the charges were not proved by medical evidence, mechanical application of presumption under Section 29 of the POCSO Act would result in the miscarriage of justice.

“Therefore, it is a clear case that the prosecution had not proved the charges through medical evidence. Therefore, the presumption under Section 29 of the Protection of Children from Sexual Offences Act, if mechanically applied in these circumstances will result in miscarriage of justice,” the court said. The court was hearing an appeal by Prathap Kumar Nayak. The case against Nayak was that while Nayak’s wife and a neighbour had gone shopping, he had sexually assaulted the neighbour’s daughter. Later, when the victim child informed her mother of the incident, the mother went to the

Police Station and gave a complaint. Since she only knew Odiya, the complaint was translated to Hindi, and then to Tamil and registered.

During the appeal, Nayak claimed that he was wrongly arrayed as an accused to wreak vengeance. He also argued that the versions depicted by the mother and the victim child were contradictory and were not supported by medical evidence. He pointed out to the medical certificate which stated that there was no injury on the body of the victim child particularly in the genital area.

The Additional Public Prosecutor objected to the appeal by submitting that the evidence of the victim alone was sufficient to convict the accused. He submitted that the evidence of the child was corroborated by the evidence of the mother and thus even if there was a lack of corroborative material, the burden on the court was to believe/presume the version of the victim.

The court however observed that if the Additional Public prosecutor's contention was to be accepted, it would mean that Nayak would have to be mechanically convicted based on evidence of the victim and her mother alone. The court also observed that as per the victim's version, there was an insertion of penis in her vagina where she bled. However, the court noted that if there had been blood in her vagina, her hymen would have been torn but the certificate of the medical examiner stated that there was no injuries on her body and the hymen was intact. Thus, the court observed that the offence of aggravated sexual assault was not attracted.

Thus, the court set aside the judgment and conviction of the Sessions Judge, Mahila court in Chennai, and acquitted Nayak of the charges under Section 6 of the POCSO Act 2012. Counsel for the Appellant: Mr. P. Srinivasan for Mr..Michael Jacob Dennyson Counsel for the Respondent: Ms.G.V.Kasthuri Additional Public Prosecutor Citation: 2023 LiveLaw (Mad) 330 Case Title: P Prathap Kumar Nayak v State

Punjab and Haryana High Court to examine allegations against Civil Judge of collusion with land grabbing accused

The Court referred the matter regarding Civil Judge Navreet Kaur to the concerned administrative judge (a High Court judge) for information and necessary action if needed.

The Punjab and Haryana High Court recently ordered the Central Bureau of Investigation (CBI) to probe a land dispute case in which a judge has been accused of colluding with the accused persons [**Guru Nanak Vidya Bhandar Trust, Daryaganj, New Delhi v. State of Punjab and others**].

Pertinently, the High Court also referred the allegations against the Civil Judge (Junior Division)/Judicial Magistrate - Ist Class **Navreet Kaur** to the concerned administrative judge (a High Court judge) for *"information and necessary action if any."*

"This Court does not consider it appropriate to comment further on the same (allegations against the civil judge)*. Registry is directed to place reports received from respondent No.8 along with documents and the paper-book of the instant petition along with orders passed on different dates before the Hon'ble the Administrative Judge of the concerned District for information and necessary action if any,"* the Court directed.

Justice **Pankaj Jain** of the High Court said that the facts of the case revealed a shocking tale of how the process of law was abused by unscrupulous elements.

The petitioners had called it 'forum shopping' but it seems to be beyond that, the High Court added before directing the Central Bureau of Investigation (CBI) to investigate the case.

"*This Court is quite sanguine that Central Bureau of Investigation shall conclude the investigation expeditiously preferably within six months*," the bench said.

The Court observed the manner in which the legal process was employed to serve the *"illegal designs of troublemakers"* in this case and the conduct of the Punjab Police in shifting its stand every now and then called for a thorough and detailed investigation by an independent agency.

"The obtrusion that impinges upon the system needs to be nipped in the bud and the vigil needs to be on the high against any pollutant," Justice Jain said adding that the system cannot afford *"self inflicted scars."*

Background

The case pertained to the ownership of a land worth ₹100-crores, which belonged to Delhi-based Guru Nanak Vidya Bhandar Trust in Punjab's Mohali district.

A first information report (FIR) registered at Police Station Zirakpur alleged that certain persons had created an "imposter trust" and forged documents to gain title over the land.

The FIR, which concerned 8 acres of land in Mohali's Zirakpur, mentions that this land was purchased in 1986 and that the possession of the land has been with the trust since then.

Besides alleging forgery of documents to grab the land, the complaint also alleged that the accused persons had entered the property in March 2022 to beat up the security guards there. The CCTV cameras installed there were also allegedly destroyed.

The charitable trust eventually approached the High Court earlier this year seeking a probe by the CBI or a Special Investigation Team (SIT) into the alleged illegal attempts to take over the trust's land.

The accused also managed to get an ad-interim injunction in a civil suit filed before a court in Dera Bassi, the trust submitted.

However, the order was later vacated with the observation that it was obtained by portraying documents in a wrong manner.

Allegations Against Civil Judge

The case took an interesting turn in February this year when the High Court was told that a lawyer in Bathinda had managed to secure two questionable orders from judge Navreet Kaur in cases that were unrelated to the trust or its land dispute.

In these two unrelated cases, Judge Kaur had allowed an application filed by advocate **Vikas Kumar** to summon a senior officer of the bank where the trust had its accounts. These applications had also called for a disclosure of the trust's accounts with the bank.

The petitioner trust alleged that their account details were being sought for in such cases, even though the trust was not connected with such cases in any manner.

The judge was, therefore, asked to explain her actions by the High Court.

In her response, the judge could not deny that the statement of the bank official summoned by her was recorded in her presence although she was unable to explain why his testimony was required.

"*Her silence with respect to the relevance of evidence even while the testimony was being recorded remains amiss even today*," the High Court said.

Though the Court refused to comment any further on this aspect, it termed her response "evasive."

In this backdrop, the Court observed that it was obvious that various stakeholders in the system who were expected to be on the right side of law were apparently caught on the other (wrong) side.

Pertinently, on October 5, advocate Vikas Kumar admitted before the High Court that the bank records summoned by him through judge Kaur's Court had no relevance to the case before her.

He even claimed that he inadvertently filed the application for such a summons and tendered an unconditional apology.

The High Court, however, ordered the Bar Council of Punjab and Haryana High Court to look into the matter and take appropriate action.

Court raps Punjab Police

The Court also criticised the police for its shifting views on the matter, opining that this did not augur well for the investigating agency especially when the case was pending before the High Court.

"*This shows that neither the offence is routine nor the precipitator can be taken lightly,*" the Court added.

In August 2023, the police had called for the cancellation of the FIR in this case, while submitting that the matter was essentially a land dispute.

However, on October 18, the police changed their stand and said that a charge sheet had been filed against three accused and that the role of others accused was still under investigation.

The Court has now ordered that the probe be handled by the CBI.

The Court passed the order while opining that the abuse of the process of law alleged in this case called for a detailed investigation so that the trust of the litigants in the system does not erode.

The trial court was also restrained from proceeding further in the matter till completion of the investigation.

Senior Advocate **RS Rai** with advocates PS Ahluwalia, Jagat Vir Singh Dhindsa and Nitish Pathak represented the petitioner-trust.

Senior Deputy Advocate General Tarun Aggarwal represented the State of Punjab.

Senior Advocate **Sumeet Goel** with advocates Satuabeer Singh, Tajveer Singh and Ashish Pundir represented an applicant.

Senior Advocate **Anand Chibber** with advocate Ateevraj represented a respondent. Advocate Nimanyu Gautam also represented one of the respondents.

- ## Wife demanding to live separately from husband not always cruelty: Calcutta High Court

"Mere demanding to live separately cannot be said to be a cruelty of such degree which would invite the marital tie to be severed", the Court said.

A mere demand by a wife to live separately from here husband does not always amount to cruelty warranting the severance of marital ties, the Calcutta High Court recently observed. ***[Koushal Kumar vs Priyanka Kumari].***

A division bench of Justices **Harish Tandon** and **Prasenjit Biswas** explained that there may be circumstances in which such a demand may be reasonable.

In such a situation, both husband and wife have reciprocal obligations to understand the emotions and the circumstances that gave rise to such a demand, the judges added.

"Mere demanding to live separately cannot be said to be a cruelty of such degree which would invite the marital tie to be severed. There may be circumstances for such demand which cannot be said to be unreasonable and therefore, it is a reciprocal obligations imposed upon both the persons to understood the emotions in the attending circumstances," the Court's judgment stated.

The Court also emphasised that the marital relationship depends upon the trust and confidence reposed in each other by the spouses. Every conflict between spouses may not amount to cruelty, the Court opined further.

"Two individuals brought up in a different environment may at times have a conflicting views but those are always regarded as a vagaries of life as well as normal wear and tear of the marital relationship. Every conflict may not tantamount to a cruelty, which is decided on a high degree of the evidence," the October 18 judgment stated.

The Court made the observation while dismissing a husband's plea for divorce.

The husband moved the Court alleging cruelty and desertion. He claimed that his wife often picked quarrels with him, demanded a separate living and did not cook food for him.

He further alleged that the wife tried to control his finances and that she eventually deserted him by leaving the matrimonial house in 2013.

The wife denied all these allegations. She stated that she had moved to her parental house to pursue her education. She submitted that she was later asked to live in the father-in-law's house in Jharkhand, while the husband remained in Kolkata. She respected this wish, the Court was told.

She also said that her husband had an extramarital affair with a colleague and that he was living with the said lady in Kolkata.

Despite this, the wife was ready to cohabit with him, the Court was told.

The bench found that the husband failed to prove his allegations against the wife.

"The evidence goes to prove that the wife never disassociated herself from the husband without any reason and rhyme. There is no evidence put forth by either of the parties that she refused to cook the food nor ever prepared tiffin for him. She has categorically asserted that she, in fact, prepared the food and is ready to prepare the food for him as she has still an emotional connect with him and despite the fact that he has a relationship outside the marriage, she is ready to live a happy conjugal life," the bench noted.

Further, the Court took note of a claim that the wife was earlier restrained from entering the matrimonial home and that she was only allowed inside after local people intervened.

However, the husband is then said to have left the same house and started living with his colleague.

The fact that the husband refused to divulge the name or contact details of the said lady colleague during cross-examination also prompted the High Court to draw an adverse inference against him.

"Therefore, it cannot be said that the allegation of the wife that the husband had a relationship with a lady outside the marital institution has not been proved," the Court said.

In view of all these aspects, the Court proceeded to dismiss the plea for divorce.

Advocates Partha Pratim Roy and Dyutiman Banerjee represented the husband.

- ## Elected representative voicing concern about murder investigation not defamation: Kerala High Court

The Court held that the news reports published by Malayala Manorama on a speech by former MLA KM Shaji, in which he had urged for strong action against perpetrators in the Shukoor murder case, was not defamation.

An elected representative expressing concern about a murder investigation and pushing the government for strict action against the perpetrators does not amount to defamation, the Kerala High Court has ruled ***[Philip Mathew & Anr. V Shri.P. Jayarajan & Anr.].***

Justice **CS Dias** made the observation while quashing a defamation case filed over the publication of certain remarks by former Member of the Legislative Assembly (MLA) KM Shaji, in which he had urged for strong action against perpetrators in the Shukoor murder case.

“Being a representative of the people of his constituency, he appealed to the Government, for and on behalf of the masses, to take strict action against the perpetrators, to deter such persons from indulging in gruesome murders…by no semblance of imagination can the above statement be labeled to be an insinuation falling within the sweep of Section 499 of the IPC,” the Court held.

The Court added that there was no intention on the part of media outlet, Malayala Manorama, to defame anyone when it carried news reports on Shaji's speech.

Therefore, it quashed the defamation case against Shaji as well as the Managing Editor and the Publisher of Malayala Manorama.

The defamation complaint had been filed by P Jayarajan, Secretary of the Kannur District Committee of CPI(M) on October 7, 2012.

Jayarajan claimed that Shaji, who was then an MLA representing the Azhikode Constituency in Kannur, had defamed him during a press conference. The next day, two media channels (Malayala Manorama and Chandrika Daily) published versions of Shaji's statements.

This led Jayarajan to file a defamation complaint, alleging that Shaji had falsely accused him of causing the death of one Sareesh who was an accused in the Shukoor murder case.

As per the complaint, Shaji had insinuated that letting the Jayarajan and other leaders of the CPIM go unpunished would escalate the death toll in the Shukoor murder case.

The High Court, however, opined that Shaji had merely urged the government to thoroughly investigate the alleged suicide of Sareesh.

The Court added that Shaji had only expressed concern about the rising murder cases in Kannur and advocated for a serious examination of the charges in the Shukoor case since minor offences were being charged against certain individuals like the complainant.

The Court concluded that such statements do not qualify as *defamation* under Section 499 of the Indian Penal Code (IPC). Therefore, it quashed the case against Shaji and the Malayala Manorama representatives (petitioners).

The petitioners were represented by advocates Milu Dandapani, Sumathy Dandapani, Santosh Mathew, Arun Thomas, Jennis Stephen, S Kabeer, Sathish Ninan and Babu S Nair.

The complainant and the State government were represented by advocates Ben Tom, Lizamma Augustine, Ron Bastian, Sebastian Paul and Public Prosecutor Seetha S.

- ## State Amendments Made To VAT Acts After GST Came Into Effect Are Invalid : Supreme Court

A Division Bench of the Supreme Court, while deciding the appeals arising from judgments of Telangana, Gujarat and Bombay High Court with respect to the validity of VAT Amendment Act in their respective states, made several significant findings regarding Section 19 of the Constitution (101st Amendment), 2016, which allowed the introduction of the Goods and Services Tax. Inter-alia, the issue was about the legislative competence of the State enactments after 01.07.2017 i.e. beyond the time period prescribed in Section 19. This provision provided the time limit of one year to amend the laws

related to tax on goods and services, in conformity with the express terms of the Amendment. It may be noted that the GST regime came into effect from 01.07.2017.

Based on facts and circumstance, the Bench of Justices S Ravindra Bhat and Aravind Kumar., held: “The amendments in question, made to the Telangana VAT Act, and the Gujarat VAT Act, after 01.07.2017 were correctly held void, for want of legislative competence, by the two High Courts (Telangana and Gujarat High Court). The judgment of the Bombay High Court is, for the above reasons, held to be in error; it is set aside; the amendment to the Maharashtra Act, to the extent it required pre-deposit is held void.”

