

SUBJECT-INDEX

ADMINISTRATION OF JUSTICE:

- (1) (See under: Right to Information Act, 2005) 1
- (2) Abuse of process of court – Held: Has to be curbed effectively.
(See under: Public Interest Litigation as also Constitution of India, 1950) 678

ADMINISTRATIVE LAW:

- (1) Government Order.
(See under: Circulars/Government Orders/ Notifications) 1099
- (2) Doctrine of promissory estoppel – Invokability of.
(Also see under: Industrial Policy, 1985)
State of Bihar & Ors. v. Kalyanpur Cements Ltd. 928
- (3) Policy decision.
(See under: Punjab Education Service Class-III (School Cadre) Rules, 1955) 22

AFFIDAVIT:

- (i) Affidavit in the nature of examination-in-chief.
- (ii) Right of accused to give evidence on affidavit.
(See under: Negotiable Instruments Act, 1881) 219

ANDHRA PRADESH RECORD OF RIGHTS IN LAND ACT, 1971:

Revenue authorities' order declaring cultivatory

possession of tenants – Held: High Court has rightly Held that the order of Tehsildar having achieved status of finality cannot be upset by civil court and that the landlords had failed to prove their possession and cultivation in respect of suit land.

Pinninti Kistamma and Ors. v. Duvvada Parsuram Chowdary 297

APPEAL:

(1) Appeal against acquittal.
(See under: Penal Code, 1860) 149

(2) Appeal against acquittal – Conviction of respondent-accused and acquittal of co-accused by trial court – High Court acquitted respondent – Revision against acquittal of other co-accused, dismissed – Held: High Court did not consider the evidence of witnesses in proper perspective – Matter remanded to High Court for considering afresh the case of respondent-accused alone, as the case against the co-accused was not insisted by complainant – Penal Code, 1860 – ss.218, 342, 323.

Indresh Kumar v. Ram Phal and Ors. 185

(3) Appeal against acquittal – Scope of interference – Held: If trial court's view is a possible or plausible view, then appellate court or High Court is not justified in interfering with it – There is presumption of innocence which is further fortified with the acquittal of accused by trial court.

Darshan Singh v. State of Punjab & Anr. 642

(4) Expression 'appeal' as occurring in s. 7 of the Interest on Delayed Payment to Small Scale and

Ancillary Undertakings Act, 1993 – Connotation of.

(See under: Interest on Delayed Payment to Small Scale and Ancillary Undertakings Act, 1993) 76

(5) Second appeal – New plea – Question of law, based on pleadings and evidence on record, not raised before lower courts – Held: Such question of law can be permitted for the first time before the High Court.

Mohd. Laiquiddin and Anr. v. Kamala Devi Misra (Dead) by Lrs. and Ors. 873

ARBITRATION:

Contract containing arbitration clause – Appointment of arbitrator.

(See under: Contract Act, 1872) 820

ARBITRATION ACT, 1940:

s.30 – Jurisdiction under, to set aside the award – Held: The jurisdiction of the court u/s.30 is not appellate in nature – Court is not empowered to re-appreciate the evidence and examine the correctness of conclusions arrived at by the Umpire in considering an application for setting aside the award – It is also not open to the court to interfere with the award merely if in its opinion, another view was possible.

State of Rajasthan v. Nav Bharat Const. Company 312

ARBITRATION AND CONCILIATION ACT, 1996:

(1) (i) ss.8(1), (3), 11 and 15(2) – Appointment of arbitrator pending appeal filed against dismissal of suit under O. 7, r.11 CPC r/w s. 8(1) – Held:

Application u/s.11 or s.15(2) for appointment of arbitrator will not be barred by pendency of an application u/s 8 in any suit, nor will the Designate of the Chief Justice be precluded from considering and disposing of an application u/s 11 or s.15(2) – Nothing prevents such arbitrator from proceeding with the arbitration – Even appeal pending from order dismissing the suit under O.7 r.11 CPC (on the ground that the disputes require to be settled by Arbitration) will not come in the way of appointment of an arbitrator u/s.11 r/w s.15(2), if the authority finds it necessary to appoint an arbitrator – Code of Civil Procedure, 1908 – O. 7. r. 11.

(ii) s.7 – Arbitration agreement – Declaration by father that any future disputes among his sons should be settled by arbitrator – Held: Cannot be considered as an arbitration agreement among the children or such of the children who became parties to a dispute – If the Will provided for reference of disputes to arbitration, it would be merely an expression of a wish by the testator, even if such a wish is proved – Will.

Vijay Kumar Sharma @ Manju v. Raghunandan Sharma @ Baburam & Ors. 582

(2) s.14(1) – Termination of mandate of arbitrator – Failure on part of arbitrator to conclude the arbitration proceedings/publish the award within the time limit fixed by parties or such extended time as consented by parties – Held: Mandate of arbitrator is liable to be terminated.

N.B.C.C. Ltd. v. J.G. Engineering Pvt. Ltd. 109

(3) s.34. (See under: Interest on Delayed Payment to Small Scale and Ancillary Undertakings Act, 1993)	....	76
ARMS ACT, 1959: ss. 25(1)(b) and 27. (See under: Penal Code, 1860)	....	149
BAIL: Non-compliance of investigation within extended time – Application for bail. (See under: Narcotic Drugs and Psychotropic Substances Act, 1985)	....	555
CAUSE OF ACTION: (1) Cause of action for a complaint u/s 138 of the 1881 Act arises only once. (See under: Negotiable Instruments Act, 1881)	....	204
(2) (See under: Limitation Act, 1963)	....	194
CENTRAL EXCISE ACT, 1944: (1) ss.11-A(2B), Explanation(2) and 11AB – Differential duty – Interest on – Held: Interest is levied for loss of revenue on any count – Differential price signifies that value, which is the function of the price, on the date of removal/clearance of the goods was not correct – It was understated – Therefore, the price indicated by supplementary invoice is directly relatable to the value of goods on the date of clearance and, therefore, enhanced duty is payable – This enhanced duty is on corrected value of goods on the date of removal – When differential duty is paid after the date of clearance, it indicates short payment/short levy on the date of removal – Therefore, interest, which is		

for loss of revenue, becomes leviable u/s 11-AB. <i>Commissioner of Central Excise v. M/s. International Auto Limited</i>	....	211
(2) (See under: Income Tax Act, 1961)	....	801
CHILD WELFARE: Welfare of children is sole consideration in grant of custody. (See under: Guardians and Wards Act, 1890)	....	49
CIRCULARS/GOVERNMENT ORDERS/ NOTIFICATIONS: (1) Circular No.549 dated 31st October, 1989. (See under: Income Tax Act, 1961)	....	768
(2) (i) Government instructions dated 25.03.1994. (ii) Government instructions dated 26.02.1999 – Paragraph 2, 4. (See under: Constitution of India, 1950)	....	325
(3) (i) Notification – Retrospective effect of – When permissible – Held: Unless and until there is a clear intention expressed in the Notification, the same cannot be given a retrospective effect – Administrative Law. (ii) Government Order – Held: Internal communications while processing a matter cannot be said to be orders issued by the competent authority unless they are issued in accordance with law – Administrative Law. <i>Union of India and Anr. v. Kartick Chandra Mondal and Anr.</i>	....	1099

CODE OF CIVIL PROCEDURE, 1908:

(1) s.92 – Interpretation of, with reference to issuance of Notification by State Government – Jurisdiction of District Courts to try suits u/s.92 in pursuance of the Government notification empowering subordinate courts in the State to entertain suits u/s.92 – Held: The provisions of s.92 do not give room for interpreting the word “or” used in the Section as substitutive, so as to lead to an interpretation that when the Government notified any other court, such notified court alone had jurisdiction and not the District Court – Insofar as suits u/s.92 are concerned, District Courts and subordinate courts had concurrent jurisdiction without reference to any pecuniary limits – Tamil Nadu Civil Courts Act, 1873 – s.12.