While in the case of Telangana and Gujarat, the concerned states had appealed aggrieved by the judgments as the amendments introduced were struck down however, in Maharashtra’s case, since the impugned amendment was upheld by the Bombay High Court, the appellants were assesses. The Court also noted:

“Section 19 of the Constitution (101st Amendment) Act, 2016 and Article 246A enacted in exercise of constituent power, formed part of the transitional arrangement for the limited duration of its operation, and had the effect of continuing the operation of inconsistent laws for the period(s) specified by it and, by virtue of its operation, allowed state legislatures and Parliament to amend or repeal such existing laws.,”

Brief Background of Relevant Provisions It may be recalled that the Amendment introduced a fundamental re-ordering of the constitutional premise of taxation by the Union and State Governments in India and to enable the introduction of the Goods and Services Tax (GST).

Since this present case broadly deals with the interpretation of Section 19 of the Amendment Act, it is imperative to understand the same. The same reads as follows:

“19. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.” Thus, Section 19 provided that laws relating to tax on goods or services or both “in force in any state immediately before the commencement of the amendment Act shall continue to be in force until amended or repealed by a competent legislature or other competent authority.” The other eventuality was that with or without such amendments such laws were to be in force only for a period of one year from the commencement of the amendment.

Factual Background

Telangana The facts in relation to this State are such that the local VAT Act was amended after the Amendment was introduced. The VAT amendment was through an Ordinance, and was brought into force on 17.06.2017, i.e. 13 days before the time granted by the 101st Amendment Act, i.e. one year. This ordinance, continued till the State Legislature enacted it. The Governor then assented to the law, and it came into force on 02.12.2017. The amendment sought to extend the period of limitation, and permitted to re-open assessments. Feeling aggrieved, many

traders and VAT payers approached the Telangana High Court, challenging the amendments to the local VAT Act.

By the impugned judgment, the High Court accepted the challenge and struck it down, on various counts, including that the State had limited scope to amend its VAT Act, which in terms of Section 19 of the Amendment could have done it only to bring it in conformity with the amended Constitution. Other reasons included that the ordinance, could not have been confirmed, as the state was denuded of legislative competence after 01.07.2017.

State's Stance

It was sought to be argued that once the State Legislature approved the ordinance and enacted the amendment, in conformity with it, the provisions of the Ordinance became part of the act. The question of legislative competence would not arise, because the mere confirmation of an ordinance is within the competence of the State legislature.

Gujrat

In the Gujarat batch of cases, Section 84A was introduced in the Gujarat Value Added Tax Act, 2003 by the Gujarat Value Added Tax (Amendment) Act, 2018, gazetted on 06.04.2018 but with retrospective effect from 1.4.2006. The High Court held the amendment to be unconstitutional on the ground that the legislature lacked competence to enact the provision having regard to Section 19 of the 101st amendment and furthermore that the amended provision was manifestly arbitrary.

State's Stance

The state had sought to urge that being a validating enactment, which sought to cure the defect found earlier, and given that it operated retrospectively, there is no question of the amendment being invalid.

Bombay

In the batch of appeals arising from the judgment of the Bombay High Court, the parties were aggrieved by the fact that the Maharashtra VAT Amendment Act, which was initially made on 15.04.2017, was read down by a Division Bench judgment, of the Bombay High Court. That position was sought to be reversed, through an amendment which was brought into force, on 15.04.2017 and later in an effort to reverse the effect of a judgment, given retrospective effect. The writ petitions filed by such aggrieved parties, were dismissed. Thus, the appellants in this case are assesses.

Assesses Grievance

As far as the Maharashtra appeals are concerned, the assesses grievance is that the retrospective amendments, made to the Maharashtra VAT Act, were void.

Court's Observations

Interpretation of Section 19

To begin with, the Court interpreted Section 19. It stated that the same provision has three aims. The first is to preserve the existing status quo with regard to the state and central indirect tax regime, for a period of one year from the date of commencement of the Amendment or till a new law is enacted whichever is earlier. The second is authorizing the competent legislatures i.e. the State Legislatures and Parliament to amend existing laws which were in force in states and other parts of the country. The third was the repeal of such laws.

Taking its cue from the aforesaid observations, that Court stated that the fact that Section 19 was meant to be transitional cannot be doubted.

Thereafter, distinguishing between the ordinary and a constitutional law, the Court of the opinion that Section 19 was enacted in exercise of the constituent power. In this context, it may be noted that an ordinary law such as an Act of Parliament, is a product of a legislative exercise. The source of that power is traced to the Constitution in some specific provisions or through fields of legislation enumerated in one or the other lists. Constitutional law on the other hand is that it arises out of the Constitution and creates different organs of the State, defines their power and imposes limitations on the functioning of the Executive and legislative wings through the fundamental rights and other limitations. The Court opined that Section 19 was not comparable to a mere Parliamentary enactment and the same was adopted as part of the 101st Constitutional Amendment Act.

Whether the power of amendment or repeal is subject to limitations under Section 19

Moving forward, the Court observe that once it is conceded that Section 19 was enacted as part of the constituent power and has the same force as the rest of the constitutional amendment and is not a mere Parliamentary enactment, one has to consider the consequence of this sequitur to such a finding.

Basis this, it was opined that Section 19 itself is held to be the source which enabled Parliament and the State Legislatures (along with Article 246A to amend the existing laws. Elaborating on the term 'amend', the Court observed:

"The meaning of the term 'amend' is well-known it takes within its sweep the idea of correcting something, adding something, deleting, or substituting something or doing something to an existing document, enactment, or rule to make it better."

It was, therefore, held that there were no limitations under Section 19 (read together with Article 246A), of the Amendment. That provision constituted the expression of the sovereign legislative power, available to both Parliament and state legislatures, to make necessary changes through amendment to the existing laws. Citing the case of Ramkrishna Ramanath v. Janpad Sabha, 1962 Suppl. (3) SCR 70, wherein it was held that "the provision by its implication confers a limited legislative power to desire or not to desire the continuance of the levy.," the Court, in the present case, held that this "limited legislative power was not constricted or limited, in the manner alleged by the states; it is circumscribed by the time limit, indicated (i .e. one year, or till the new GST law was enacted). It could, therefore, enact provisions other than those bringing the existing provisions in conformity with the amended Constitution."

Validity of Telangana Act tested from the touch stone of its originating as an ordinance

In this regard, the court was of the view that the submissions of the Telangana State were not substantial. There can be no doubt that an ordinance promulgated by the Government is as much a law as much as is any binding law enacted by State legislature. The difference is that contrary to the traditional role of the executive, law making does not fall within its primary domain. The Court explained: "However, that argument is not tenable, because the ordinance's validity and effect might not have been suspect on the date of its promulgation; yet, the issue is that on the date when it was in fact, approved and given shape as an amendment, the State legislature had ceased to possess the power. By that time, the State GST and the Central GST Acts had come into force (on 01.07.2017). Therefore, Section 19 ceased to be effective. In the circumstances, the state legislature had no legislative competence to enact the amendment, which approved the ordinance, which consequently was rendered void."

Gujarat and Maharashtra Acts

In the case of the Gujarat VAT Act, the Court held that the retrospective effect, given to the amendment, which was brought into force, with effect from 2006, cannot in any way save it, after the coming into force of the GST laws, on 01.07.2017.

With respect to the latter case, the Court held that there is no quarrel with the proposition that a legislative body is competent to enact a curative legislation with retrospective effect. However, there is a lack of competence on the date the amendment was enacted i.e.in this case, 09.07.2019, the Maharashtra legislature ceased to have any authority over the subject matter as the power to change the VAT Act, ceased, on 01.07.2017, when the GST regime came into effect. Therefore, for the same reasons, as in the other cases, the amendment to the Maharashtra VAT Act cannot survive.

Court Conclusions

Apart from what has already been mentioned above, the Court concluded: "Since other provisions of the said Amendment Act, had the effect of deleting heads of legislation, from List I and List II (of the Seventh Schedule to the Constitution of India), both Section 19 and Article 246A reflected the constituent expression that existing laws would continue and could be amended. The source or fields of legislation, to the extent they were deleted from the two lists, for a brief while, were contained in Section 19. As a result, there were no limitations on the power to amend.

The above finding is in view of the vacuum created by the coming into force of the 101st Amendment, which resulted in deletion of the heads of legislation in the two lists aforesaid." In view of these observations, the appeals filed by the States of Telangana and Gujarat were dismissed and the appeals of the assesses against the judgment of the Bombay High Court were allowed.

CURRENT AFFAIRS

Supreme Court Dismisses Petition Challenging Election Symbol Allotment

The Supreme Court's recent decision to dismiss a petition by the Bharat Rashtra Samiti (BRS) party in Telangana, challenging the allotment of election symbols to other parties, has raised questions about the process of symbol allocation in Indian politics. How ..

Sworn Affidavits and "Approver Affidavits" in Legal Context

A sworn affidavit is a legal document in which a person makes a formal statement or declaration, typically before a notary or an officer of the court. In this document, the individual affirms that certain facts mentioned within the affidavit ..

Supreme Court Identifies Gap in Implementation of Sexual Harassment Laws at Small Workplaces

The Supreme Court of India has identified a significant gap in the implementation of laws against sexual harassment in workplaces, particularly at small establishments and domestic work settings. The Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Act ..

Supreme Court Mandates Compensation for Sewer Deaths and Disabilities

In a significant move, the Supreme Court of India has taken a strong stance on the issue of sewer deaths in the country. The court has ruled that government authorities must pay compensation to the families of those who lose ..

Supreme Court Ruling on Telecom Companies' Expenses and Taxation

In a significant decision, the Supreme Court of India has ruled that the payment of entry fees and variable annual license fees made by telecom companies will be considered capital expenditure rather than revenue expenditure for tax purposes. This ruling ..

Delhi High Court Addresses Copyright Infringement of Religious Texts

The Delhi High Court recently ruled on a case involving "large-scale infringement" of copyrighted works published by the Bhaktivedanta Book Trust, known for its books and commentaries on Indian religious philosophy and spiritualism, especially classic Vaishnava texts. The Background Copyright ..

LATEST JUDGMENTS

Manmohan Gopal Vs. State of Chhattisgarh & Anr.

[Miscellaneous Application No(S). 858-859 of 2021]

[Criminal Appeal No(S). 85-86 of 2021]

S. Ravindra Bhat, J.

1. With consent, heard the counsel for parties. The present miscellaneous application has been filed in one disposed of criminal appeal1 in which this court granted bail to the mother-in-law and father-in-law (Petitioners herein) of the Respondent No.2 herein (hereafter "R2" or "applicant" interchangeably) for offences under 420, 406, 468, 34, 120B of IPC.

2. The present applications are filed by the daughter in law (original complainant and R2) for recovery of both arrears of maintenance and monthly maintenance of 1,27,500. She is seeking from this court ₹ to direct to the family court of Bilaspur to decide the petition under Section 125(3) of CrPC within 6 months on the father-in-law and mother-in-law (now deceased) on the ground that she lives with her widowed mother, on whom she is dependent for expenses, including litigation expenses.

3. The factual background of the case is that Petitioner's son, Mr. Varun Gopal got married to R2 sometime in the year 2012-13. At the relevant time, Varun Gopal was employed in Australia. Within two years of marriage, the matrimonial relationship deteriorated leading to various legal proceedings. In response to the criminal charges pressed by R2, Varun Gopal filed anticipatory bail application, but relief was denied to him.

Since then, Varun Gopal has not participated in the criminal proceedings or in the maintenance proceedings. The present petitioners also sought anticipatory bail to which orders were passed by this Court directing them to deposit Rs.40 lakhs towards arrears of maintenance. The money having been not deposited, the anticipatory bail was not granted and they were arrested. After 10 months in custody, this court by order dated 12.07.2019 directed their release on bail.

4. In addition to criminal charges, R2 also filed a maintenance2 claim in the Family Court, Bilaspur. By order dated 9.11.2016, the Trial Court granted interim maintenance in sum of ₹ 1 Lakh per month. Subsequently, the husband filed criminal revision petition3 seeking setting aside of ex-parte interim maintenance order which got dismissed in default whereas R-2 also filed criminal revision petition4 seeking an enhancement and by order dated 7.4.2021, it was enhanced to ₹1,27,500.

5. According to the applicant, Varun Gopal is the sole heir of the petitioner and stands to inherit 11 shops in ancestral property, which the Petitioner got on the basis of Decree dated 29.5.1959. Further, Mr. Varun Gopal is settled in Australia where he obtained an ex-parte divorce decree dated 21.12.2017, by the family court of Australia. R2 has filed

a suit for cancellation of divorce on 8.11.20215 in the family court of Bilaspur, which is pending disposal. In the meantime, husband has remarried and now has two kids from his second marriage.

6. Previously, this court by order dated 02.09.2021, observed the following "It is accepted by Mr. Hargovind Jha, learned Advocate for Manmohan Gopal that those 11 shops which had fallen to the share of Manmohan Gopal by virtue of decree passed in the year 1959 continue to be under his control and the proprietary interest has not been transferred or parted with.

He also accepts that Varun Gopal being son of Manmohan Gopal and coparcener, would have interest in said 11 shops. As a matter of fact, Mr. Hargovind Jha, learned Advocate went to the extent of submitting that his client would consent to the appointment of receiver to the extent of the interest of Varun Gopal in those properties." and had directed to attach 11 shops on the consent given by petitioner/father-in-law which is reproduced in verbatim as below-

"(a). Those 11 shops, the details of which are available in decree passed in the year 1959 are hereby attached.

(b) It shall be open to the Executing Court to consider whether said shops need to be sold or dealt with in any other manner so as to ensure payment of all the arrears of maintenance to Shilpi Shrivastava.

(c) Till such exercise is undertaken, all the rentals and other incomes from said shops shall be credited to a separate account to be maintained under the direction and control of the Executing Court. From and out of the sum so received, the Executing Court shall be at liberty to make over such sums towards maintenance to Shilpi Shrivastava, as it deems appropriate.

(d) If any or all shops are required to be sold, the Executing Court shall maintain accounts and revert back to this Court at the earliest."

Submissions on behalf of applicant

7. Ms. Jaspreet Gogia, learned Amicus Curiae on behalf of R2 submitted that the said 11 shops have gone through three unsuccessful auction sale as the shops were occupied by tenants. As per R2, the current outstanding arrears of maintenance amounts to 1.25 Cr. Approx. ₹ (as of the order dated 02.09.21) and further asserts that all available modes for the execution of her maintenance order have been exhausted. The father-in-law was in prison for 10 months, and the auction of property also failed. Given this situation, R2 is seeking transfer of ownership of the said shops in her name as a means to settle her outstanding maintenance arrears and future maintenance as well.

To be specific, R2 is seeking ownership of the Shop namely M/s Fitness Factory Gym & Spa on the First Floor and some shops on the Ground Floor which are fetching the maximum rent. She submits to this court to note that if the due arrears i.e., 1.25 Crores

would have been paid, R-₹ 2 will get ₹60,000/- to ₹65,000/- per month as an interest and the rent of the First Floor Gym is around ₹55,000/-.

It was further submitted that some shops fall under the Delhi Rent Control Act and they fetch rental of less than ₹3,500/- per month and R-2 will never be in a position to get those vacated as the Petitioner has taken pagdi6 of those shops. It was also shown that the Executing Court has attached the rent of ₹15.000/- from the mobile tower installed on the roof top of the second floor of the same building7.

8. Additionally, the Petitioner has already consented for attachment of the shops to the extent of the husband's share (i.e., his son's share) in the order dated 02.09.2021, which was never objected. Thereafter, the Petitioner also never raised any objection to the attachment of Fitness Factory Gym before the Executing Court (Bilaspur).

Thereafter, for the first time, the Petitioner objected to the said attachment by getting two frivolous applications filed through his relative/ tenant Mr. Amitabh Srivastava8 which was disposed of9 without giving any relief. The second I.A.10 filed by Mr. Amitabh Srivastava was dismissed as withdrawn11 and the application filed by Mr. Amitabh Srivastava before the Executing Court (Tis Hazari Court) was dismissed.12

9. The counsel has submitted a copy of Site Plan of the 11 Shops drawn by Govt. approved Draftsman. Counsel further submitted the details of bank accounts which have been produced on the directions of this Court13, and claimed that the Petitioner was having 3-4 crores in his account but they have given false information in their Affidavits about them having no money. Furthermore, counsel also submitted that the matrimonial house was sold by the Petitioner for around ₹2 Crores in June, 2018.

10. It was also submitted that mother-in-law was signatory to the Memorandum dated 22.10.2018, before the Mediation Centre of the Supreme Court, which recorded that the parties had settled their case and an amount of ₹1.29 Crore was to be made over to R2 for the same. However, no money was paid to R2.

11. Finally, R2 asked this court to invoke its power under Article 142 of the Constitution as she approached this court in 2018 where firstly the Petitioner and his deceased wife had enjoyed the fruits of anticipatory bail by giving an undertaking of making the payment of due arrears of around ₹40 lakhs at that point of time.

But despite several assurances to this Court, the same was not paid. R-2 also filed Contempt Petition14 where this Court took the cognizance but petitioners did not make the payment and chose to go to jail; even as per Order dated 13.12.2018, this Court referred the matter to the Executing Court but nothing material could be done as the Petitioners were not appearing before the Executing Court and again in the regular bail matter15, this court granted them regular bail. Hence, even after so many rounds of litigation, and after years, R2 is still remediless.

Submissions on behalf of Petitioner

12. Mr. Hargovind Jha, learned counsel appearing for petitioner submitted that R2 obtained the maintenance order only against her husband which can be recovered from the husband or from his assets. The Petitioner is not personally liable to R2 when her husband is alive. There is no law which can directly hold father-in-law to provide maintenance to the wife.

13. The petitioner further contended that the marriage between R2 and his son was dissolved by the divorce decree passed by the court in Australia and therefore, parents-in-law are not liable in this case. In fact, the petition filed by R2 against petitioner is not maintainable under Section 1916 of Hindu Marriage Act, 1955 (hereafter HMA) as it is not applicable in the present case. The prayer asked is in violation of Section 2517 of HMA; R-2 has not yet accepted the decree granted in favour of husband by the foreign court and has instead challenged the decree, therefore, cannot seek permanent alimony.

14. Furthermore, the memorandum18 was signed by his wife who is now deceased and so, it cannot be enforced against him. In its replies filed, the petitioner denied having coparcenary interest of his son on properties as well as receiving 2 Crores as sale ₹ consideration for the matrimonial house.

15. Petitioner further submitted19 to settle the matter stating that he is ready to offer ₹75 Lacs in addition to 22 Lacs as one time full and final lump sum amount towards her entire claim of past, present and future, subject to the condition that all cases either criminal or civil or execution against the petitioner are withdrawn or brushed aside.

Findings and Conclusions

16. The past history of this case, and the orders of this court have demonstrated the utter obduracy of Varun Gopal, who abandoned the wife, and virtually fled to Australia. The documents placed on record of this court, including the affidavits filed by the petitioner, and the bank account statements, reveal that considerable amounts of money were remitted to Varun Gopal, over a period of time.

17. The previous judgments of this court, reported as Subrata Roy Sahara20, Skipper Construction21, etc. have held that the court is not powerless, but can issue appropriate directions, and even decrees, for doing complete justice between the parties. In Skipper Construction, it was observed

"16. In other words, the power under Article 142 is meant to supplement the existing legal framework - to do complete justice between the parties - and not to supplant it. It is conceived to meet situations which cannot be effectively and appropriately tackled by the existing provisions of law. As a matter of fact, we think it advisable to leave this power undefined and uncatalogued so that it remains elastic enough to be moulded to suit the given situation. The very fact that this power is conferred only upon this Court, and on no one else, is itself an assurance that it will be used with

due restraint and circumspection, keeping in view the ultimate object of doing complete justice between the parties."

In Chenga Reddy v. State of A. P22, it was observed

"56. A court of equity must so act, within the permissible limits so as to prevent injustice. "Equity is not past the age of child-bearing" and an effort to do justice between the parties is a compulsion of judicial conscience. Courts can and should strive to evolve an appropriate remedy, in the facts and circumstances of a given case, so as to further the cause of justice, within the available range and forging new tools for the said purpose, if necessary to chisel hard edges of the law. In our opinion in the established facts and circumstances of these cases, it would be appropriate with a view to do complete justice between the parties, in exercise of our jurisdiction under Article 142 of the Constitution of India."

18. The present case - as discussed earlier, has displayed persistent defiant conduct by Varun Gopal, and the petitioner, Mohan Gopal, who have, through one pretext or another stalled compliance with the orders of this court. It is the responsibility of Petitioner and Varun Gopal who are held liable to fulfil the payment of entire sum. In these circumstances, it is hereby directed that:

(1) Six contiguous shops bearing municipal numbers 26, 27, 28, 29, 30, 31 shall be put to sale by the Registrar of the Delhi High Court, who shall ensure that the best prices are realized. The amounts realized from the sale shall be deposited in a fixed deposit receipt, initially for six months, and its interest, disbursed to the second respondent/applicant. In the event of no sale, the attachment of property shall continue in favour of the applicant.

(2) The attachment of rents of M/s Fitness Factory Gym & Spa on the First Floor shall be continued, till the petitioner, and his son, Varun Gopal, pay the amount constituting the balance between the amount realized by direction (1) and Rs. 1.25 crores.

(3) In the eventuality the directions in (2) are not complied within one year, the Registrar is directed to take steps, and within three months, and seek option from the applicant regarding whether she would wish the transfer of title to the said premises in her name, or its sale. In the event she opts for the transfer, the Registrar Delhi High Court, is directed to take all necessary steps to execute a conveyance deed (under the present directions) to that effect, the sale shall be registered by the concerned authorities, and the applicant shall be handed over symbolic possession.

(4) In the event the applicant does not seek conveyance, the Registrar shall take all necessary steps to auction the said property (on the first floor described in (2) above, within 18 months from today.

(5) All amounts realized in the process of compliance with directions (1) and (4) above shall be paid to the applicant. Decree shall be drawn to the above effect.

Decree shall also reflect total amount due and payable to the applicant in lieu of which sale of shops are hereby ordered.

19. This court expresses its gratitude to Amicus Ms. Jaspreet Gogia for her valuable contribution and efforts.

The applications are disposed of in the above terms.

.....J. [S. Ravindra Bhat]

.....J. [Aravind Kumar]

Yashpal Jain Vs. Sushila Devi & Ors.
2023 Latest Caselaw 828 SC

[Civil Appeal No. 4296 of 2023]

Aravind Kumar, J.

PREFACE

1. Even after 41 years, the parties to this lis are still groping in the dark and litigating as to who should be brought on record as legal representative of the sole plaintiff Mrs. Urmila Devi (hereinafter referred to as 'Urmila Devi' for the sake of brevity). This is a classic case and a mirror to the fact that litigant public may become disillusioned with judicial processes due to inordinate delay in the legal proceedings, not reaching its logical end, and moving at a snail's pace due to dilatory tactics adopted by one or the other party.

The said suit, OS No.2 of 1982, was instituted for the relief to declare the sale deed, executed by Shri Mangal Singh (hereinafter referred to as 'first defendant' for the sake of convenience) in favour of defendants No.4 to 32 in respect of the suit properties described in the plaints schedule as item No.1 to 8, to be null and void by claiming to be the owner of the said properties; and for a decree of possession of the suit properties with costs.

BACKGROUND OF THE CASE:

2. When the aforesaid suit was still at infancy stage the soleplaintiff expired on 18.05.2007. One Mr. Manoj Kumar Jain filed an application to substitute him as her legal heir, by placing reliance on the Will dated 19.05.1999 and claiming to be a legatee under the said registered Will. He also filed an affidavit stating thereunder that Mr. Yashpal Jain (hereinafter referred to as 'appellant' for the sake of convenience) was a witness to the said registered Will.

The defendants objected to the said application contending inter alia that the appellant herein was the adopted son of late Urmila Devi by relying upon the adoption deed dated 06.01.1973 duly registered in the office of the Sub-Registrar. In the said proceedings, the present appellant also filed an affidavit stating thereunder that he was a witness to the Will dated 19.05.1999 executed by Urmila Devi in favour of Manoj Kumar Jain. The application filed by Manoj Kumar Jain came to be allowed by order dated 24.02.2010.

2.1 Being aggrieved by the said Order the legal heirs of the first defendant namely, legal heirs of Mangal Singh, filed a Civil Revision No.2 of 2010 before the District Judge which came to be allowed by setting aside the Order of the Trial Court on the ground that applicant had stated during the course of the revisional proceedings that he would not press the said application and as such directed the Trial Court to consider the application filed by Yashpal Jain-appellant herein and permitted him to file an application seeking condonation of delay along with the application to bring on record the legal representatives of the sole plaintiff, since he had failed to do so earlier.

Accordingly, revision application came to be allowed by order dated 02.12.2011 and Mr. Yashpal Jain filed an application before the Trial Court for condoning the delay in filing such application and also prayed for abatement of suit to be set aside. The learned Trial Judge vide Order dated 09.05.2012 allowed the application by setting aside the abatement and permitted Yashpal Jain to be substituted as legal representative of late Urmila Devi.

3. At this juncture, we would like to point out that a careful perusal of the application and the orders passed by the courts below would indicate that the parties and the courts below seem to have proceeded on the footing that they were to adjudicate the rights of a legal heir which if seen in the light of expression used in the Code of Civil Procedure (hereinafter referred to as 'CPC') is impermissible, as it is not referable to 'legal heir' but 'legal representative' as defined under Section 2 (11) which reads:

"Legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.

On the death of a party to the suit it is the legal representative who is/are entitled to prosecute the proceedings and, in law, represent the estate of the deceased. The legal representative who is brought on record not only includes a legatee under a Will but also an intermeddler of the property who would be entitled to sue and to be sued and/or continue to prosecute the proceedings. This vital aspect seems to have been lost sight of by the courts below conveniently.

4. Be that as it may, the aforesaid Urmila Devi who claimed to be Bhumidar and owner in possession of land situated in village Sonargaon, Patti Katulsyun, District Garhwal, Uttarakhand has contended in her suit that the suit schedule properties were looked after by Mangal Singh- the first defendant and as he had fraudulently obtained a Bhumidar Sanad of the land comprising No.77, 3/16 Nalis, she had filed an application under Section 137-A of UP Act No.1 of 1951 before the Tehsildar/Assistant Collector,

Pauri Garhwal, challenging the said Bhumidari Sanad obtained by the first defendant, which was held in her favour by the Tehsildar, and confirmed by the appellate authority.

Not being satisfied with the said order, the first defendant had filed a second appeal before the Revenue Board which came to be allowed in favour of Mangal Singh, against which a review petition was filed thereon by Urmila Devi which came to be allowed on 30.08.1982. The said order was challenged before the High Court of Uttarakhand in Writ Petition (M/S) No.342 of 2005 (old No.14655 of 1983) by Mangal Singh.

In the said proceedings a substitution application came to be filed by the legal representative of Mangal Singh stating thereunder that Yashpal Jain (appellant herein) is the legal representative of deceased Urmila Devi and prayed for his name to be substituted. The said application came to be allowed vide order dated 24.02.2012 and appellant herein was substituted as the legal representative of Urmila Devi in writ proceedings. There is no further challenge to said order or in other words, it has attained finality.

5. As already noticed hereinabove, appellant herein filed an application for substitution as legal representative of the original plaintiff-Urmila Devi along with an application for condoning the delay in filing said application and to set aside the abatement. The said application came to be allowed vide Order dated 09.05.2012. Being aggrieved by the said order, the Legal Representatives of Mangal Singh filed Civil Revision No.4 of 2012 before the District Judge who affirmed the Order of the Trial Court and dismissed the Revision Petition by Order dated 13.12.2012.

The legal representatives of Mangal Singh filed WP No.144 of 2013 before the High Court challenging the Orders dated 09.05.2012 and 13.12.2012 passed by the Trial Court and the Revisional Court, respectively. The High Court allowed the writ petition by quashing the impugned orders and rejecting the application of the appellant herein, thereby restoring the original order dated 17.05.2008 wherein Manoj Jain had been ordered for being substituted as legal representative of late Urmila Devi on the strength of the registered Will dated 19.05.1999 propounded by him with a direction to conclude the proceedings within a period of 9 months. Being aggrieved by the same, the present appeal has been filed.

SUBMISSIONS ON BEHALF OF THE PARTIES

6. We have heard the arguments of Ms. Rachna Srivastava, learned Senior Advocate, appearing for the appellant and Mr. Rameshwar Prasad Goyal, learned counsel, appearing for the respondents.

7. It is the contention of Ms. Rachna Srivastava, learned Senior Advocate appearing for the appellant, that the High Court committed a serious error in upsetting the findings of the Trial Court and the Revisional Court whereunder the discretionary power was exercised by condoning the delay while setting aside the abatement and allowing the application of the appellant herein to be brought on record as legal representative of deceased Urmila Devi; the High Court erred in not considering the fact that courts below had recorded a clear finding that appellant herein was the sole surviving legal

representative of the deceased plaintiff and as such it ought not to have interfered with the well-reasoned order passed by the Trial Court as affirmed by the Revisional Court; She would also contend that defendants in this suit who were the writ petitioners in WP(M/S) 342 of 2005 (old number 14655 of 1983) had substituted the appellant herein as legal representative of Urmila Devi in dispute related to the suit schedule property (involved in OS No.2 of 1982) and as such defendants cannot be permitted to take stand contrary to same. Hence, it is contended that impugned order is liable to be set aside.