Sri Jeyaram Educational Trust and Ors. v. A.G. Syed Mohideen and Ors. 1127

(2) s.114 and O. 47, r.1 – Review – Clarification by High Court of its judgment passed in second appeals – Held: High Court in the original judgment in second appeals had considered both the batches of appeals arising out of the suits of tenants and also cross suits of landlords – Tenants’ suits also limiting their claim – High Court was justified in reviewing the judgment, allowing the second appeals of tenants only to the limited extent of land – There is no ground for interference in exercise of jurisdiction under Article 136 of the Constitution – Constitution of India, 1950 – Article 136.

Pinninti Kistamma and Ors. v. Duvvada Parsuram Chowdary 297

(3) (i) O.6, r.16 – Additional written statement filed

by appellants, the LR’s of deceased defendant – Taken on record without any objection from plaintiffs-respondents – Respondents also did not object to framing of additional issues and led evidence in support of their case – Belated application filed by respondents for striking out additional written statement – Effect of – Held: The application of respondents was frivolous and not maintainable – Respondents filed application for striking out the additional written statement after a long gap without any explanation.

(ii) O.6, r.16 – Power of court to strike out pleadings – When exercisable.

(iii) O.6, r.16 and O.22, r.4 – Additional written statement filed by appellants, after their impleadment as LR’s of deceased defendant – Plea of plaintiffs-respondents that the pleadings contained in additional written statement were inconsistent with the defence set up by predecessor-in-interest of appellants in the original written statement and trial court was duty bound to discard the same in view of O.22, r.4 – Held: Claim made by the appellants was not inconsistent with or derogatory to the defence set up by their predecessor-in-interest – Once additional written statement was taken on record without any objection by plaintiffs-respondents, who also led their evidence keeping in view the pleadings of additional written statement, High Court was not justified in allowing the application filed for striking off additional written statement and that too without even advertent to O.6, r.16 and without considering whether respondents were able to make out a case for exercise of power by the

court under that provision.

Abdul Razak (D) Through LRs. and Ors. v. Mangesh Rajaram Wagle and Ors. 899

(4) O. 7. r. 11 – Appointment of arbitrator – Pendency of appeal against dismissal of suit under O. 7, r.11 r/w s. 8(1) of the 1996 Act. (See under: Arbitration and Conciliation Act, 1996) 582

(5) O. 39 r.1 and 2. (See under: Guardians and Wards Act, 1890) 49

CODE OF CRIMINAL PROCEDURE, 1973:

(1) Chapter 12 – Investigation. (See under: Constitution of India, 1950) 991

(2) s.296 (2). (See under: Negotiable Instruments Act, 1881) 219

(3) s.313. (See under: Penal Code, 1860) 1027

(4) ss. 319(4)(a) and (b), 244 – Criminal proceedings – New accused joined to the proceedings after charges framed against the original accused – Right of newly added accused for initiation of proceedings qua him from the stage of s. 244 and right to cross-examine the witnesses before framing of charges – Held: The whole inquiry in respect of the newly added accused should commence afresh from the stage of s. 244 – Such accused had the right to cross-examine the witnesses.

Harinarayan G. Bajaj v. State of Maharashtra & Ors. 171

(5) s. 378. (See under: Appeal) 642

COMPANIES ACT, 1956:

(See under: Reserve Bank of India Directions, 1998) 380

COMPENSATION:

Death of CRPF constable while in service – Deceased was the only earning member of the family – Mental agony and financial difficulties to parents of deceased, who were purportedly denied proper information as regards cause of the death for a long period – Writ petition claiming compensation of Rs.5 lakhs – High Court granted compensation of Rs.1 lakh – Held: Considering the facts, and in view of the escalating cost of living, compensation amount enhanced to Rs.2 lakhs.

Parasnath Tiwari and Anr. v. Central Reserve Police Force and Anr. 635

CONSTITUTION OF INDIA, 1950:

(1) Article 14 – Guarantee of equality before law enshrined in the Article is a positive concept – It cannot be enforced in a negative manner.

Union of India and Anr. v. Kartick Chandra Mondal and Anr. 1099

(2) Articles 14, 16(1) and (4):

(i) Direct recruitment on the post of Sub-inspectors and Platoon Commanders – Reservation for Backward Classes, Scheduled Castes, Scheduled Tribes – Selection of a reserve category candidate against unreserved seats – Selection process, challenged by general category

candidate – Held: Concession in fee and age relaxation would not fall within the definition of ‘reservation’ – Such relaxation does not tilt the balance in favour of reserved category candidates, in the preparation of final select list – It is only, thereafter, merit of candidates is determined without any further concessions in his favour – There is no infringement of Article 16(1) – Uttar Pradesh Public Services (Reservation for Scheduled Castes and Scheduled Tribes) Act, 1994 – ss.3(6) and 8 – Government Instructions dated 25.03.1994.

(ii) Direct recruitment on the post of Sub-inspectors and Platoon Commanders – Reservation for outstanding Sportspersons and women – Legality of – Carry forward of posts – Permissibility of – Held: Vacancies reserved for women and outstanding sportsperson is to be filled by applying ‘horizontal reservation’ – Any posts reserved for women which remain unfilled have to be filled up from amongst suitable male candidates with a specific prohibition that posts shall not be carried forward for future – Government Instructions dated 26.02.1999 – Paragraph 2, 4.

(iii) Reservation under Article 16(1) and (4) – Benefit of – Explained.

Jitender Kumar Singh & Anr. v. State of U.P. & Ors. 325

(3) Articles 14, 19(1)(g).
(See under: Income Tax Act, 1961) 380

(4) Articles 14, 243-D and 243-M(4)(b) – Panchayats in Scheduled Areas – Section 4(g) of the Provisions of the Panchayats (Extension to

the Scheduled Areas) Act, 1996 and ss. 17(B)(2), 21(B), 36(B)(2), 40(B), 51(B)(2) and 55(B) of the Jharkhand Panchayat Raj Act, 2001 providing for reservation of 50% of total seats in Panchayats and reservation of posts of Chairpersons at all level in Panchayats in Scheduled Areas for Scheduled Tribes – Held: Constitutionally valid – Reservation of 50% seats in favour of Scheduled Tribes in Scheduled Areas at all the three tiers is an example of ‘compensatory discrimination’ – Total reservations exceeding 50% of seats in Panchayats in Scheduled Areas are permissible on account of exceptional treatment mandated under Article 243-M(4)(b) – This would not amount to unreasonable restriction on rights of political participation of persons belonging to general category – Besides, rights to exercise electoral franchise are legal rights, subject to control through legislative means – Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 – s.4(g) – Jharkhand Panchayat Raj Act, 2001 – ss. 17(B)(2), 21(B), 36(B)(2), 40(B), 51(B)(2) and 55(B) – Committees – Bhuria Committee Report – Social Justice – Election Law.

Union of India etc. v. Rakesh Kumar and Ors. etc. 483

(5) Article 32 – Writ petition – Seeking transfer of investigation to CBI – In a case of alleged abduction and fake encounter by State Police authorities – Held: There are grave allegations against high Police officials – There are large and various discrepancies in Action Taken Reports and in investigation conducted by State Police – Investigation of case is also spread over other States – Investigation by the local police was de

hors the mandate of CrPC and not impartial – In the interest of justice and to instil confidence in the minds of victims as well as public, investigation is handed over to CBI – In order to do complete justice in a case, court can handover investigation to CBI even after submission of charge-sheet by local police – Investigation – Code of Criminal Procedure, 1973 – Chapter 12.

Rubabbuddin Sheikh v. State of Gujarat & Ors. 991

(6) Article 136.
(See under: Code of Civil Procedure, 1908) 297

(7) Article 136 – Interference with findings of facts arrived at by courts below – Scope – Suit for grant of easement rights – No specific issue on question of implied grant – But parties adduced evidence for purpose of proving and contesting implied grant – Courts below found that plaintiff had acquired right of easement by way of implied grant – Held: In such circumstances, Supreme Court cannot upset the findings of fact arrived at by Courts below in exercise of its powers under Article 136.

Sree Swayam Prakash Ashramam v. G. Anandavally Amma. 271

(8) Article 136 – Powers under – Not to be exercised, until grave injustice is shown to be caused to the aggrieved party by way of the impugned order.