8. Per contra, Shri Rameshwar Prasad Goyal, learned counsel appearing for the respondents, supports the impugned order and contends that in the Writ Petition No.144 of 2013, appellant herein who was a party therein had not filed a counter-affidavit and as such High Court had recorded that non-traversing of petition averments would amount to admission and had also taken note of the fact that appellant herein had filed an affidavit before the Trial Court on 25.10.2008 whereunder he has accepted the Will dated 19.05.1999 executed by deceased Urmila Devi and thereby supported the stand of Manoj Kumar Jain being the legal heir of Urmila Devi.

He would also draw the attention of this Court to yet another affidavit dated 21.08.2009 filed by the appellant himself in OS No.2 of 1982 whereunder he has again supported the Will dated 19.05.1999 or in other words, supported the substitution of Shri Manoj Kumar Jain as legal representative of deceased Urmila Devi. Hence, he contends there is no illegality committed by the High Court. It is further contended that appellant was having knowledge of OS No.2 of 1982 and as such he cannot plead ignorance for the delay. Lastly, challenging the adoption on the ground that same cannot be the basis for the appellant herein to be brought on record, he has sought for rejection of this appeal.

POINTS FOR CONSIDERATION

9. Having heard the learned counsels appearing for the parties and after bestowing our careful and anxious consideration to the rival contentions raised at the Bar, we are of the considered view that following points would arise for our consideration:

(i) Whether the impugned order dated 28.11.2019 passed in Writ Petition (M/S) No.144 of 2013 quashing the orders dated 13.12.2012 rendered in Civil Revision No.4 of 2012 by the High Court whereby the order dated 09.05.2012 passed by trial court allowing the impleadment application filed by the appellant herein had been rejected, is to be sustained or set aside?

(ii) Whether any further direction or directions requires to be issued for concluding the proceedings in a time bound manner on account of Suit No.2 of 1985 pending for trial for past 41 years?

(iii) What order?

RE: POINT No.(i)

10. It is not in dispute that Smt. Urmila Devi had instituted a suit O.S. No.2 of 1982 against Mangal Singh and others in respect of suit schedule properties as described in

the plaint schedule for declaring the sale deeds executed by Mangal Singh in favour of defendant Nos.4 to 32, as mentioned in Plaint Schedule 1 to 18, as null and void; and during the pendency of the said suit the plaintiff- Smt. Urmila Devi expired on 18.05.2007. On her demise Mr. Manoj Kumar Jain filed an application on 17.05.2008 for substitution as her legal heir and claiming right legatee under the Will dated 19.05.1999.

This application was followed by an affidavit of the appellant (Yashpal Jain) dated 25.10.2008 stating thereunder that his mother Urmila Devi had executed a Will dated 19.05.1999 in favour of Manoj Kumar Jain and also stating thereunder that Will was duly registered. The legal heirs of the defendant objected the said substitution contending, inter alia, that the present appellant is the adopted son of Urmila Devi and said adoption deed was duly registered on 06.01.1973 in the office of the Sub-Registrar.

It was also contended that Shri Rajendra Prasad Jain was the holder of power of attorney of Urmila Devi and on his (Rajendra Prasad) death on 18.02.2001, she had executed another power of attorney on 21.04.2001 appointing Virender Kumar Jain and on the basis of the same the name of his wife came to be mutated in respect of the lands indicated thereunder.

Hence, it was contended that Will propounded by Manoj Kumar Jain was fabricated and forged. Hence, it was prayed that claim of Manoj Kumar Jain for being substituted as legal representative of Urmila Devi is liable to be rejected. Yet another affidavit was also filed by the appellant on 21.08.2009 reiterating the contents of the earlier affidavit dated 25.10.2008. In other words, it was contended that Manoj Kumar Jain was not the legal representative of Urmila Devi.

11. The learned trial judge allowed the application by order dated 24.02.2010 for substitution by condoning the delay with costs and directed substitution of Manoj Kumar to be the legal representative of deceased plaintiff Urmila Devi.

12. The aforestated order dated 24.02.2010 came to be challenged by legal representatives of Mangal Singh in Civil Revision No.2 of 2010 which resulted in same being allowed vide order dated 02.12.2011 and the order of the trial court dated 24.02.2010 was set aside by taking note of the fact that Manoj Kumar Jain had stated in his application 27/C along with affidavit that he would not press the substitution application.

The appellant was granted liberty to file an application for impleadment as a party before the lower court. In this background appellant herein filed an application for substitution as legal representative of Urmila Devi and this application came to be filed on 05.12.2011 along with application for condonation of delay and to set aside abatement, which was opposed by the legal representatives of the first defendants by filing objections and contending that application filed by Yashpal Jain is not maintainable.

After hearing the learned Advocates appearing for the parties learned trial judge by a detailed order dated 09.05.2012 condoned the delay and allowed the application of the appellant to be brought on record as legal representative of the deceased-plaintiff

Urmila Devi. This order came to be affirmed by order dated 13.12.2012 in Civil Revision No.4 of 2012 filed by the legal representatives of Mangal Singh.

13. It is pertinent to mention at this juncture that during the life time of Urmila Devi an application came to be filed under Section 137- A of U.P. Act No.1 of 1951 before Tehsildar/Assistant Collector, Pauri Garhwal contending that the Bhumidari Sanad had been obtained by Mangal Singh, with reference to land comprising Nos.77, 3/16 Nalis, by adopting forgery, which came to be accepted. The appeal filed by Mangal Singh before the Assistant Collector against the order of Tehsildar did not yield any result, which gave rise to filing of a Second Appeal before the Revenue Board culminating in said appeal being allowed in favour of Mangal Singh.

The Review Petition filed against the order of the Second Appellate Authority came to be allowed and this was challenged by Mangal Singh in WP (M/S) No.342 of 2005 (Old No.14655 of 1983). During the pendency of the said writ petition, as noticed earlier, Urmila Devi expired and an application for substitution came to be filed by the very same legal representatives of Mangal Singh (who are Respondent Nos.1 to 5 herein) vide Annexure P-10, specially pleading thereunder to delete the name of Respondent No.4 (therein) Smt. Urmila Devi and substitute Yashpal Jain (appellant herein) in her place.

This application came to be allowed by order dated 24.02.2012 as reflected in Annexure RA/2 annexed to the rejoinder affidavit of the appellant. In this view of the matter, it cannot be gain said by the respondents herein that the appellant is not to be substituted as legal representative of deceased Urmila Devi. It is for this cogent reason, the learned trial judge vide order dated 09.05.2012 allowed the substitution and permitted the appellant herein to be substituted as legal representative of deceased plaintiff-Urmila Devi. Rightly so, this order of the trial court came to be affirmed by the Revisional Court vide order dated 13.12.2012.

It would be apt and appropriate to note at this juncture and at the cost of repetition that Manoj Kumar Jain, who had initially filed an application for substitution which came to be allowed by the trial court by order dated 24.02.2010, which order was carried in Civil Revision No.2 of 2010 and in the said proceedings an application came to be filed by said Manoj Kumar Jain stating thereunder that he does not intend to press the application filed by him for being substituted as legal representative of Urmila Devi. This fact also persuaded the Revisional Court to remand the matter back to the trial court vide order dated 02.12.2011.

14. In this factual scenario, the defendants cannot be heard to contend that appellant herein had filed two affidavits (Annexure P-5 and Annexure P-7) whereunder he had admitted Manoj Kumar Jain as the legal representative of deceased Urmila Devi and as such he cannot turn around to assert himself to be the legal representative of Urmila Devi, for the simple reason that affidavits filed by the appellant Yashpal Jain does not even remotely suggest or indicate that he have admitted Manoj Kumar Jain being the legal representative of Urmila Devi. On the other hand, said affidavits which has been perused by us, would clearly indicate that he has only affirmed and reiterated the fact that he is a signatory to the said Will and nothing more or nothing less.

15. Mr. Rameshwar Prasad Goyal, learned counsel appearing for the respondents herein, have also contended that on account of nontraversing of the writ petition averments the contents thereof are to be presumed true and correct, though seems to be an attractive proposition at first brush, it cannot be accepted for the simple reason that consent does not confer jurisdiction.

Even otherwise, the records would clearly indicate that Manoj Kumar Jain himself had filed an application, accompanied by affidavit before the Revisional Court in Civil Revision No.2 of 2010, stating thereunder that he would not press the application filed by him for substitution and this was sufficient for the High Court to have accepted the plea of the appellant or in other words, it should have sustained the order of trial court and ordered for appellant being brought on record as legal representative of deceased Urmila Devi.

16. At the cost of repetition, it requires to be noticed that respondents herein themselves having filed an application in WP (M/S) No.342 of 2005 for bringing the present appellant (Yashpal Jain) as her legal representative in the writ petition (M/S) 342/2005 and prosecuted the same, would reflect that they were in the acquaintance of the fact that present appellant being the legal representative of deceased Urmila Devi but yet are attempting to contend that Manoj Kumar Jain is to be brought on record as legal representative of Urmila Devi.

In this background the impugned order which has resulted in rejection of the application filed by the appellant to be brought on record as legal representative of Urmila Devi if sustained would result in the estate of deceased plaintiff not being represented, as a consequence of which suit would abate or would be put to a silent death by the defendants without claim made in the suit being adjudicated on merits. Hence, point No.(i) is answered in favour of the appellant and against respondents and therefore, the impugned order is set aside.

17. As far as the question of right of the appellant over the suit schedule properties, we are of the view, by virtue of adoption propounded, it is an issue which would be at large before the learned trial court and the veracity of the Will dated 19.05.1999 alleged to have been executed by Urmila Devi in favour of Manoj Kumar Jain, is to be decided in appropriate proceedings and as such we desist from expressing any opinion in that regard and contentions of both parties are kept open.

RE: POINT No.(ii)

18. Case papers on hand would disclose that dispute between the parties relates back to 02.02.1982 the date of institution of the suit No.2/1982 by the original plaintiff Smt. Urmila Devi. As to the stage of the suit namely, as to whether trial has commenced or otherwise, the material available before this court are silent but the fact remains that proceedings have got protracted from 1982 till demise of Urmila Devi on 18.05.2007 and thereafter it has moved at a snail's pace or in other words, the litigation seems to have not been taken to its logical end for reasons best known.

The death of the original plaintiff opened up a flood of litigation and as a result of it, several orders came to be passed by the courts below, both in original jurisdiction and revisional jurisdiction, which also reached the High Cout and ultimately before this Court by the present proceedings. The cause for delay has been myriad.

It is for this reason we have expressed our anguish at the beginning of this judgment as to likelihood of litigant public getting disillusioned of justice delivery system due to delays. It would be apt to note that certain litigations initiated more than 50 years back are still pending. As per the data extracted from National Judicial Data Grid (NJGD), we have noted hereinbelow the three oldest civil and criminal cases:

The Underlying factors behind Judicial Delays

19. The causes of delay are numerous loopholes in the law itself, redundant and voluminous paper work, absence of the witnesses, adjournments sought and granted for no justifiable reason as also delay in service of summons, lack of implementation of the provisions of Code of Civil Procedure (hereinafter referred to as 'CPC') and Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C'), as the case may be. These are only illustrative and not exhaustive. It is not that there has been any lack of effort to speed up the Justice Delivery System. However, the attempts made hitherto have yielded limited results.

Time and again various provisions of C.P.C. and Cr.P.C. have been amended to cater the ever-increasing demands for speedy disposal of cases and the results are not inspiring. There is an urgent need to take pro-active steps to not only clear the huge backlog of cases at all levels but there should be introspection by all the stakeholders to gear up to meet the aspirations of the litigant public who would only seek for speedy justice and to curtail the methods adopted to delay the proceedings which may suit certain section or class of the litigant public. When millions of consumers of justice file their cases by knocking at the doors of the courts of first instance, they expect speedy justice.

Thus, an onerous responsibility vests on all stakeholders to ensure that the people's faith in this system is not eroded on account of delayed justice. It is imperative to note that about 6 per cent of the population in India is affected by litigation, in such a scenario the courts would play an important role in the life of a nation governed by Rule of Law. Peace and Tranquility in the society and harmonious relationship between the citizens are achieved on account of effective administration of justice and its delivery system, even the economic growth of a country is dependent on the robust Justice Delivery System which we have in our country.

20. When the efficiency has become the hallmark of modern civilization and in all spheres of life there is an urgent need to hasten the pace of delivery of justice by reducing the time period occupied by the trial of suits and criminal proceedings as also the offshoots of such litigation which results in revisions, appeals etc. arising out of them.

A historical outlook of steps taken to curb the Judicial delay

21. The issue of delay has been bothering all the stakeholders for ages. Way back in the year 1924, a committee was constituted known as the Civil Justice Committee to enquire into the issues relating to changes and improvements necessary to bring in "more speedy, economical and satisfactory dispatch of the business transacted in the courts" under the chairmanship of Justice Rankin. Delay in disposal of cases beyond a period of two and a half years was a crucial concern and it was emphasized by the said Committee that "where the arrears are unmanageable, improvement in the methods can only palliate.

It cannot cure".1 The Central Government under the chairmanship of Justice S.R. Das set up a committee known as High Court Arrears Committee in the year 1949. In 1979, the Law Commission of India in its 77th Report on 'delay and arrear in trial courts' observed that the delay in civil or criminal matters have decreased the confidence among the general public about the judicial system.

It was emphasized that civil cases should be treated as lapsed if the matter was not disposed of within one year from the date of registration, whereas a criminal matter should be disposed within six months and in case of sessions trial it should not go beyond one year. It was also suggested to timely fill up the vacancies, appoint additional and ad-hoc judges and increase overall judicial strength. Some of the key recommendations of the Committee were:

"(i) Improvement of judicial system to meet modern requirement of society.

(ii) Time for scrutiny of the cases should not take more than one week.

(iii) Summons and notices should be attached with the plaint at the stage of filing, without stating the filing date.

(iv) Procedural reforms in civil and criminal case proceedings."

22. The 79th reports of the Law Commission of India pertains to "Delay and Arrears in High Courts and Appellate Court" which when read along with the 77th report as aforementioned, has provided a step-by-step manual for managerial judging, prescribing upper time limits for trial procedure to ensure speedy disposal of cases to be followed by Trial Courts, High Courts, and other appellate courts. Its recommendations range from ways in which judges should expedite the service of summons to the drafting of the decree and includes the suggestions that they should become more active in conciliation efforts. Other notable recommendations include:

"(i) Appointment of administrative justices who supervise the work of process servers;

(ii) Fixing of dates should be done by presiding officer and not readers, cases should deliberately not be fixed when the prospects of them being taken up for low and a standard of number of cases pending before courts should be decided and whenever there are indications that the number of cases will go beyond the standard, additional courts should be set up."