Mohd. Laiquiddin and Anr. v. Kamala Devi Misra (Dead) by Lrs. and Ors. 873

(9) Articles 165, 217 and 226 – Advocate General

– Eligibility – Age – Held: Advocate General can be appointed after he/she attains the age of 62 years – Similarly, Attorney General for India can be appointed after he/she attains the age of 65 years – Public Interest Litigation.

(Also see under: Public Interest Litigation)

State of Uttaranchal v. Balwant Singh Chauhal & Ors. 678

(10) Articles 226, 38, 39(a) to (e), 43 and 43-A r/w the Preamble – Writ jurisdiction – High Court substituting the award of reinstatement passed by labour court, by directing compensation to workman – Held: While exercising jurisdiction under Article 226 and/or 227, in such matters High Courts are duty bound to keep in mind that Industrial Disputes Act and other similar legislative enactments are social welfare legislations which are to be interpreted keeping in view the goals set out in the Preamble and Part-IV of the Constitution – High Court erred in interfering with the well reasoned award passed by labour court, on the premise that initial appointment of workman was illegal and unconstitutional, particularly, when no such plea was raised before labour court – Industrial Disputes Act, 1947 – ss. 25-F and 25-G – Social Justice.

(Also see under: Industrial Disputes Act, 1947)

Harjinder Singh v. Punjab State Warehousing Corporation 591

(11) Articles 226 and 227 – Exercise of power under – Certiorari jurisdiction and supervisory jurisdiction – Limitations of.

Abdul Razak (D) Through LRs. and Ors. v. Mangesh Rajaram Wagle and Ors. 899

CONTRACT ACT, 1872:

ss.4 and 7 – Concluded contract containing arbitration clause – If respondent accepts the offer of petitioner following a very strict time schedule, he cannot escape from the obligations that flowed from such an action – Arbitration clause can be inferred from various documents duly approved and signed by the parties in the form of exchange of e-mails, letter, telex, telegrams and other means of tele-communication even in the absence of signed agreement – If no inference can be drawn from the facts that the parties intended to be bound only when a formal agreement had been executed, the validity of the agreement would not be affected by its lack of formality – Commercial Offer carried no clause making the conclusion of the contract incumbent upon the Purchase Order –Therefore, the moment commercial offer was accepted by the respondent, the contract came into existence – Since the contract contained arbitration clause, petitioner made out case for appointment of arbitrator – Arbitration.

Trimex International Fze Ltd. Dubai v. Vedanta Aluminium Limited, India

820

COST:

Imposition of exemplary cost.

(See under: Public Interest Litigation)

678

CRIME AGAINST WOMEN:

(1) Death due to burn injuries.

(See under: Penal Code, 1860)

1069

(2) Rape and murder of minor girl.

(See under: Penal Code, 1860)

1027

(3) Rape – Allegation of.

(See under: Penal Code, 1860)

869,
1063

CRIMINAL LAW:

(1) Common intention.

(See under: Penal Code, 1860)

439

(2) Mens rea.

(See under: Penal Code, 1860)

7

CUSTOMS ACT, 1962:

(See under: Income Tax Act, 1961)

801

DIRECT TAX LAWS (AMENDMENT) ACT, 1987:

(See under: Income Tax Act, 1961)

768

DIRECT TAX LAWS (AMENDMENT) ACT, 1989:

(See under: Income Tax Act, 1961)

768

DOCTRINES/PRINCIPLES:

Doctrine of promissory estoppel.

(See under: Industrial Policy, 1995)

928

EASEMENTS ACT, 1882:

s.13(b) – Easement rights – Easement by grant – Held: Grant can be by implication as well – On facts, there was implied grant of schedule property as pathway – Plaintiff acquired right of easement by way of implied grant.

Sree Swayam Prakash Ashramam v. G. Anandavally Amma.

271

ELECTION LAW:

Panchayat Elections.

(See under: Constitution of India, 1950)

483

ENEMY PROPERTY ACT, 1968:

(See under: Mesne profit)

774

EVIDENCE:

(1) Circumstantial evidence – Yardsticks for reliance on – Discussed.

(Also see under: Penal Code, 1860)

Vijay Kumar Arora v. State Govt. of NCT of Delhi 1069

(2) (i) Credibility of eye-witness.

(ii) Medical evidence at variance with ocular evidence – Effect of.

(See under: Penal Code, 1860) 134

(3) Non-explanation of injuries on accused – Effect of.

(See under: Penal Code, 1860) 572

(4) Testimony of prosecutrix – Reliability of.

(See under: Penal Code, 1860) 869
and 1063

EVIDENCE ACT, 1872:

(1) ss. 26 and 27.

(See under: Penal Code, 1860) 1027

(2) s.165.

(See under: Negotiable Instruments Act, 1881) 219

EXPLOSIVE SUBSTANCES ACT, 1908:

ss. 3 and 5.

(See under: Penal Code, 1860) 149

GUARDIANS AND WARDS ACT, 1890:

ss. 7, 9, 17 and 12 – Interim custody of minor Muslim children – Death of mother – Re-marriage of father – Application by maternal relatives for appointment as guardian and interim custody of

the children till disposal of application u/ss. 7, 9 and 17 – Family court granting interim injunction restraining father from interfering with the custody – Order confirmed by High Court – Interim custody granted to maternal relatives till the disposal of the proceedings – Held: Custody is distinct from guardianship – In matters of custody, welfare of children is the sole consideration – Personal law governing custody of minor girl dictates that her maternal relatives, especially maternal aunt, shall be given preference, thus, no reason to override the rule of Mohammedan Law – Case made out for grant of custody to maternal relatives – Visitation rights granted to father – Code of Civil Procedure, 1908 – O. 39 r.1 and 2 – Child welfare – Mohammedan Law.

Athar Hussain v. Syed Siraj Ahmed & Ors. 49

GUIDELINES:

Guidelines laid down to preserve purity and sanctity of PIL.

(See under: Public Interest Litigation) 678

HIGH COURTS:

Exercise of jurisdiction – High Courts to refrain from deciding writ petitions as if adjudicating appeals against orders of lower courts or other judicial/quasi judicial bodies/authorities.

Abdul Razak (D) Through LRs. and Ors. v. Mangesh Rajaram Wagle and Ors. 899

HINDUSTAN PHOTO FILMS SERVICE RULES FOR OFFICERS:

Clause 3.

(See under: Service Law) 467

INCOME TAX ACT, 1961:

(1) (i) s.2(24) – Provision for NPA – Debited by NBFC to the P&L Account – In terms of Para 9(4) of the RBI Directions 1998 – Whether the provision for NPA to be treated as income u/s.2(24) of the Act – Held: Not to be treated as “income” u/s. 2(24) of the Act – RBI directions are only disclosure norms and are not related with the computation of total taxable income under IT Act or with the accounting treatment – Reserve Bank of India Directions 1998 – Para 9(4).

(ii) s.36(1)(vii) – Provision for NPA debited to the P&L Account by NBFC in terms of RBI Directions 1998 – Claim for deduction u/s.36(1)(vii) – Entitlement for – Held: Not entitled as the provision does not constitute expense.

(iii) s.36(1)(viia) and s.43D – Different treatment for NBFC and Banks for deduction under s.36(1)(viia) and s.43D – Constitutional validity of – Held: s.36(1)(viia) provides for deduction not only in respect of “written off” bad debt but in case of Banks, it extends the allowance also to any Provision for bad and doubtful debts made by Banks which incentive is not given to NBFCs – Banks face a huge demand from the industry and at times face liquidity crunch – Thus, the line of business operations of NBFCs and Banks are quite different – It is for this reason, apart from social commitments which Banks undertake, that allowances of the nature mentioned in s.36(1)(viia) and 43-D are often restricted to Banks and not to NBFCs – Neither s.36(1)(viia) nor s.43D violates Article 14 – The test of “intelligible differentia” stands complied with – Constitution of India, 1950 – Article 14, 19(1)(g).

(Also see under: Reserve Bank of India Directions, 1998)

Southern Technologies Ltd. v. Joint Commnr. of Income Tax, Coimbatore 380

(2) s. 48 – ‘Capital gains’ – Offer made to assessee-shareholder to subscribe to Partly Convertible Debentures at par on Rights Basis – Assessee renouncing the right – Loss due to diminution in value of original equity shares on renunciation of right to subscribe to additional shares/debentures – Held: Loss suffered by assessee is a ‘short-term loss’.

Navin Jindal v. Asstt. Commissioner of Income Tax 255

(3) (i) s.80 I-A – ‘Manufacture’ – Twisting and texturising of partially oriented yarn (POY) – Held: POY is a semi-finished yarn not capable of being put in warp or weft, it can only be used for making a texturized yarn, which, in turn, can be used in the manufacture of fabric – Thus, POY cannot be used directly to manufacture fabric – Crimps, bulkiness etc. are introduced by a process, called as thermo mechanical process, into POY which converts POY into a texturized yarn – If thermo mechanical process is examined in detail, it becomes clear that texturising and twisting of yarn constitutes ‘manufacture’ in the context of conversion of POY into texturized yarn.

(ii) ‘Manufacture’ – Examination of the process applicable to the product – Held: Repeatedly the Supreme Court has recommended to the Department, be it under Excise Act, Customs Act or the Income Tax Act, to examine the process

applicable to the product in question and not to go only by dictionary meanings – This recommendation is not being followed over the years – Even when the assessee gives an opinion on a given process, the Department does not submit any counter opinion wherever such counter opinion is possible – *Prima facie*, in the instant case, there is no possibility of any counter opinion to the opinion given by the Mumbai University – This judgment is to be confined to the facts of the present case – It is not being said that texturising or twisting per se in every matter amounts to manufacture – It is the thermo mechanical process embedded in twisting and texturising when applied to a partially oriented yarn, that makes the process a manufacture – Central Excise Act, 1944 – Customs Act, 1962.

C.I.T., Mumbai v. M/s. Emptee Poly-Yarn Pvt. Ltd. 801

(4) s.80-IA(1) r/w. s.80IA(12)(b) –Transformation of blank Compact Disc (CD) into software loaded disc – Held: Amounts to manufacture/processing of goods in terms of s.80IA(1) r/w. s.80IA(12)(b) and s. 33 of the Act – Blank CD is an input – By duplicating process, the recordable media which is unfit for any specific use gets converted into the programme which is embedded in the Master Media and, thus, blank CD gets converted into recorded CD by this intricate process – Duplicating process changes the basic character of a blank CD, dedicating it to a specific use.

Commr. of Income Tax-V, New Delhi v. M/s. Oracle Software India Ltd.543

(5) s.115-JB, Explanation-I Clause (b) – Applicability of – Advance Against Depreciation (AAD) – Held: AAD is a timing difference – It is not carried to profit and loss account – It is income received in advance subject to adjustment in future and not a reserve and, therefore, clause (b) of Explanation (I) to s.115JB is not applicable.

National Hydroelectric Power Corpn. Ltd. v. Commissioner of Income Tax 16

(6) s.147 – Power to re-assess – Word “opinion” inserted in s.147 after the enactment of Direct Tax Laws (Amendment) Act, 1987 i.e. prior to 1st April, 1989, vested arbitrary powers in the Assessing Officer to reopen past assessments on mere change of opinion – Concept of “change of opinion” stood obliterated with effect from 1st April, 1989, i.e. after substitution of s.147 of the Act by Direct Tax Laws (Amendment) Act, 1989 – Direct Tax Laws (Amendment) Act, 1989 – Direct Tax Laws (Amendment) Act, 1987 –Circular No.549 dated 31st October, 1989.

Commissioner of Income Tax, Delhi v. M/s. Kelvinator of India Limited 768

INDUSTRIAL DISPUTES ACT, 1947:

(1) ss.2(oo), 2(s) and 25F – Workman employed on casual basis – Termination of service without notice or retrenchment compensation – Award by labour court reinstating him with continuity of service and back wages – Held: The workman had continuous service of 240 days in a calendar year – Similarly placed persons were regularized – Employee in question was a 'workman' u/s. 25(s) – Termination of his service was in contravention of s. 25F – The plea that initial appointment of the

workman was contrary to recruitment rules not applicable in the facts of the case – The plea also cannot be allowed, since it was raised for the first time before High Court.

Ramesh Kumar v. State of Haryana 532

(2) ss. 25-F and 25-G – Retrenchment of workman, while persons junior to him retained – Held: Labour Court rightly passed the award of reinstatement with 50% back wages – For attracting applicability of s.25-G, workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding termination of his services – It is sufficient for him to plead and prove that while effecting retrenchment, employer violated the rule of ‘last come first go’ without any tangible reason – Constitution of India, 1950 – Preamble, Articles 38, 39(a) to (e), 43, 43-A and 226.

(Also see under: Constitution of India, 1950)

Harjinder Singh v. Punjab State Warehousing Corporation 591

INDUSTRIAL POLICY, 1995:

Clauses 22(2)(i) and 24 – Sales tax exemption – Sick company – Repeated assurance by State Government to issue sales tax exemption Notification – Writ petition seeking direction to issue the Notification – High Court directed State to issue the Notification – On appeal, Supreme Court by interim order directing the company to deposit an amount equivalent to sales tax payable by it in a Bank – The amount to be payable to the party which ultimately succeeded – State issuing the Notification – Failure of company to deposit the amount taking the plea that it was sick – Held:

Denial of sales tax exemption is arbitrary – The State initially having given repeated assurances, was estopped from denying the grant of exemption at later stage – Company rightly invoked the doctrine of promissory estoppel – State cannot take advantage of its own lapses in implementing the Industrial Policy for denying the claim of the company – The decision making process culminating into orders denying grant of exemption is seriously flawed – However, the company, in view of its financial condition, cannot be permitted to retain the amount collected from the customer on sale of its product – This would amount to unjust enrichment – Directions passed – Doctrine of Promissory estoppel – Unjust Enrichment.

State of Bihar & Ors. v. Kalyanpur Cements Ltd. 928

INQUIRY:

Inquiry in respect of newly added accused who joined the proceedings after charges had been framed against the original accused.

(See under: Code of Criminal Procedure, 1973) 171

INTEREST:

(1) Interest on differential duty.

(See under: Central Excise Act, 1944) 211

(2) Suit between parties decreed – Direction by High Court to State authorities to deposit the decretal amount within the prescribed time – In case of default, State liable to pay interest @ 15% p.a. to respondents from the date of the order up to the date on which the amount actually tendered – Rate of interest challenged – Held: Rate of interest modified to 10% p.a. from the date of the

order till the time specified, failing which, State liable to pay interest @15% p.a.

State of Karnataka & Anr. v.

G.R. Nadagouda (Dead) by Lrs. & Anr. 130

INTEREST ON DELAYED PAYMENT TO SMALL SCALE AND ANCILLARY UNDERTAKINGS ACT, 1993:

s. 7 – ‘Appeal’ – Scope of – Held: Word ‘appeal’ u/s 7 includes an application u/s 34 of Arbitration Act in view of language of s.7, object of legislation and contextual meaning of the term ‘appeal’ – Arbitration and Conciliation Act, 1996 – s.34 – Interpretation of Statutes.

(Also see under: Interpretation of Statutes)

Snehadeep Structures Private Limited v.

Maharashtra Small Scale Industries Development Corporation Ltd. 76

INTERPRETATION OF STATUTES:

(1) Courts cannot read anything into a statutory provision which is plain and unambiguous – When language of the enactment is clear and unambiguous, it would not be proper for the courts to add any words thereto and evolve some legislative intent, not found in the statute.

Union of India and Anr. v. Kartick Chandra

Mondal and Anr. 1099

(2) In case of doubt about meaning of a word in a statute, the interpretation which harmonizes the object and purpose of the statute should be adopted.

Snehadeep Structures Private Limited v.