23. The 120th Law Commission Report on 'Manpower planning in judiciary: a blueprint' recommended that the most effective way to overcome the heavy pendency of cases clogging on the judicial system is by reducing judicial delay. It further states that the judiciary is overburdened by large number of cases filed each year, which clog an already stressed system. The report states that in 2002, when the ratio of the judges to population was 13 judges to 10,00,000 people, the Supreme Court recommended, in All India Judges Association vs. Union of India (2002) 4 SCC 247, to increase the ratio to at least 50 judges per 10,00,000 people.

24. The Malimath Committee, constituted on Reforms of Criminal Justice System, suggested multiple recommendations in its report, for Criminal Justice System, however some of them can be applied even in the civil litigation:

1. Time limit for filing written statements, amendments of pleadings, service of summons etc., must be prescribed.

2. So far as possible, parties must endeavor to decide or to settle the cases outside the court and to carry out the same objective, Section 89 in CPC, was introduced.

3. To record the evidences by issuing the Commission instead of by presence before the court of law. For the purpose of the same under Section 75 of the CPC, commission can be issued for collecting evidence.

4. Time frame need to be provided for oral argument before the court of law.

5. Restriction on Right of appeal.

25. Similarly, the Delhi High Court undertook a pilot project titled ''Zero Pendency Court Project Report'2 whereunder 22 specific pilot and reference courts were referred to collect data to examine meticulously the life cycles of the legal cases. At its core, the project sought to understand how the cases progressed through the legal system in the absence of any backlog.

The Data collected from the pilot project led to suggestions of some major recommendations which included, primarily, the assessment of Judicial strength, which as per the report, is regarded as a vital attribute to the cause of delay. The report in this regard suggested to arrive at an optimal judge strength to handle cases pending in different court and went on to provide the Ideal number of judges for different court.

The report also highlighted that in criminal cases, prosecution evidence hearings accounts for the Highest percentage of court hearings however when it comes to allocation of time, the courts tend to dedicate more minutes to final arguments and the issuance of final orders. In civil cases, miscellaneous hearings are common, but final order proceedings receive more time nevertheless, judges allocate a greater amount of time to the final order or judgment hearings.

26. Melvin M Belli, a member of the California Bar, in his article titled "The Law's Delays: Reforming Unnecessary Delay in Civil Litigation", which was prepared as a project for the Belli society, has noted "Trial delays or the period of the American Legal

System". The backlog of the system has become so typical that a plaintiff has to wait 5 years for trial of a simple personal injury claimed. In case, if there is an appeal, a final disposition of the case may occur 10 years after plaintiff has been injured and the following factors were outlined as the major contributors to the delay:

(i) The inefficient management of the court system by the judiciary.

(ii) A Tremendous increase in litigation.

(iii) The philosophy of procrastination of many judges and lawyers, and

(iv) The priority of criminal or civil cases on the court calendar.

To tackle the aforesaid problems, the following remedial measures were suggested as possible solutions:

1) Appointment of surrogate judges (auditors, referees, judges pro tempore) to handle certain cases. The idea of using surrogate judges is to avoid unnecessary adjudication under formal trials. This is followed in Massachusetts, where court appointed auditors or referees, who were practicing attorneys, used to adjudge motor vehicle tort cases. They report their findings of facts and conclusions to the court and the parties may accept the auditor's report as final or request a trial. If the case goes to trial, the auditor's findings are prima facie evidence and may be read to the jury.

2) The imposition of interest accruing retroactively from the time of incident, rather than from time of judgment, to remove defendant's incentives to delay.

3) The elevation of civil cases to parity with criminal cases so that civil cases will not be usurped.

4) A requirement that judges set definite trial dates and honor them, so that litigation cannot be delayed by one of the attorneys.

DELAY ON ACCOUNT OF PROCEDURAL LAWS

27. At the outset, it is necessary to point out the reasons for delay in civil trial namely:

(i) Absence of strict compliance with the provisions of CPC;

(ii) Misuse of processes of the court;

(iii) Lengthy/prolix evidence and arguments. Nonutilization of provisions of the CPC namely Order X (examination of parties at the first hearing);

(v) Non-Awarding of realistic cost for frivolous and vexatious litigation;

(vi) Lack of adequate training and appropriate orientation course to judicial officers and lawyers;

(vii) Lack of prioritization of cases;

(viii) Lack of accountability and transparency.

28. Apart from the above reasons, the other vital reasons include the over-tolerant nature of the courts below while extending their olive branch to grant adjournment at the drop of the hat and thereby bringing the entire judicial process to a grinding halt. It is crucial to understand that the wheels of justice must not merely turn, they must turn without friction, without bringing it to a grinding halt due to unwarranted delay. It is for such reasons that the system itself is being ridiculed not only by the litigant public but also by the general public, thereby showing signs of constant fear of delay in the minds of public which might occur during the resolution of dispute, dissuading them from knocking at the doors of justice.

All the stakeholders of the system have to be alive to this alarming situation and should thwart any attempt to pollute the stream of judicial process and same requires to be dealt with iron hands and curbed by nipping them at the bud, as otherwise the confidence of the public in the system would slowly be eroded. Be it the litigant public or Member of the Bar or anyone connected in the process of dispensation of justice, should not be allowed to dilute the judicial processes by delaying the said process by in any manner whatsoever. As held by this Court in T. Arivandandam vs. T.V. Satyapal & Another AIR (1977) 4 SCC 467 the answer to an irresponsible suit or litigation would be a vigilant judge.

This analogy requires to be stretched in the instant case and to all the pending matters by necessarily holding that every stakeholder in the process of dispensation of justice is required to act swiftly, diligently, without giving scope for any delay in dispensation of justice. Thus, an onerous responsibility rests on the shoulders of the presiding officer of every court, who should be cautious and vigilant against such indolent acts and persons who attempt to thwart quick dispensation of justice.

A response is expected from all parties involved, with a special emphasis on the presiding officer. The presiding officer must exercise due diligence to ensure that proceedings are conducted efficiently and without unnecessary delays. While it's important to maintain a friendly and cooperative atmosphere with the members of the Bar, this should not be misused as a pretext for frequent adjournment requests.

A word of caution to the learned members of the Bar, at this juncture, would also be necessary because of they being considered as another wheel of the chariot of dispensation of justice. They should be circumspect in seeking adjournments, that too in old matters or matters which have been pending for decades and desist from making request or prayer for grant of adjournments for any reason whatsoever and should not take the goodness of the presiding officer as his/her weakness.

29. In-fact, the utilization of the provision of CPC to the hilt would reduce the delays. It is on account of non-application of many provisions of the CPC by the presiding officers of the courts is one of the reason or cause for delay in the proceedings or disputes not reaching to its logical conclusion.

30. The very fact of the pendency of the present suit No. 2 of 1982, in the instant case, for the past 41 years is reflective of the fact, as to how some of the civil courts are functioning and also depicting how stakeholders are contributing to such delays either directly or indirectly. The procedure that is being adopted by the courts below or specifically the trial courts is contrary to the express provisions of the CPC. It can also be noticed that there are party induced delays.

It is laid down under Orders VIII Rule (1) that a defendant shall at or before the first hearing or within 30 days, or 90 days as the court may permit, present a written statement of his defence. In most cases, there would be no difficulty in presenting such a written statement on the date fixed, and no adjournment should be given for the said purpose except for a good cause shown, and in proper cases, costs should be awarded to the opposite side, namely realistic costs.

However, this is seldom found. Delay in filing the written statement and seeking adjournments is also another tactic used by the parties to litigation to delay the proceedings No doubt in catena of judgments including Kailash vs. Nanku 2005 (4) SCC 480, Serum Advocates Bar Association, Tamil Nadu vs Union of India, AIR 2005 SC 3353. Bharat Kalra vs. Raj Kishan Chhabra (2022) SCC OnLine SC 613 and Shoraj Singh vs Charan Singh (2018) SCC OnLine All 6613 the time limit prescribed under the CPC has been held to be directory and not mandatory which by itself does not mean that adjournments if sought should be granted for mere asking.

Only when such prayer being honest and prayer sought with a bona-fide intention, which we will have to be demonstrated in express terms, at least by way of an affidavit, such prayers should be entertained as otherwise the purpose of the legislative mandate would get defeated and the purpose of the amendment brought to CPC by Act 22 of 2002 would also become otiose.

In other words, it is high time that the presiding officers of all the trial courts across the country strictly enforce the time schedule prescribed under sub-rule (1) of Rule (1) of Order VIII in its letter and spirit rather than extending the olive branch on account of said provision being held directory to its illogical end even where circumstances of a particular case does not warrant time being enlarged.

Although Order XVII of the CPC indicate under the heading "adjournments", making it explicitly clear the procedure which requires to be adopted by the civil courts in the matter of trial, as evident from plain reading of the said provision would reveal, seems to have been completely lost sight of by all the stakeholders, which can be held as one of the root cause for delay in disposal of civil cases. It would be apt and appropriate to extract Order XVII of the CPC and it reads:

ORDER XVII

"1. Court may grant time and adjourn hearing"

(1) The court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three time to a party during hearing of the suit.

(2) Costs of adjournment.- In every such case the Court shall fix a day for the further hearing of the suit, and [shall make such orders as to costs occasioned by the adjournment or such higher costs as the court deems fit:

Provided that, -

(a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary.

(b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party,

(c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment,

(d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another Court, is put forward as a ground for adjournment, the Court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time,

(e) where a witness is present in Court but a party or his pleader is not present or the party or his pleader, though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or crossexamination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid."

The High Court of Karnataka in the matter of M. Mahalingam vs. Shashikala reported in ILR Karnataka 4055 had an occasion to deal with this rule and it was observed as under:

"17. The proviso to sub-rule (2) of Rule 1 of Order XVII was introduced by the code of Civil Procedure (Amendment) Rules, 1976. The object and reason behind the introduction of this proviso was that, when hearing of evidence has once begun such hearing shall be continued from day to day. The said provision is being made more strict so that once such stage is reached, an adjournment should be granted only for unavoidable reasons. A few other restrictions were also being imposed on the grant of adjournments.

The intention in enacting the said proviso is that, when the hearing of the suit has commenced, it shall be continued from day-to-day, until all the witnesses in attendance have been examined. In other words, it provided that a suit being tried like a sessions case in a Criminal Court. Therefore, the Rule is, once trial begins, evidence should be recorded on day-to-day basis. Even in exceptional cases, if an adjournment becomes necessary, it has to be adjourned to the following day only. Clauses-(b) (c) and (d) were introduced restricting the power of the Court to grant adjournments on the grounds set out therein.

These clauses make it clear that, the fact that a pleader of a party is engaged in another Court, is not a ground for adjournment. Even the illness of the pleader and inability of a pleader to conduct a case is not a ground for adjournment, unless the Court is satisfied that the party applying for adjournment could not have engaged another pleader in time. It also provides for the Court to record the statement of witnesses who are present in Court, when the party who summoned him and the party who has to crossexamine, the said witnesses and their counsel being not present Therefore, it is clear that the Court can be liberal in granting adjournments before the commencement of the Trial.

But once the trial commences, there is an obligation cast on the Court to conduct the said trial day-to-day until all the witnesses in attendance have been examined. Unfortunately, this procedure which is in the statute book since 1976, is followed more in breach. Adjournments are sought for and granted by the Courts as a matter of course. The intention of the Parliament in enacting the said provision was not appreciated. In spite of introduction of the proviso, there was no marked change in the trial of suits. Adjournments continued to dominate and obstruct speedy trial. Therefore, the parliament amended the law once again and now an attempt is made to control the power of the courts in granting adjournments.

18. This time sub-rule (1) and (2) of Rule 1 of Order XVII was amended substantially by the code of Civil Procedure (Amendment) Act, 1999. The object and reason behind the amendment Act was that, every effort should be made to expedite the disposal of civil suits and proceedings so that justice may not be delayed. The committee on Subordinate Legislation (11th Lok Sabha) recommended that it should be made obligatory to record reasons for adjournment of cases as well as award of actual or higher cost and not merely notional cost against the parties seeking adjournment in favour of the opposite party. Further limit up to three adjournments has also been fixed in a case.

19. The amended Sub-rule (1) of Rule 1 provides that at any stage of the suit, if sufficient cause is shown, the Court may adjourn the hearing of the suit for the reasons to be recorded in writing. Therefore, an adjournment cannot be granted for a mere asking. There should be sufficient cause for such an adjournment. Before granting adjournment, the Court has to record in writing the reasons, which constituted sufficient cause for it to adjourn the case. The proviso to sub-rule (1) of Rule 1 puts an embargo on the Court's power to grant adjournments, in as much as, it restricts the said power to grant adjournments to three times to a party during the hearing of the suit.

Therefore, the Court cannot exercise its power of granting adjournments arbitrarily, whimsically and it should know its limitations. The amendment to sub-rule (2) of Rule 1 makes it obligatory on the part of the Court to make an order as to costs occasioned by the adjournments. This rule is intended to see that the imposition of costs may act as a deterrent to the party seeking adjournment when there being no sufficient cause. By such costs, the cost of litigation would increase and it may dissuade the party from seeking adjournment on flimsy grounds.

20. In spite of the legislative mandate reflected in the aforesaid provision, the Courts and the Lawyers continue to ignore the said statutory provisions and the requirement of holding a continuous trial day to day. The Courts, in practice, have buried the rule fathoms deep and have been granting adjournments on the flimsiest grounds. In every case these provisions are honoured more in breach than in compliance with the spirit of providing justice expeditiously. It is rare indeed when a court holds a trial continuously in terms of this rule. If only the provisions of the Code are followed in letter and spirit, the grievance of delay in disposal of cases would have been reduced considerably.

The rule of law requires respect for the law by all the citizens of this country. The Judges and Lawyers who are the officers of the Court are No. exception. First, they should respect the rule of law, i.e., these statutory provisions. Without any exception they cannot plead any difficulty in implementing these provisions in letter and spirit. They are duty bound to act according to these statutory provisions. Without doing what we are legally expected to do, we are barking up at the wrong tree and by this process we are deceiving ourselves. Any number of amendments to the Code or any efforts to reform the law would have no effect, unless the Courts give effect to the statutory provisions contained in the Code.

If the Courts do not implement the law, one cannot find fault with the Advocates or the litigants. If these rules are implemented in letter and spirit, it may lead to some inconvenience and hardship as, for more than a century, the Judges, the lawyers and litigants are used to a particular atmosphere in Court. It is this atmosphere in Courts, which has no legal support and is the cause for delay in disposal of cases. Therefore, it is high time in the interest of speedy disposal of cases, these rules are implemented; once implemented, in course of time, lawyers and litigants would fall in line.

In order to implement these statutory provisions as amended, what is required is a change of mind set among the Judges and they must have the courage to depart from the practice which is in vogue. They must remind themselves that till now these provisions are not followed and the procedure which is adopted in Courts was totally different from what is provided under the statute and thus has no legal basis. That is the real cause for delay in disposal of cases.