Maharashtra Small Scale Industries Development Corporation Ltd. 76

(3) It is not permissible for the Court to make additions in the law and to read into it something that is just not there – Negotiable Instruments Act, 1881 – s.145(1).

(Also see under: Negotiable Instruments Act, 1881)

M/s. Mandvi Co-op Bank Ltd. v. Nimesh

S. Thakore 219

(4) Legislative object – Held: A court as an interpreter cannot alter or amend the law – It can only interpret the provision, to make it meaningful and workable so as to achieve the legislative object, when there is vagueness, ambiguity or absurdity.

Sri Jeyaram Educational Trust and Ors. v.

A.G. Syed Mohideen and Ors. 1127

(5) Social welfare legislation – Interpretation of.

(See under: Constitution of India, 1950) 591

INVESTIGATION:

(1) Extension of custody to complete investigation.

(See under: Narcotic Drugs and Psychotropic Substances Act, 1985) 555

(2) Handing over investigation to CBI.

(See under: Constitution of India, 1950) 991

JHARKHAND PANCHAYAT RAJ ACT, 2001:

ss. 17(B)(2), 21(B), 36(B)(2), 40(B), 51(B)(2) and 55(B).

(See under: Constitution of India, 1950) 483

JUDGMENT/ORDER:

(1) Non-reasoned order – Effect of.

(See under: Appeal) 185

(2) Reasoned order – Interference with. (See under: Constitution of India, 1950)	591
JUDICIAL OFFICERS' PROTECTION ACT, 1850: (See under: Right to Information Act, 2005)	1
JUDICIARY: Independence of judiciary. (See under: Right to Information Act, 2005)	1
JURISDICTION: (1) Certiorari jurisdiction and supervisory jurisdiction of High Court. (See under: Constitution of India, 1950)	899
(2) Supreme Court appointing new arbitrator and directed him to file award before it – New arbitrator filing the award in Supreme Court – Jurisdiction of Supreme Court to entertain the application for making the award a rule of the court as well as the objections, challenged – Held: Supreme Court has the jurisdiction. <i>State of Rajasthan v. Nav Bharat Const. Company</i>	312
(3) Suit u/s. 92 CPC – Jurisdiction of courts. (See under: Code of Civil Procedure, 1908)	1172
(4) Writ jurisdiction. (See under: Constitution of India, 1950)	591
KARNATAKA RENT ACT, 1999: ss. 27(2)(r) and 43 – Eviction proceedings – Deferment of – Held: Mere assertion by tenant that he is in possession in part performance of agreement of sale or mere filing of suit for specific performance, by itself will not lead to deferment of eviction proceedings u/s 43 – But where tenant	

produces and relies upon agreement of sale which confirms delivery of possession in part performance and specific performance suit is pending, and there is no lease deed or payment of rent from the date of such agreement of sale, or no acknowledgement of attornment of tenancy, s.43 may apply – For deferment, court is to be <i>prima facie</i> satisfied that the agreement is genuine and defence is <i>bona fide</i> . <i>Joseph Kantharaj & Anr. v. Attharunnisa Begum S.</i>	629
LABOUR LAWS: (1) Casual labourer – Re-engagement and regularization of. (See under: Service law)	1099
(2) Termination of workman employed on casual basis. (See under: Industrial Disputes Act, 1947)	532
LAND LAWS AND AGRICULTURAL TENANCY: Cultivatory possession of tenants. (See under: Andhra Pradesh Record of Rights in Land Act, 1971)	297
LIMITATION ACT, 1963: Schedule – Article 58 – Suit for declaration – Dismissed by courts below holding the same as barred by limitation on the ground that it was filed after 18 years of compromise – Held: Question of filing of suit before the right accrued to plaintiffs by compromise could not arise until and unless infringement of that right was noticed by one of the parties – Right to sue accrued a week prior to filing of the suit when a clear and unequivocal threat to infringe that right by defendants was given	

as they refused to admit the claim of plaintiffs – Suit not barred by limitation.

Daya Singh & Anr. v. Gurdev Singh (Dead)
by L.Rs. & Ors. 194

MADHYA PRADESH ESSENTIAL COMMODITIES
(EXHIBITION OF PRICE AND PRICE CONTROL)
ORDER, 1997:

Clause 6(2).

(See under: Madhya Pradesh Scheduled
Commodity Dealer (Licensing and
Restriction on Hoarding) Order, 1991) 1119

MADHYA PRADESH MUNICIPALITIES ACT, 1961:

s. 41-A – Power of State Government to remove
President, Vice-President or Chairman of any
Committee – Applicability of s. 41-A – Scope of
– Held: Such person can be removed, if his
continuance in the office is not found desirable in
public interest or in the interest of Council or if he
is incapable of performing his duties; or is working
against the provisions of the Act/Rules – Resort
to s. 41-A can be had only after such person is
duly elected, but only in grave and exceptional
circumstances and not for minor irregularities in
discharge of duties – On facts, order of removal
of the President of Nagar Palika by State
Government not justified – Municipalities.

Sharda Kailash Mittal v. State of
M.P. & Ors. 451

MADHYA PRADESH SCHEDULED COMMODITY
DEALER (LICENSING AND RESTRICTION ON
HOARDING) ORDER, 1991:

Clause 11 – Confiscation of paddy on account of
violation of clause 11 – Legality of – Held: It was

incumbent on the part of the transporter to carry
documents mentioned in Clause 11 along with
the consignment – Since the said documents were
not carried along with the consignment, there was
no illegality in the seizure and confiscation thereof
– Madhya Pradesh Essential Commodities
(Exhibition of Price and Price control) Order, 1997
– Clause 6(2).

Satyanarayana Sultania & Anr. v. State of
Chhattisgarh 1119

MESNE PROFIT:

Claim for – Supreme Court by final order declaring
the claimant to be successor of the estate of
predecessor-Raja – Direction issued to the
Custodian of Enemy Property to release the rents
and profit collected after 5.4.2002 to the claimant
– Also Held that mesne profit prior to that date to
be claimed by resorting to the remedy of suit –
Interlocutory applications filed before Supreme
Court claiming the amount credited in the account
of predecessor-Raja on 27.3.2002 – Held: Since
the claim was for the period prior to 5.4.2002,
claimant entitled to recover it by filing a suit –
Enemy Property Act, 1968.

Union of India & Anr. v. Raja
Mohammed Amir Mohammad Khan 774

MOHAMMEDAN LAW:

Custody of minor muslim girls.
(See under: Guardians and Wards
Act, 1890) 49

MUNICIPALITIES:

(See under: Madhya Pradesh Municipalities
Act, 1961) 451

NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985:

(i) s.36-A (4), proviso – Extension of custody, to complete investigation – Conditions to be satisfied – Held: There was no application of mind by public prosecutor – Progress of investigation was not indicated – Compelling reasons which required extension of custody beyond 180 days were not shown – Both the extensions being contrary to law, struck down.

(ii) s. 36-A (4), proviso r/w s. 167 (2) Cr.P.C. – Application for bail on the ground that investigation was not completed within the extended time – Extensions having been Held contrary to law, applicant released on bail.

Sanjay Kumar Kedia @ Sanjay Kedia v. Intelligence Officer, Narcotic Control Bureau and Anr.

555

NEGOTIABLE INSTRUMENTS ACT, 1881:

(1) ss.138(b) and 142 – Notice u/s 138(b) – Receipt of, by drawer of cheque – Drawee of cheque failing to take action within stipulated time u/s 138 – Entitlement of drawee of cheque to issue second notice in respect of same cheque and to file complaint u/s 138 – Held: Not entitled – Cause of action for a complaint u/s 138 arises only once, with the issuance of notice after dishonour of cheque and receipt thereof.

Tameeshwar Vaishnav v. Ramvishal Gupta 204

(2) (i) s.145(1) and (2) – Affidavit in the nature of examination-in-chief – On being summoned u/ s.145(2), complainant or his witness whose evidence is given on affidavit is not required to

depose in examination-in-chief all over again – Evidence Act, 1872 – s.165.

(ii) s.145(1) and (2) – Applicability to the proceedings pending on the date on which these sections were inserted in the Act – Held: Applicable as these provisions are procedural and not substantive in nature.

(iii) s.145(1) – Right of accused to give evidence on affidavit – Held: s.145(1) confers right on the complainant to give evidence on affidavit – It does not speak of similar right being conferred on the accused – High Court erred in holding that not mentioning the accused along with the complainant in sub-section (1) of s.145 was merely an omission by legislature that it could fill up – Interpretation of Statutes.

(iv) s.145(2) and s.296(2) CrPC – The two sections whether identical – Held: Two sections are not identical – s.296(2) deals with evidence of formal nature and is a part of elaborate procedure of regular trial under the Code while the object of s.145(2), is to design a much simpler and swifter trial procedure departing from time consuming trial procedure of the Code – Code of Criminal Procedure, 1973 – s.296(2).

(Also see under: Interpretation of Statutes)

M/s. Mandvi Co-op Bank Ltd. v. Nimesh S. Thakore

219

NOTICE:

Entitlement of drawee of cheque to issue second notice in respect of same cheque.

(See under: Negotiable Instruments Act, 1881)

204

PANCHAYATS:

Reservation of posts in Panchayats.

(See under: Constitution of India, 1950) 483

PARTNERSHIP ACT, 1932:

(i) ss.42 and 4 – Deemed dissolution of firm – Two partners – Death of one partner – LRs of deceased partner not interested in continuing the firm or in constituting a fresh firm – Effect of – Held: On death of one of the two partners, there was deemed dissolution of the firm, despite existence of a clause in the partnership deed which said otherwise – LRs of the deceased partner could not be asked to continue the partnership, as there was no legal obligation upon them to do so, as partnership is not a matter of heritable status but purely one of contract.

(ii) ss.14 and 48 – Dissolution of firm – Distribution of residual property of firm – Partnership firm, constituted for construction of a cinema theatre, consisted of two partners – While the first partner offered her land for construction of cinema theatre, the second partner constructed cinema theatre thereon and other allied constructions by procuring funds – Deemed dissolution of the firm in view of death of the first partner – Distribution of residual property amongst the partners – Held: On facts, there was no intention from either partner to treat the land, building, structures etc. as properties of the firm – As the partnership got dissolved on death of a partner, both the parties allowed to take their respective properties – First partner entitled to her land and second partner to movable and to recover value of buildings.

Mohd. Laiquiddin and Anr. v. Kamala Devi Misra (Dead) by Lrs. and Ors. 873

PENAL CODE, 1860:

(1) (i) ss. 96, 97 and 100 – Right to private defence – Exercise of – Land dispute between parties – Gun shot injury by accused resulting in death of deceased – Plea of private defence by accused – Acquittal by trial court – High Court convicting the accused – Held: When there is real apprehension that aggressor might cause death or grievous hurt, right of private defence of defender extends to killing the aggressor – Role attributed to accused is fully covered by his right of private defence – Trial court's view is the possible view and is based on the evidence on record – Order of acquittal restored.

(ii) Right to private defence – Guiding principles for exercise of right to private defence – Explained.

Darshan Singh v. State of Punjab & Anr. 642

(2) ss. 147, 148, 324, 326, 307 and 302/149 – Rivalry between two political factions – Accused armed with dangerous weapons and bombs, attacked deceased and prosecution witnesses – Allegation that appellant hurled bomb on deceased, resulting in his death on the spot and four accused hurled bombs resulting in splinter injuries to prosecution witnesses – Trial of accused for various offences – Acquittal by trial court – High Court upholding acquittal of all the accused except appellant – Conviction of appellant u/s. 302 – Held: High Court not justified in interfering with the judgment of trial court – Explosive Substances Act, 1908 – ss. 3 and 5 – Arms Act, 1959 – ss. 25(1)(b) and 27.

Boddella Babul Reddy v. Public Prosecutor, High Court of A.P. 149

(3) ss.218, 342 and 323.

(See under: Appeal)

.... 185

(4) s.302 – Murder – Conviction – Serious injuries to one of the accused – Not explained by prosecution – Held: Though every injury is not liable to be explained when accused pleads a defence, but obligation does lie on prosecution to explain the presence of a serious injury – Prosecution unable to present an explanation as to how injuries were suffered by accused and on the contrary his very presence has been denied – Conviction and sentence of accused set aside – Evidence.

Amarjit Singh v. State of Haryana

.... 572

(5) s.302 – Murder of wife of accused – Death due to more than 90% burn injuries – Circumstantial evidence – Verbal dying declaration of deceased before five witnesses implicating the accused – Parents and sister of deceased alleging physical and mental cruelty meted out to deceased by accused – Extra-marital relations of accused also proved – Conviction by courts below – Held: Physical and mental cruelty against the deceased proved – Motive for the murder also proved – Testimony of witnesses establish that deceased made dying declaration – These witnesses are truthful – Medical evidence also proves that the case was homicidal – The circumstances from which conclusion of guilt is to be drawn are proved conclusively – Circumstantial evidence.

(Also see under: Evidence)

Vijay Kumar Arora v. State Govt. of NCT of Delhi

.... 1069

(6) ss.302 and 324 – Conviction of one of the seven accused u/ss 302 and 324 and three u/s 323 – Testimony of witness who claimed to have received injuries in the same incident in which deceased was killed – Held: Trial court observed that the witness had mixed up falsehood with truth – Assumption drawn by trial court and High Court that the witness had received injuries in the occurrence is not borne out by evidence on record – Substantial part of prosecution story disbelieved by trial court – Presence of three of the accused and two other eye-witnesses at the place of occurrence doubted by trial court – Medical evidence at variance with ocular vision – Appellant acquitted giving him benefit of doubt – Evidence.

Hari Kishan v. State of Haryana

.... 134

(7) ss.302, 376 and 201 – Rape and murder of minor girl – Circumstantial evidence – Appreciation of – Accused seen fleeing away from near the place where dead body of deceased was found – Blood stained frock and underwear of deceased recovered from house of accused's sister pursuant to voluntary disclosure statement made by him while in police custody – Underwear of accused seized during course of investigation found stained with blood and semen – Accused made extra-judicial confession before PW5 – Held: The chain of circumstantial evidence was complete and showed that, within all human probability, rape and murder of deceased was committed by the accused and none else and he had also caused disappearance of evidence of those offences – When the incriminating circumstances proved were put to accused while recording his statement u/s.313 CrPC, he merely

denied the same – Such denial on part of accused and failure to explain the circumstances proved was an additional link in the chain of circumstances to bring home the charge against the accused – Code of Criminal Procedure, 1973 – s.313 – Evidence Act, 1872 – ss. 26 and 27.

Aftab Ahmad Ansari v. State of Uttaranchal 1027

(8) s.304 (Part-II) r/w ss.147 and 149 – Unlawful assembly – Assault on victim with sticks – Death due to coma as a result of head injuries – Conviction – Held: Absence of motive was irrelevant in view of availability of evidence of eye-witnesses – Their presence at the incident was most natural – Evidence given by them could not be shaken even in cross-examination – Conviction upheld.

Sunil Kumar and Anr. v. State of U.P. 289

(9) (i) ss.304 (Part-II) and 326/34 and s.302/34 – Appellant and co-accused allegedly entered into house of victim and poured acid on her – Later, death of victim – Dying declaration– Conviction of appellant u/s.302/34 – Held: In absence of any active role played by appellant or overt act attributed to him in the dying declaration, conviction of appellant u/s.302/34 cannot be sustained – However, appellant did not prevent the co-accused from throwing acid, it establishes that he intended to cause injury and also disfigurement of deceased and as such is liable to be punished u/s.326 – Also since appellant could be said to be possessing knowledge that throwing of acid is likely to cause death of deceased, case u/s.304 (Part-II) is also made out – Since death ensued twenty six days after the incident as a result of

septicemia and not as a consequence of burn injuries, and as appellant had already served RI for seven years, quantum of sentence reduced to period already undergone.

(ii) s.34 – Nature, purpose and scope of – Discussed.