Therefore, the need of the hour is a change of mental attitude, firstly, on the part of the judges and secondly, on the part of lawyers and litigants. A beginning has to be made. It has to be done by Judges and Judges alone. In spite of the criticism and the amendment to the law made by the Parliament, if the Judges are not sensitive and do not give effect to these provisions which are made with an avowed object of speedy disposal of cases, the Judges would be failing in their duty.

Therefore, one may not blame the Code for delay in disposal of cases. The delay is on account of not following the provisions of the Code and in not knowing the philosophy behind these statutory provisions. Even now it is not too late for the Judges and Lawyers to give effect to the statutory provisions and render speedy justice to the litigants. Time has come that this malady should be treated with even handed at all levels.

21. In fact this view finds support from the observations made by the Law Commission in the Reports on the Code of Civil Procedure :

"In the 14th Report of the Law Commission of India on "Reform of Judicial Administration", the Commission notes with concern the failure of the Courts to appreciate that Order 17 Rule 1 contemplates the continued hearing of a case, once it has started, from day to day until it is finished. It noted with concern that the judiciary seemed to think that the interrupted hearings should be a rule and day to day hearings the exception. Both the lawyers and the subordinate judiciary still persist in floating these provisions by refusing to have a continuous trial.

27th Law Commission Report reads as under:

"There is a popular belief that the technicalities of legal procedure can be exploited and a case continued almost indefinitely if so desired. In a weak case, apart from numerous applications for adjournment, frivolous interlocutory applications are made, e.g. applications for amendment of the pleadings or for amendment of issues, examination of witnesses on commission summoning unnecessary witnesses etc.,

These tactics do not succeed before an experienced and astute Judge. They succeed only before Judges who have no adequate experience. And such tactics succeed not because of the observance, but because of the non-observance, of the rules of procedure. Delay under this item is, therefore, not due to any defects in procedure. Rules of procedure are intended to subserve and not to delay or defeat justice."

22. Therefore, while considering the prayer for grant of adjournment, it is necessary to keep in mind the legislative intent. After the trial commences, the legislative mandate is, it shall be continued from day to day until all the witnesses in attendance have been examined. Even to grant an adjournment beyond the following day exceptional reasons should exist and it should be recorded in writing before adjourning the hearing beyond the following day. A reading of the proviso makes it clear that the limitation of three adjournments contained in proviso to sub-rule (1) apply where adjournment is to be granted on account of circumstances which are beyond the control of that party.

Even in cases which may not strictly fall within the category of circumstances beyond the control of a party, the Court by resorting to the provisions of higher cost which can also include punitive cost grant adjournment beyond three times, having regard to the injustice that may result on refusal thereof, with reference to peculiar facts of a case and compensate the party who is inconvenienced by such adjournment. The said cost cannot be notional. It should be realistic.

As far as possible actual cost incurred by the other party shall be awarded where the adjournment is found to be avoidable but is being granted on account of either negligence or casual approach of a party or is being sought to delay the progress of the ease. Therefore, an attempt is made by the Parliament to enable the Court to have complete control over the litigant and prevent parties from controlling the course of the litigation. The whole object is to deter the parties from seeking adjournment for the sake of mere adjournment.

If a party wants to have the luxury of an adjournment, he should be made to pay for such luxury and the opposite party who is inconvenienced is to be compensated. In other words, the cost of litigation should be made high in so far as a party who is not interested in speedy trial. A person who wants to obstruct the course of justice, delay the disposal of cases, abuse the process of court and wants to harass his opponent by virtue of his money power, for him the litigation should become costly which is not so now.

Therefore, this provision of imposition of cost to prevent the litigant from seeking adjournment, thus, delay the disposal of cases, is to be given full effect. It is a weapon in the armory of the Judge to control the course of litigation and expedite trial. In spite of this provision if the Judges do not understand the significance and importance of these amendments and allow the parties to control the course of litigation, it only shows either lack of will on their part to implement these statutory provisions or their inability to give effect to these statutory provisions.

23. When the litigants complain of delay in disposal of cases, they cannot seek adjournments as a matter of right, as it is against their interest. An adjournment at the instance of one party, puts the other party to inconvenience, which in turn gives rise to such complaints. But an adjournment may become necessary for various reasons. Therefore, in such circumstances it would be in the interest of justice to grant adjournment, but at the same time the party inconvenienced has to be duly compensated.

It is in this background the provision of Rule 1 of order XVII of CPC as amended has to be understood and given effect to. A party to a litigation cannot have any grievance for day-to-day trial and on the contrary he should welcome it. It is only those litigants who want to abuse the judicial process and wants to use this legal machinery as a weapon of oppression against his opponents can have any grievance. It is there, these amended provisions come in handy to the courts to prevent such abuse of the judicial process.

The Case Flow Management System Rules: An Overlooked Lifesaver

31. On the recommendation of this Court in 'Salem Bar Association vs. Union of India AIR 2003 SC 189=2003 (1) SCC 49 a committee was appointed to study the application on implementation of Case Flow Management system in India, and in response, 'Case Flow Management Rules for High Courts and Subordinate Courts' were meticulously crafted. These guidelines mirrored the suggestions outlined in the 'National Mission for Delivery of Justice and Legal Reform,' which served as a comprehensive blueprint for judicial reforms through its strategic initiatives from 2009 to 2012.

Furthermore, the introduction of the Justice A.M. Khanwilkar Committee on Case Management System aimed to align with these efforts. On the basis of above recommendation most of the states have adopted the concept of Case Flow Management and have framed their own Rules for ensuring timely delivery of justice since 2005. However, some of the States are yet to frame the rules. We request the Hon'ble Chief Justices of those High Courts where said Rules are yet to be framed to take immediate steps to formulate such rules.

32. Be that as it may, mere framing of the rules would not suffice the problem on hand, until and unless the spirit underlying in the making of the such rules is effectively implemented. The mode, method and manner in which it requires to be implemented is in the hands of the respective High Courts. In this regard, although many High Courts have constituted committees (with different nomenclature) to monitor the same, the effective implementation seems to have gone into oblivion.

Thus, it would be imperative on the part of the High Courts to ensure the object with which such committees were constituted would not remain on paper but are implemented in its letter and spirit by constant monitoring, at least by securing the reports from trial courts through the District Judges once in two months and keeping a watch and vigil particularly, over the old cases. Such Committees should focus their attention through monitoring efforts so as to keep a check on matters being adjourned for no justifiable reason. When such exercise is carried out with utmost dedication, it would necessarily yield positive results.

Therefore, both the existing committees and any yet-to-be-constituted Committees by the respective High Courts should make all endeavours to achieve the object of making such rules. The Hon'ble Chief Justices of the High Courts are requested to activate these Committees and ensure the implementation of the rules. It is in this background, with utmost concern the observations were made in the Chief Justice's Conference, 2016 towards strengthening Case Flow Management Rules for the purposes of not only reducing arrears but also for ensuring speedy trial.

Numbers speak more than words: A closer look to the Statistics of the National Judicial Data Grid

33. One of the gravest Administrative and structural delay in litigation in whole, appears to be because of judicial delay. According to National Judicial Data Grid, the figures available for the contribution of judicial delay in pendency of cases is alarming. The State-wise pendency of cases before the respective High Courts and overall Civil Courts as on 16.10.2023 are as under:

34. Further, according to National Judicial Data Grid, if we consider the stage-wise pendency, it is revealed that majority of the pendency in cases is at the Evidence/ Argument/ Judgement stage (43,22,478), within which the maximum pendency is caused at the stage of hearing and evidence. High pendency is also caused during the Appearance/Service stage (27,03,493), within which the maximum pendency is appearance and service/summons related. The reasons behind the maximum pendency

as stated by the NJDC has been ruled to be matters which are stayed (9,69,262) unattended (8,31,076) and awaiting records (8,219,929).

35. It is important to acknowledge that while striving for the oftcited goal of expeditious justice, courts, litigants, staff, and lawyers may encounter some level of inconvenience. However, this inconvenience should take a backseat in light of the Fundamental Duties enshrined in the Constitution, specifically Article 51A(j) which obligates every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

Article 51A is to be understood to be in a positive form with a view to strive towards excellence. The people should not conduct themselves so as to enable anyone to point fingers at them or blame them. "Excellence" means honest performance. It is the vision of the founder of constitution makers that citizens of this great country India that is Bharat, should discharge duties in an exemplary manner rather than perform halfheartedly.

The duties envisaged under Article 51A are obligatory on citizens. No doubt the fundamental duties cannot be enforced by Writs and it is in this background it has to be understood that the duties which are required to be performed by the citizens in general and particularly by the stakeholders of judicial dispensation system should ensure that they do discharge the obligations prescribed under the law in an exemplified manner and not blame worthy.

36. In the hallowed halls of justice, where the rights and liberties of every citizen are protected, we find ourselves at a critical juncture. Our Judiciary, the cornerstone of our democratic system, stands as the beacon of hope for those who seek remedy. Yet, it is a solemn truth that we must confront with unwavering resolve-the spectre of delay and pendency has cast a long shadow upon the very dispensation of justice.

In this sacred realm, where the scales of justice are meant to balance with precision, the backlog of cases and the interminable delays have reached a disconcerting crescendo. The relentless march of time, while it may heal wounds for some, it deepens the chasm of despair for litigants who await the enforcement of their rights. Hence, It is here, in the chambers of jurisprudence, that we must heed the clarion call of reform with unwavering urgency.

37. It is undisputedly accepted that the significance of a swift and efficient judiciary cannot be overstated. It is a cornerstone of democracy, a bulwark against tyranny, and the guarantor of individual liberties. The voices of the oppressed, the rights of the marginalized, the claims of the aggrieved-all are rendered hollow when justice is deferred. Every pending case represents a soul in limbo, waiting for closure and vindication. Every delay is an affront to the very ideals that underpin our legal system. Sadly, the concept of justice delayed is justice denied is not a mere truism, but an irrefutable truth.

Thus, we stand at a crossroads, not of our choosing but of our duty where the urgency of legal reforms in our judiciary cannot be overstated, for the pendulum of justice must

swing unimpeded. The edifice of our democracy depends on a judiciary that dispenses justice not as an afterthought but as a paramount mission. We must adapt, we must reform, and we must ensure that justice is not a mirage but a tangible reality for all.

38. Therefore, in this pursuit, we call upon all stakeholders-the legal fraternity, the legislature, the executive, and the citizens themselves-to join hands in a concerted effort to untangle the web of delay and pendency. We must streamline procedures, bolster infrastructure, invest in technology, and empower our judiciary to meet the demands of our time.

39. The time for procrastination is long past, for justice cannot be a casualty of bureaucratic inefficiency. We must act now, for the hour is late, and the call for justice is unwavering. Let us, as guardians of the law, restore the faith of our citizens in the promise of a just and equitable society.

Let us embark on a journey of legal reform with urgency, for the legacy we leave will shape the destiny of a nation. In the halls of justice, let not the echoes of delay and pendency drown out the clarion call of reform.

The time is now, and justice waits for no one. Hence, the following requests to Hon'ble the Chief Justices of the High Courts are made and directions are issued to the trial courts to ensure 'speedy justice' is delivered.

RE: POINT NO.3

For the reasons aforestated, we proceed to pass the following

ORDER

1. Civil Appeal is allowed and the order dated 28.11.2019 passed in Writ Petition (M/S) No.144 of 2013 by High Court of Uttarakhand at Nainital is set aside and the order dated 09.05.2012 passed by the Trial Court as affirmed in Civil Revision No.4 of 2012 dated 13.12.2012 stands affirmed.

2. The following directions are issued:

i. All courts at district and taluka levels shall ensure proper execution of the summons and in a time bound manner as prescribed under Order V Rule (2) of CPC and same shall be monitored by Principal District Judges and after collating the statistics they shall forward the same to be placed before the committee constituted by the High Court for its consideration and monitoring.

ii. All courts at District and Taluka level shall ensure that written statement is filed within the prescribed limit namely as prescribed under Order VIII Rule 1 and preferably within 30 days and to assign reasons in writing as to why the time limit is being extended beyond 30 days as indicated under proviso to sub-Rule (1) of Order VIII of CPC.

iii. All courts at Districts and Talukas shall ensure after the pleadings are complete, the parties should be called upon to appear on the day fixed as indicated in Order X and

record the admissions and denials and the court shall direct the parties to the suit to opt for either mode of the settlement outside the court as specified in sub-Section (1) of Section 89 and at the option of the parties shall fix the date of appearance before such forum or authority and in the event of the parties opting to any one of the modes of settlement directions be issued to appear on the date, time and venue fixed and the parties shall so appear before such authority/forum without any further notice at such designated place and time and it shall also be made clear in the reference order that trial is fixed beyond the period of two months making it clear that in the event of ADR not being fruitful, the trial would commence on the next day so fixed and would proceed on day-to-day basis.

iv. In the event of the party's failure to opt for ADR namely resolution of dispute as prescribed under Section 89(1) the court should frame the issues for its determination within one week preferably, in the open court.

v. Fixing of the date of trial shall be in consultation with the learned advocates appearing for the parties to enable them to adjust their calendar. Once the date of trial is fixed, the trial should proceed accordingly to the extent possible, on day-to-day basis.

vi. Learned trial judges of District and Taluka Courts shall as far as possible maintain the diary for ensuring that only such number of cases as can be handled on any given day for trial and complete the recording of evidence so as to avoid overcrowding of the cases and as a sequence of it would result in adjournment being sought and thereby preventing any inconvenience being caused to the stakeholders.

vii. The counsels representing the parties may be enlightened of the provisions of Order XI and Order XII so as to narrow down the scope of dispute and it would be also the onerous responsibility of the Bar Associations and Bar Councils to have periodical refresher courses and preferably by virtual mode.

viii. The trial courts shall scrupulously, meticulously and without fail comply with the provisions of Rule 1 of Order XVII and once the trial has commenced it shall be proceeded from day to day as contemplated under the proviso to Rule (2).

ix. The courts shall give meaningful effect to the provisions for payment of cost for ensuring that no adjournment is sought for procrastination of the litigation and the opposite party is suitably compensated in the event of such adjournment is being granted.

x. At conclusion of trial the oral arguments shall be heard immediately and continuously and judgment be pronounced within the period stipulated under Order XX of CPC.

xi. The statistics relating to the cases pending in each court beyond 5 years shall be forwarded by every presiding officer to the Principal District Judge once in a month who (Principal District Judge/District Judge) shall collate the same and forward it to the review committee constituted by the respective High Courts for enabling it to take further steps.

xii. The Committee so constituted by the Hon'ble Chief Justice of the respective States shall meet at least once in two months and direct such corrective measures to be taken by concerned court as deemed fit and shall also monitor the old cases (preferably which are pending for more than 05 years) constantly.

It is also made clear that further directions for implementation of the above directions would be issued from time to time, if necessary, and as may be directed by this Court.