Bengai Mandal @ Begai Mandal v. State of Bihar 439

(10) ss. 306 and 107 – Abetment to suicide – Held: Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing – There has to be a clear mens rea to commit the offence – Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

Gangula Mohan Reddy v. State of Andhra Pradesh 7

(11) ss.376/34 and 336/34 – Evidence of prosecutrix – Out of three accused two convicted and sentenced as the third remained absconding – Appeal of convicts dismissed by High Court – Held: In a matter of rape, though statement of prosecutrix must be given primary consideration, but at the same time the broad principle that the prosecution has to prove its case beyond reasonable doubt applies equally to a case of rape and there can be no presumption that a prosecutrix would always tell the entire story truthfully – Prosecutrix in her earlier statement has not attributed the offences of rape and kidnapping to one of the appellants – Therefore, in the light of contradictions, some doubt is created with regard

to his involvement – He is accordingly acquitted – As regards the other appellant, statements of the prosecutrix and other witnesses are categoric – His appeal is dismissed – Evidence.

Abbas Ahmad Choudhary v. State of Assam 869

(12) ss. 376, 323 and 506 – Rape – Conviction on the basis of evidence of prosecutrix – Held: The test always is whether the given story *prima facie* inspires confidence – On facts, conviction set aside as the story given by prosecutrix does not inspire confidence – Evidence of prosecutrix not corroborated – Accused acquitted – Evidence.

Dinesh Jaiswal v. State of M.P. 1063

PLEA:

(1) New plea – Raised in second appeal – Permissibility.
(See under: Appeal) 873

(2) New plea – Raising of – Before Supreme Court – Permissibility of – Held: Not permissible.

State of Karnataka & Ors. v. Ganpathi Chaya Naik & Ors. 807

(3) Non-raising of plea – Effect.
(See under: Constitution of India, 1950) 591

(4) Plea raised for the first time before a superior court – Permissibility.
(See under: Industrial Disputes Act, 1947) 532

PLEADINGS:

Additional written statement.
(See under: Code of Civil Procedure, 1908) 899

PRACTICE AND PROCEDURE:

(1) (See under: Arbitration and Conciliation Act, 1996) 582

(2) (See under: Public Interest Litigation) 678

PRECEDENT:

(1) Mere quoting of isolated observations in a judgment – Held: Cannot be treated as a precedent de hors the facts and circumstances in which the observation was made.

Jitender Kumar Singh & Anr. v. State of U.P. & Ors. 325

(2) When issue is no longer *res integra*, filing of indiscriminate petitions raising the controversy repeatedly creates unnecessary strain on judicial system and leads to inordinate delay in disposal of genuine and *bona fide* cases – It is the bounden duty of Courts to ensure that controversy once settled by an authoritative pronouncement should not be reopened unless there are extra-ordinary reasons for doing so.

State of Uttaranchal v. Balwant Singh Chaufal & Others 678

(3) Wrong committed in an earlier case – Held: Same cannot be allowed to be perpetuated.

State of Karnataka and Ors. v. Gadilingappa and Ors. 815

PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996: s.4(g).

(See under: Constitution of India, 1950) 483

PUBLIC INTEREST LITIGATION:

Appointment of Advocate General for the State – Writ petition on the ground that incumbent before his appointment to the post had crossed 62 years of age – Held: Filing of writ petition by practicing advocate on an issue which is no longer res integra, is a clear abuse of process of the Court for extraneous considerations – This tendency has to be curbed effectively – Exemplary cost imposed on writ petitioners – Significance and evolution of public interest litigation – Explained – In order to preserve purity and sanctity of PIL, guidelines laid down – Constitution of India, 1950 – Article 165, 217 and 226 – Practice and Procedure – Administration of justice.

(Also see under: Constitution of India, 1950)

State of Uttaranchal v. Balwant Singh Chauhal & Ors. 678

PUNJAB EDUCATION SERVICE CLASS-III (SCHOOL CADRE) RULES, 1955:

r.10 – Government of Punjab letter dated 1.9.1960 – Providing for advance increments to Masters on acquiring post-graduate qualification – Benefit under letter dated 1.9.1960 claimed by teachers falling in State of Haryana on its formation – Held: Could be claimed only till the revision of pay scales, which were made effective from 1.12.1967, and not thereafter.

State of Haryana & Ors. v. Hem Lata Gupta & Ors. 22

RENT CONTROL AND EVICTION:

Eviction proceedings – Deferment of.

(See under: Karnataka Rent Act, 1999) 629

RESERVATION:

(1) Reservation in service.

(See under: Constitution of India, 1950) 325

(2) Reservation of posts in Panchayats.

(See under: Constitution of India, 1950) 483

RESERVE BANK OF INDIA DIRECTIONS 1998:

(i) Scope and applicability of – Discussed.

(ii) Para 9(4) – Analysis of – Held: RBI directions deal with the presentation of provision for NPA in the Balance Sheet of NBFC – The Directions do not recognize the “income” under the mercantile system – IT Act and the 1998 Directions operate in different fields – The primary object of 1998 Directions is prudence, transparency and disclosure – The basis of 1998 Directions is that anticipated losses must be taken into account but expected income need not be taken note of – These Directions ensure cash liquidity for NBFCs which are now required to state true and correct profits, without projecting inflated profits – The nature of expenditure under the IT Act cannot be conclusively determined by the manner in which accounts are presented in terms of 1998 Directions – RBI Directions 1998, though deviate from accounting practice as provided in the Companies Act, do not override the provisions of the IT Act – Income Tax Act, 1961 – Companies Act, 1956.

(Also see under: Income Tax Act, 1961)

Southern Technologies Ltd. v. Joint Commnr. of Income Tax, Coimbatore 380

RIGHT TO INFORMATION ACT, 2005:

ss. 2(f) and 6 – ‘Information’ – Application u/s 6

before the Public Authority asking as for what reasons a Judicial Officer had dismissed a miscellaneous appeal – Held: Is per se illegal and unwarranted – Aggrieved party can challenge the decision by way of appeal, revision or any other legally permissible mode – Judicial Officer is entitled to protection and the object of the same is to protect public from the dangers to which the administration of justice would be exposed if judicial officers were exposed to inquiry as to malice or to litigation with those whom their decision might offend – It would affect the independence of the judiciary – Petitioner misused the provisions of the RTI Act – Judicial Officers' Protection Act, 1850.

Khanapuram Gandaiah v. Administrative Officer & Ors.

1

SECURITIES CONTRACTS (REGULATION) ACT, 1956:

(i) s.4 – Absence of publication of the Rules and Bye-laws of the Bombay Stock Exchange, framed prior to its recognition in 1956 under the Act would not render its activities illegal and without authority.

(ii) ss.7 and 9 – Non-compliance of – Listing of fake and bogus shares – Petitioner's allegation that Bombay Stock Exchange (BSE) acted contrary to the interest of the securities market and investors in listing the share scrips of a company involved in fraudulent dealing of its scrip – Held: There is nothing to establish any ulterior motive on the part of BSE in listing the said scrip – However, as soon as information was received that the said company was involved in fraudulent dealing of its scrip, the said scrip was delisted

and debarred from trading by the BSE – No offence committed by BSE or its members.

Mahesh Ratilal Shah v. Union of India and Ors.

784

SENTENCE/SENTENCING:

Reducing of sentence.

(See under: Penal Code, 1860)

439

SERVICE LAW:

(1) Increments to Masters on acquiring post-graduate qualification.

(See under: Punjab Education Service Class-III (School Cadre) Rules, 1955)

22

(2) Re-engagement and regularization – Respondents recruited as casual labourers in 1981 – Disengaged in 1983 on the ground that they were not recruited through Employment Exchange, the extant policy at the relevant time – Application seeking re-engagement and regularisation – Reliance placed on Government of India notification dated 07-05-1985 which provided for relaxation of condition of recruitment of casual workers through Employment Exchanges – Tribunal directed absorption of respondent in suitable post commensurate with their qualifications – Directions affirmed by High Court – Held: The Notification dated 07-05-1985 was intended to operate prospectively and not with retrospective effect – It could not be made applicable to respondents since they were not working on the date the Notification was issued – The internal communications relied upon, were ex facie, exchanged between officers at the level of board hierarchy only – Re-appointment or absorption of respondents would be in violation

of the settled law.