3. The Secretary General is directed to circulate the copy of this judgment to the Registrar General of all the High Courts for being placed before the respective Chief Justices for a consideration and suitable steps being taken as opined herein above.

4. We make no order as to costs.

.....J. (S. Ravindra Bhat)

.....J. (Aravind Kumar)

New Delhi,

NOTIFICATION

DELHI JUDICIAL SERVICE EXAMINATION – 2023

The candidates shall submit their applications online only in the prescribed format through the official website of High Court of Delhi i.e. ***www.delhihighcourt.nic.in*** as per schedule of dates given below:

Date and Time of Commencement for creation of New Log In and filling Online Application Form	07.11.2023 at 1000 hours
Last Date and Time for filling Online Application Form and/or making payment through Debit Card/Internet Banking	22.11.2023 at 1730 hours

The **fees (non-refundable)** in the sum of Rs.1500/- for General Category candidates and Rs.400/- for reserved category [Scheduled Caste / Scheduled Tribe / Person with Disabilities (identified disabilities) of 40% or more] candidates should be paid through Debit Card/ Credit Card/Internet Banking/UPI.

The candidates can take printout of application form and keep it for future reference. **They should not send the printout of the online application form to the High Court of Delhi.**

The category wise break up of vacancies to be filled is as under:-

Category	Break up of Vacancies		Total No. of vacancies
	Existing	Anticipated (till 31.10.2024)	
General	28	06	34
SC	02	03	05
ST	14	00	14
TOTAL	44	09	53

Note 1: Out of the aforesaid 53 vacancies, the reservation for PwD candidates (who have identified disabilities of 40% or more) shall be as follows:

Category	Vacancies
PwD (Blindness, Low Vision)	03
PwD (one arm, one leg, both legs, leprosy cured, dwarfism and acid attack victims)	03

PwD (Specific Learning Disability) and PwD (Multiple Disabilities involving blindness and low vision, one arm, one leg, both legs, leprosy cured, dwarfism and acid attack and specific learning)	03
Total	09

MCQ'S

1. The definition of "Victim" has been inserted in Cr.P.C. in
A. 2008
B. 2009
C.2010
D.2011.

2. Sec. 27 of the Cr.P.C. deals with:
A.Trial of Persons of Unsound Mind
B. Trial of Non-Citizens of India
C. Trial of Juveniles
D.Trial of Diplomats.

3. **Preventive action of Police has been discussed under:**
A.Chapter X of Cr.P.C.
B.Chapter XI of Cr.P.C.
C.Chapter XII of Cr.P.C.
D.No specific Chapter has been prescribed. Answer: (b)

4**. Sec. 166A Cr.P.C. deals with:**
A.Medical Examination of Rape Victim
B.Requisition of additional Search Warrant
C.Recording of Statement of Rape Victim
D.Investigation outside India.

5**. Women detained below the age of eighteen years shall be sent to:**
A.Remand Home
B.Women Prison
C.Women Police Station
D.Shall not be detained.

6. Case Diary has been discussed under:
A.169 of Cr.P.C.
B.170 of Cr.P.C.
C.171 of Cr.P.C.
D.172 of Cr.P.C.

7. The Principle of Speedy Trial and the limitation period of completing the trial of certain cases has been provided under:
A.301 of Cr.P.C.
B.305 of Cr.P.C.
C.308 of Cr.P.C.
D.309 of Cr.P.C.

8. At what stage of the trial, prosecution of any person can be withdrawn with the consent of the court?
A.Before framing of charges
B.After the examination of accused.
C. After the completion of the examination of prosecution witnesses
D.At any time before the pronouncement of judgment.

9. Application for Plea bargaining may be filed by:
A.The Prosecutor
B.The De facto Complainant
C.The Accused
D.The Legal Services Authority.

10. Section 394 Cr.P.C. provides the procedure relating to:
A.Suspension of sentence
B.Summary dismissal of appeal
C.Abatement of appeal
D.Finality of judgment on appeal.

11. Commutation of a death sentence on a pregnant woman is provided under:
A.413 of Cr.P.C.
B.414 of Cr.P.C.
C.415 of Cr.P.C.
D.416 of Cr.P.C.

12. …….. can proceed under Section 340 of the Code of Criminal Procedure, 1973 and hold a preliminary enquiry.
A. Civil Court II.
B.Revenue Court III.
C.Criminal Court I and II II and III III and I
D..I, II and III.

13. ……. of the Cr.P.C deals with the power of the Magistrate to

arrest.
A.Sec. 40
B.Sec. 44
C. Sec. 48
D. Sec. 52.

14. It is mandatory to produce the person arrested before the Magistrate, within 24 hours of his arrest, under:
A.Sec. 55 Cr.P.C.
B.Sec. 57 Cr.P.C.
C.Sec. 58 Cr.P.C.
D.Sec. 59 Cr.P.C.

15. Under Cr.P.C. imprisonment in default of payment of fine can be awarded:
A.To run concurrently with substantive sentence imposed
B. In addition to the substantive sentence imposed
C. Court can condone it
D. None of the above.

16. Under Cr.P.C. the period of limitation for taking cognizance of an offence shall be three years:
A.If the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years
B.If the offence is punishable with imprisonment for a term exceeding one year but not exceeding seven years
C.If the offence is punishable with imprisonment for a term exceeding one year but not exceeding ten years
D.If the offence is punishable with imprisonment for a term exceeding one year but not exceeding five years.

17. The contents of documents:
A.may only be proved by primary evidence
B. may only be proved by secondary evidence
C.may be proved either by primary or by secondary evidence
D.shall be proved either by primary or by secondary evidence.

18. The following documents are public documents:
A.Documents forming the acts, or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country
B.Public records kept (in any State) of private documents
C.Both (a) and (b)
D.Only documents maintained by legislative, judiciary and executive in India.

19. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead?
A.is on a person who affirms it
B.is on a person who denies it
C.is on spouse of the dead person
D.is on first blood relative of the dead person.

20. Which of the following is not included in the expression 'court' under the Indian Evidence Act?
A.All judges
B.All persons legally authorized to take evidence
C. All magistrates
D.Arbitrator.

21. Which of the following was included in the definition of 'evidence' under the Evidence Act by the Information Technology Act, 2000?
A.Social media
B.E-mail
C.Electronic record

D.Compact Disk.

22. An admission constitutes a:

A. Substantive piece of evidence
B. Corroborative piece of evidence
C. Conclusive proof
D. None of the above.

23. "Hearsay evidence is no evidence." Which one of the following is an exception to the above rule under the Evidence Act?

A.32
B.27
C.14
D.23.

24. Judge's power to put question or order the production of any document or thing is given in ……. of Evidence Act.

A.165
B.167
C.141
D.159.

25. Confidential communication with whom of the following is protected under Evidence Act?

A.To Magistrate
B.To Police Officer
C.To Legal Advisor
D.To Revenue Officer.

26. Section 62 of the Evidence Act deals with:

A.Primary evidence
B.Secondary evidence
C.Proof of documents by primary evidence
D.Cases in which secondary evidence relating to documents may be given.

27. In the absence of substantive evidence:

A.Corroborative evidence can be used
B.Corroborative evidence has no worth
C.Corroborative evidence may be or may not be used as per the discretion of the Court
D.None of the above.

28. Where a married woman, dying of burns was a person of unsound mind and the medical certificate vouchsafed her physical fitness for a statement and not the state of mind at the crucial moment; in which of the following cases the court said that the statement could not be relied upon?

A. Ravi Chande v. State of Punjab
B.Shripatrao v. State of Maharashtra
C.Ulka Ram v. State of Rajasthan
D.Baldev Raj v. State of H.P.

29. Under Section 14 of the Evidence Act, the facts showing the existence of state of mind must be:

A.Specific state of mind
B.General state of mind
C.Both (a) and (b)
D.None of the above.

30. Statement recorded during investigation under Section 161 Cr.P.C. can be used during trial:

A.For corroborating the witness
B.For contradicting the witness
C.Both (a) and (b)
D.Neither (a) nor (b).

31. Where by a contract of sale, the seller purports to affect a present sale of future goods, the contract operates as:

A.Sale
B.An agreement to sell the goods
C.A sale or an agreement to sell the goods,depending upon the facts and circumstances of the case
D.None of the above.

33. There are exceptions to the rule that a seller of goods cannot give to the buyer a better title than he himself has over them, which

among the following is a wrong exception?
A.Sale by Mercantile Agent
B.Sale by one of the joint owners
C.Sale by seller in possession after
D.sale Sale without the consent or authority of owner.

34. Which provision of the Limitation Act provides that an appeal from an order can be filed in a High Court within 90 days and in another court within 30 days?
A.Article 102
B.Article 133
C.Article 116
D.Article 109.

35. Which of the following is not covered under Section 6 of The Limitation Act, 1963?
A.Insane
B.Insolvent
C.Idiot
D.Minor.

36. Which of the following provisions of The Limitation Act, 1953 states that in case of debt, payment will provide fresh period of limitation from the time of payment?
A..Sec. 13
B.Sec. 16
C.Sec. 19
D.Sec. 22.

37. Section 20 of The Specific Relief Act, 1963 provides for: Discretion of the
A.court as to decreeing specific performance
B.Substituted performance of contract
C.Power of the court to engage experts
D.Expeditious disposal of suits.

38. Which of the following situation(s) has/have been inserted by the Specific Relief (Amendment) Act, 2018 in Section 41 of The Specific Relief Act, 1963 (when an injunction cannot be granted):

A. To restrain any person from applying to any legislative body
B.When equally efficacious relief can certainly be obtained by any other usual mode of proceedings except in case of breach of trust
C.If it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project
D.All of the above.

39. Which of the following provisions of the Code of Civil Procedure relates to the application of the doctrine of res-judicata in a representative suit?
A.Sec. 11, Explanation II
B. Sec. 11, Explanation IV
C.Sec. 11, Explanation VI
D.Sec. 11, Explanation VIII.

40. In which of the following proceedings Order II Rule 2 of the Code of Civil Procedure is applicable?
I. Appeals
II. Execution Proceedings
III. Petition under Article 226 of the Constitution of India
A.Only II
B.II and III
C.I, II, and III
D.None of the above.

41. Which of the following provision of the Code of Civil Procedure prohibits further appeal against the decision of a single judge in second appeal?
A.Section 100

B.Section 100-A
C.Section 101
D.Section 102.

42. An order allowing or disallowing an application for amendment is:
A. Appealable
B.A decree
C.An appealable order
D.None of the above.

43. Among the following properties, which shall not be liable for attachment under the Code of Civil Procedure:
A. Government securities
B.Bank notes
C.A mere right to sue for damages
D.All of the above.

44. A plaint was rejected under Order VII Rule 11 Code of Civil Procedure, for non-payment of court fee. Remedy available to the aggrieved party is:
A.To file an appeal
B.To file a revision
C.To file a restoration petition in the same court
D.All of the above.

45. A decree is preliminary:
A. When it deals with some preliminary issue
B.When it is used in the preliminary stages of the suit
C.When further proceedings have to be taken before the suit to be completely disposed of
D.None of the above.

46. Second appeal shall not lie from any decree, as provided under Section 102 of the Code of Civil Procedure when the subject matter of the original suit is for recovery of money not exceeding:
A.10,000/-
B.25,000/-
C.20,000/-
D.15,000/-

47. Which of the following statement is correct?
A.No decree is to be reversed or modified for error or irregularity not affecting merits or jurisdiction
B.An appeal shall lie from a decree passed by the court with the consent of parties
C.An appeal may lie from an original decree passed ex parte
D.Both (a) and (c).

48. If a cloud is cast upon the title or legal character of the plaintiff, he is entitled to seek the aid of the court to dispel it by way of:
A.Injunction
B.Order
C.Declaratory Decree
D.Specific Performance.

49. The Order of injunction may be discharged, of varied, or set aside by the Court at the instance of:
A.Plaintiff
B.Defendant
C. Both (a) and (b)
D.State Government.

50. "Section 10 of Code of Civil Procedure, bars not only the trial of subsequent suit, but also the institution of subsequent suit.' This statement is:
A.Partly true
2.Untrue
C.True
D.None of the above.

51. Decree means:
A.Extract of the judgment
B.Reasons for which the suit is decreed or dismissed
C.Formal expression of the court of an adjudication determining the rights of parties
D.Bill of costs.

52. On the ground of jurisdiction under Section 13 of Code of Civil

Procedure _____ can be challenged.
A.only a judgment in personam
B.only a judgment in rem
C. both (a) and (b)
D.neither of the above.
53. Which of the following propositions incorrect?
A.A void contract is void ab initio
B.A void agreement is void ab initio
C.A voidable contract is a contract until rescinded
D.An illegal agreement is void ab initio.
54. Where the acceptance to an offer is sent by the offeree by an e-mail?
A.The postal rule will be applied for the purpose of determining the communication of acceptance, as also the place and time of contract
B.The receipt (recipient) rule will be applied for the purpose of determining the communication of acceptance, as also the, place and time of contract
C.The law in India is unclear on this subject
D.Neither of the above.
55. Which of the following propositions is incorrect about the doctrine of frustration of contract?
A.The event which causes frustration must have occurred without the fault of either
B.party Frustration puts an end to a contract independently of the volition of the parties at the time of the frustrating event (automatic discharge)
C.A contract is not frustrated by an event arising from an act or election of the promisor
D.The doctrine of frustration is applicable when the rights and obligations of the parties arise under a transfer of property under a lease.
56. X owes Rs.10,000/- to Y under a contract. It is agreed between X,Y, & Z that shall henceforth accept Z as his debtor instead of X for the same amount. Old debt of X is discharged and a new debt from Z to Y is contracted. This is:
A.Alteration of contract
B.Rescission of contract
C.Novation of contrac
D.Change in contract.
57. Which of the following statement(s) is correct?
A.An agreement enforceable by law is a contract
B.Every promise and every set of promises, forming the consideration for each other, is an agreement
C. All agreements enforceable by law are contracts and valid. But all agreements are not enforceable by law
D.All of the above.
58. Section 27 of the Indian Contract Act declares an agreement in restraint of trade:
A.Voidable
B.Unenforceable
C.Void
D.Valid.
59. As per the Punjab Courts Act, 1918, the provision for second appeal is mentioned in:
A.Sec. 40
B.Sec. 41
C.Sec. 39
D.Sec. 43.
60. Which country has become the first country to adopt bitcoin as legal tender?
A.Ecuador
B.Costa Rica
C.El Salvador
D.Cuba.

61. What is the amount of ex-gratia compensation recommended by the central government to be paid to the family members of persons who succumbed to Covid-19?
A.50,000/-
B.1,50,000/-
C.1,00,000/-
D.2,00,000/-

62. Which among the following cases deal with the Pegasus surveillance scandal?
A.Prashant Bhushan v. Union of India
B.Sadre Alam v. Union of India
C.CPIL v. Union of India
D.Manohar Lal Sharma v. Union of India.

63. In which among the following cases the Supreme Court refused to vacate its order allowing women candidates to appear for the National Defence Academy examination this year?
A.Apurva Satish Gupta v. Union of India
B.Kush Kalra v. Union of India
C.R Rajeshwaran v. Union of India
D.K Jayakumar v. Union of India.

64. Who among the following is the Chairman of the Bar Council of India?
A.Manan Kumar Mishra
B.Apurba Kumar Sharma
C.Prashant Kumar Singh
D. Ashok Kumar Deb.

65. Exposure to sunlight helps a person improve his health because:
A.the infrared light kills bacteria in the body
B.resistance power increases
C.the pigment cells in the skin get stimulated and produce tan
D.the ultraviolet rays convert 7-dehydrocholesterol in the skin into vitamin D.

66. Ecology deals with:
A.Birds
B.Cell formation
C.Relation between the organisms and their environment
D.Tissues.

67. How many medals were won by India in the Tokyo Olympics 2020?
A.5
B.6
C.7
D.8.

68. 'A' dissent in a court of last resort is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed.' This statement made by Chief Justices Charles Evans Hughes and subsequently cited in a famous Indian dissent by:
A.Justice M.C. Chagla
B.Justice Sir Saiyid Fazl Ali
C.Justice A.N. Ray
D.Justice H.R. Khanna.

69. Which is the first country to make broadband a legal right for every citizen?
A.England
B.Finland
C.Denmark
D.China.

70. To inculcate reading habits among students, which mission has been initiated by the state Government of Haryana?
A.Read More Lead More — Haryana
B.Reading to leading — Haryana
C.Reading Mission — Haryana

D.Read to learn — Haryana.

71. Justice N.V. Ramana is serving as the _____ Chief Justice of India.

A.49th CJI
B.48th CJI
C.47th CJI
D.46th CJI.

72. The boundary line between India and China is:

A.Redline
B.Durand Line
C.McMahon Line
D.Radcliffe Line.

73. Who is the Union Minister of Law and Justice, Government of India?

A.Pashupati Kumar
B.Kiren Rijiju
C.Ashwini Vaishnav
D.Ravishankar Prasad.

74. Under Section 7 of the Hindu Marriage Act, 1955 a marriage must be solemnised in accordance with the customary rites and ceremonies of:

A.the bride
B.the bridegroom
C.both bride and bridegroom
D.either bride or bridegroom.

75. The consequence of non-registration of a marriage under Section 8 of the Hindu Marriage Act is:

A.Marriage becomes voidable at the option of either party thereto
B.Marriage is valid but calls for Imposition of penalty
C.Marriage is void and calls for imposition of penalty
D.None of the above.

76. Restitution of conjugal rights can be claimed:

A.when there is a withdrawal from the society by one spouse from the other spouse with or without any excuse
B.only when the withdrawal from society is with a valid excuse
C.only when the withdrawal from society is without a valid excuse
D.only when the withdrawal from society is with a wrong motive.

77. On the ground of inability to produce a progeny a marriage can be:

A.void
B.voidable
C.both (a) and (b)
D.none of the above.

78. If two persons are related to each other by blood or adoption not wholly through males, they are called:

A.blood relations
B.agnates
C.cognates
D.cousins.

79. Under the Hindu Adoption and Maintenance Act, 1956, a Hindu male can adopt a child without the consent of his wife provided:

A.the wife is not interested in the adoption
B.the wife is living in a foreign country
C.he has more than one wife
D.the wife has ceased to be a Hindu.

80. Choose the wrong statement:

A.A Hindu who has a Hindu son cannot adopt a son
B.A Hindu who has a Hindu grandson cannot adopt a son
C.A Hindu who has a Hindu great grandson cannot adopt a son
D.A Hindu who has a Hindu daughter cannot adopt a son.

81. Alienation by the Karta without legal necessity or the benefit of estate is:

A. valid

B.voidable at the instance of the coparcener
C.voidable at the instance of alienee
D.void ab initio.

82. Proceedings to be in camera and may not be printed or published, is provided in Section _____ of the Hindu Marriage Act, 1955.
A.Section 24
B.Section 22
C.Section 21
D.Section 23.

83. Which section of the Hindu Marriage Act, 1955 deals with Custody of children?
A.Section 27
B.Section 24
C.Section 26
D.Section 29.

84. Desertion is:
A.total repudiation of obligation of marriage
B.partial repudiation of the obligation of marriage
C.both (a) and (b)
D.none of the above.

85. Presumption that the younger survived the elder under Section 21 of the Hindu Succession Act is a:
A. Presumption of fact
B.Presumption of fact and law
C.Rebuttable presumption of law
D.Irrebuttable presumption of law.

86. Section 14 of the Hindu Succession Act applies to:
A.Movable property
B.Immovable property
C.Both movable and immovable property
D.None of the above.

87. A Hindu dies leaving behind a father and son's daughter's son. They are:
A.Class I heirs
B.Class II heirs
C.Preferential heirs
D.None of the above.

88. The effect of death of Muslim husband or wife during the period of iddat, following a revocable pronouncement of divorce on inheritance rights is:
A.only husband can inherit
B.only wife can inherit
C.both can inherit
D.both cannot inherit.

89. The punishment for pronouncement of any irrevocable form of divorce by a Muslim husband upon his wife is:
A.imprisonment for a term which may extend to three years
B.imprisonment for a term which may extend to three years and fine
C.imprisonment for a term which may extend to two years
D.imprisonment for a term which may extend to two years and fine.

90. Under Muslim law, Wakf means:
A.permanent dedication of movable property
B.permanent dedication of immovable property
C.permanent dedication of movable or immovable property
D.permanent or temporary dedication of movable or immovable property.

91. Where partners upon or in anticipation of the dissolution of the firm make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits, such agreement is:
A. Valid, its restrictions imposed are reasonable, notwithstanding

anything contained in Section 27 of the Indian Contract Act

B. Void, irrespective of the nature of restrictions imposed on the ground of being an agreement in restraint of trade

C. Voidable

D. None of the above.

92. In which of the following situations, a public notice is not required to be given under the Indian Partnership Act, 1932:

A. When a partner retires from the firm

B.When a partner is expelled from the firm

C. When the firm is dissolved

D.When an alteration is made in the name of the firm.

93. An act of a firm means:

A.Any act of partner or agent of the firm which gives rise to a right enforceable by or against the firm

B.Any act by all the partners

C.Any omission by all the partners

D.All of the above.

94. The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure, or alteration appears, unless attest with their signatures or initials such interlineation, blank, erasure or alteration.

A.The Sub Registrar

B.The Notary Public

C.The persons executing the document

D.Document Writer.

95. Normally no document other than a Will shall be accepted for registration unless presented for that purpose to the proper officer within _____ month (s) from the date of its execution.

A.One

B.Two

C.Three

D.Four.

96. Which of the following documents needs compulsory registration as per the Registration Act, 1908:

A.Wills

B.Instruments acknowledging the receipt of payment

C.Lease of Immovable property not exceeding one year

D.Lease of Immovable property exceeding one year.

97. No person shall convert a residential building into a non-residential building except with the permission in writing of:

A.The Landlord

B.The Tenant

C.The Controller appointed by the State Government under the Haryana Urban (Control of Rent and Eviction) Act, 1973

D.The Municipal Authority.

98. When the fair rent of building rented has been made or fixed under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, no further increase or decrease in such fair rent shall be permissible for a period of:

A.Two years

B.Three years

C.One year

D.Five years.

99. A custom must be immemorial. In India this implies that:

A.The custom dates back to 1189 AD

B.It should date back to 1189 AD for mofussil districts and 1775 for presidencies

C.Long usage is sufficient
D.It should date back to 1950.

100. 'Uberrima Fides' means:
A.Reason for deciding the judgment
B.In utmost good faith
C.As much as deserved
D.The principle that courts abide by.

101. 'Persona non-grata' means:
A.By the fact itself
B.Person not wanted
C.Granting legal personality
D.No discrimination between persons.

102. A police officer has received a sum of Rs. 5,000/- against fine from the persons violating traffic rules. Instead of depositing the fine money with State Treasury, he utilized the same for his personal use. What offence under Indian Penal Code, the police has committed?
A.Criminal breach of trust
B.Mischief
C.Cheating with Government
D.None of the above.

103. A hangman who hangs the prisoners pursuant to the order of the court is exempt from criminal liability by virtue of:
A.Section 77 of IPC
B.Section 78 of IPC
C.Section 79 of IPC
D.Section 76 of IPC.

104. 'X' beat his wife. She fell down and became unconscious. Believing her to be dead and to save himself from being arrested for murder, 'A' hanged her from the fan with a rope. Postmortem report disclosed her death by hanging. 'A' is liable for:
A.Murder
B.Culpable homicide
C.Hurt
D.Grievous hurt.

105. For abduction the abducted person should be:
A.Below 16 years of age
B.Below 18 years of age
C.Insane person
D.Of any age.

106. The case of Bachan Singh v. State of Punjab is concerned with:
A.Capital punishment in India
B.Custody of under trial prisoners
C. Prosecution for attempt to suicide
D.None of the above.

107. Grave and sudden provocation is a:
A.question of fact
B.question of law mixed
C.question of law and fact
D.presumption under law.

108. 'A' voluntarily burns a valuable security belonging to 'Z' intending to cause wrongful loss to 'Z'. 'A' has committed the offence of:
A.Criminal force
B.Mischief
C.Assault
D.Battery.

109. Public servant disobeying a direction of the law with intent to cause injury is dealt under:
A.Section 164 of IPC
B.Section 165 of IPC
C.Section 166 of IPC
D.Section 167 of IPC.

110. Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes, is dealt under:
A.Section 506 of IPC
B.Section 507 of IPC
C.Section 508 of IPC
D.Section 509 of IPC.

111. Z is thrown from his horse and is insensible. A, a surgeon, finds out that Z requires to be

trepanned. A, not intending Z's death, but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself.
A. A has committed offence
B.A has committed no offence
C.A has committed culpable homicide
D.Both (a) and (c).

112. Voyeurism is punishable under:
A.Section 354 A of IPC
B.Section 354 B of IPC
C.Section 354 C of IPC
D.Section 375 A of IPC.

113. Under Section 82 and Section 83 of IPC an offence is punishable if it is done by a child:
A. of below seven years of age of above seven years
B.of age but below twelve years if he has not attained sufficient maturity and understanding
C.of above seven years of age but below twelve years having attained sufficient maturity and understanding
D.all of the above.

114. Making a false document or part of a document with any one of the intents specified in Section 463 IPC constitutes:
A.Mischief
B.Fabrication of false documents
C.Forgery
D.Both (a) and (c) only.
Answer: (c)

115. The feature of 'Concurrent List' in our Constitution is borrowed from which country's Constitution?
A.Japan
B.Ireland
C.United States
D.Australia.
Answer: (d)

116. Which was the first case to introduce the concept of judicial review?
A. Donoghue v. Stevenson (1932)
B.Marbury v. Madison (1503)
C.Entick v. Carrington (1755)
D.Rylands v. Fletcher (1868).

117. Who among the following was the first Chief Justice of Supreme Court during British India?
A.Sir Elijah Impey
B.Sir Robert Chambers
C.Sir John Anstruther
D.Justice H.L. Kania.

118. Which among the following language is NOT there in the 8th Schedule of Constitution of India?
A. Dogri
B.Rajasthani
C.Sindhi
D.Manipuri.

119. In India sovereignty lies with:
A.The Constitution
B.The Supreme Court
C.The Parliament
D.The people.

120. Under the Constitution, the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India as per:
A. Article 40
B.Article 43
C.Article 44
D.Article 48.

121. The satisfaction of the President means the satisfaction of the Council of Ministers and not his personal satisfaction, was held in:
A.Shamsher Singh v. State of Punjab
B.U.N. Rao v. Indira Gandhi
C.Ram Jawaya Kapoor v. State of Punjab
D.Sardari Lal v. Union Government.

122. Article 360 of the Constitution has been invoked:
A.Only one time
B.Two times
C.Three times
D.Never.

123. The protection and improvement of environment including forests and wildlife of the country is:
A.Directive Principles of State Policy
B. Fundamental National Policy
C.Fundamental Duty of a Citizen
D.Both Directive Principles of State Policy and Fundamental Duty of a Citizen.

124. Secularism is part of the Basic Structure of the Indian Constitution was held in:
A.Excel Wear v. Union of India (SC, 1978)
B.F.N. Balsara v. State of Bombay (SC, 1951)
C.Narasu Appa Mali v. State of Bombay (SC, 1951)
D. S.R. Bommai v. Union of India (SC, 1994).

125. The Constitution does not provide for the post of:
A.Deputy Chairman of Rajya Sabha
B.Deputy Speaker of Lok Sabha
C.Deputy Prime Minister
D.Deputy Speaker of State Legislative Assembly.

ANSWER KEY

1. (b)
2. (c)
3. (b)
4. (d)
5. (a)
6. (d)
7. (d)
8. (d)
9. (c)
10. (c)
11. (d)
12. (d)
13. (b)
14. (b)
15. (b)
16. (a)
17. (c)
18. (c)
19. (a)
20. (d)
21. (c)
22. (a)
23. (a)
24. (a)
25. (c)
26. (a)
27. (b)
28. (a)
29. (a)
30. (b)
31. (b)
32. (d)
33. (d)
34. (c)
35. (b)
36. (c)
37. (b)
38. (c)
39. (c)
40. (d)
41. (b)
42. (d)
43. (c)
44. (a)
45. (c)
46. (b)
47. (d)
48. (c)
49. (c)
50. (b)
51. (c)
52. (a)
53. (a)
54. (d)
55. (d)
56. (c)
57. (d)
58. (c)
59. (b)
60. (c)
61. (a)
62. (d)
63. (b)
64. (a)
65. (d)
66. (c)
67. (c)
68. (c)
69. (b)
70. (b)
71. (b)
72. (c)
73. (b)
74. (d)
75. (b)
76. (c)
77. (d)
78. (c)
79. (d)
80. (d)
81. (b)
82. (b)
83. (c)
84. (d)
85. (c)
86. (c)
87. (b)
88. (c)
89. (b)
90. (c)
91. (a)
92. (d)
93. (d)
94. (c)
95. (d)
96. (d)
97. (c)
98. (d)
99. (c)
100. (b)
101. (b)
102. (a)
103. (b)
104. (b)
105. (d)
106. (a)
107. (a)
108. (b)
109. (c)
110. (b)
111. (b)
112. (c)
113. (c)
114. (c)
115. (d)
116. (b)
117. (a)
118. (b)
119. (d)
120. (c)
121. (a)
122. (d)
123. (d)
124. (d)
125. (c)