(Also see under: Circulars/Government Orders/Notifications)

Union of India and Anr. v. Kartick Chandra Mondal and Anr. 1099

(3) Regularisation – Minimum prescribed qualification for the post of teacher – Not fulfilled – Claim for regularisation – Held: Not maintainable.

State of Karnataka and Ors. v. Gadilingappa and Ors. 815

(4) Regularisation/absorption – Daily wagers in continuous service for more than ten years since the date of their appointment – Claim for regularisation – Held: Not sustainable since daily wagers were not recruited as per the Recruitment Rules – Order of tribunal as upheld by High Court directing the employer to consider the cases of daily wagers for regularisation, set aside.

State of Karnataka & Ors. v. Ganpathi Chaya Naik & Ors. 807

(5) Reservation in recruitment.
(See under: Constitution of India, 1950) 325

(6) Termination – Employee on probation – Performance not found satisfactory – Extension of probation – Thereafter, termination – High Court holding the termination order as stigmatic – Directions to employer to allow the employee to continue in service – Held: On facts, termination was simpliciter due to unsuitability of employee and not punishment for misconduct – It cannot be

said to be stigmatic – Order of termination restored – Hindustan Photo Films Service Rules for Officers – Clause 3.

Chaitanya Prakash & Anr. v. H. Omkarappa 467

SHARES AND SECURITIES:

(1) Listing of fake and bogus shares.
(See under: Securities Contracts (Regulation) Act, 1956) 784
(2) (See under: Income Tax Act, 1961) 255

SOCIAL JUSTICE:

(1) Protection of rights of workman.
(See under: Constitution of India, 1950) 591
(2) Reservation of posts in Panchayats.
(See under: Constitution of India, 1950) 483

SUIT:

(See under: Arbitration and Conciliation Act, 1996) 582

TAMIL NADU CIVIL COURTS ACT, 1873: s.12.

(See under: Code of Civil Procedure, 1908) 1127

TAX/TAXATION:

Exemption of tax and refund of tax – Difference between.

State of Bihar & Ors. v. Kalyanpur Cements Ltd. 928

UNJUST ENRICHMENT:

(See under: Industrial Policy, 1995) 928

UTTAR PRADESH PUBLIC SERVICES
(RESERVATION FOR SCHEDULED CASTES
AND SCHEDULED TRIBES) ACT, 1994:
ss. 3(6) and 8.
(See under: Constitution of India, 1950) 325

WILL:

Will providing for reference of dispute to arbitration,
not an arbitration agreement.
(See under: Arbitration and Conciliation
Act, 1996) 582

WORDS AND PHRASES:

(1) 'Appeal' – Meaning of, in the context of s. 7 of
Interest on Delayed Payment to Small Scale and
Ancillary Undertakings Act, 1993.

*Snehadeep Structures Private Limited v.
Maharashtra Small Scale Industries
Development Corporation Ltd.* 76

(2) 'Commence afresh' and 'Proceedings' –
Meaning of, in the context of s. 319(4)(a) CrPC.

*Harinarayan G. Bajaj v. State of
Maharashtra & Ors.* 171

(3) 'Dealer' – Meaning of – In the context of Clause
2(e) of Madhya Pradesh Scheduled Commodity
Dealer (Licensing and Restriction on Hoarding)
Order, 1991 and Clause 2(a) of Madhya Pradesh
Essential Commodities (Exhibition of Price and
Price control) Order, 1997 – Discussed.

*Satyanarayana Sultania & Anr. v. State
of Chhattisgarh* 1119

(4) Expression 'manufacture' – Meaning of in the
context of s.80 IA of the Income Tax Act, 1961.

*C.I.T., Mumbai v. M/s. Emptee Poly-
Yarn Pvt. Ltd.* 801

(5) 'Public interest litigation' – Defined.

*State of Uttaranchal v. Balwant Singh
Chaufal & Others* 678

(6) 'Sick unit' – Meaning of, in the context of
Industrial Policy, 1995.

*State of Bihar & Ors. v. Kalyanpur
Cements Ltd.* 928

(7) Word "or" used in s.92 CPC – Interpretation of
– Code of Civil Procedure, 1908 – s.92.

*Sri Jeyaram Educational Trust and Ors. v.
A.G. Syed Mohideen and Ors.* 1127

(ii)

(i)

(iii)

(iv)

(v)

(vi)

(vii)

(viii)

CONTENTS

Abbas Ahmad Choudhary v. State of Assam	.....	869
Abdul Razak (D) Through LRs. and Ors. v. Mangesh Rajaram Wagle and Ors.	.....	899
Administrative Officer & Ors.; Khanapuram Gandaiah v.	.....	1
Aftab Ahmad Ansari v. State of Uttaranchal	.....	1027
Amarjit Singh v. State of Haryana	.....	572
Anandavally Amma (G.); Sree Swayam Prakash Ashramam v.	.....	271
Asstt. Commissioner of Income Tax; Navin Jindal v.	.....	255
Athar Hussain v. Syed Siraj Ahmed & Ors.	.....	49
Attharunnisa Begum S.; Joseph Kantharaj & Anr. v.	.....	629
Balwant Singh Chaufal & Ors.; State of Uttaranchal v.	.....	678
Bengai Mandal @ Begai Mandal v. State of Bihar	.....	439
Boddella Babul Reddy v. Public Prosecutor, High Court of A.P.	.....	149
C.I.T., Mumbai v. M/s. Emptee Poly-Yarn Pvt. Ltd.	.....	801

Central Reserve Police Force and Anr.; Parasnath Tiwari and Anr. v.	.....	635
Chaitanya Prakash & Anr. v. H. Omkarappa	.....	467
Commissioner of Central Excise v. M/s. International Auto Limited	.....	211
Commissioner of Income Tax, Delhi v. M/s. Kelvinator of India Limited	.....	768
Commissioner of Income Tax; National Hydroelectric Power Corpn. Ltd. v.	.....	16
Commr. of Income Tax-V, New Delhi v. M/s. Oracle Software India Ltd.	.....	543
Darshan Singh v. State of Punjab & Anr.	.....	642
Daya Singh & Anr. v. Gurdev Singh (Dead) by L.Rs. & Ors.	.....	194
Dinesh Jaiswal v. State of M.P.	.....	1063
Duvvada Parsuram Chowdary; Pinninti Kistamma and Ors. v.	.....	297
Emptee Poly-Yarn Pvt. Ltd. (M/s.); C.I.T., Mumbai v.	.....	801
Gadilingappa and Ors.; State of Karnataka and Ors. v.	.....	815
Gangula Mohan Reddy v. State of Andhra Pradesh	.....	7
Ganpathi Chaya Naik & Ors.; State of Karnataka & Ors. v.	.....	807

(xvii)			(xviii)		
Gurdev Singh (Dead) by L.Rs. & Ors.; Daya Singh & Anr. v.	.....	194	Kartick Chandra Mondal and Anr.; Union of India and Anr. v.	.....	1099
Hari Kishan v. State of Haryana	.....	134	Kelvinator of India Limited (M/s.); Commissioner of Income Tax, Delhi v.	.....	768
Harinarayan G. Bajaj v. State of Maharashtra & Ors.	.....	171	Khanapuram Gandaiah v. Administrative Officer & Ors.	.....	1
Harjinder Singh v. Punjab State Warehousing Corporation	.....	591	Maharashtra Small Scale Industries Development Corporation Ltd.; Snehadeep Structures Private Limited v.	.....	76
Hem Lata Gupta & Ors.; State of Haryana & Ors. v.	.....	22	Mahesh Ratilal Shah v. Union of India and Ors.	.....	784
Indresh Kumar v. Ram Phal and Ors.	.....	185	Mandvi Co-op Bank Ltd. (M/s.) v. Nimesh S. Thakore	.....	219
Intelligence Officer, Narcotic Control Bureau and Anr.; Sanjay Kumar Kedia @ Sanjay Kedia v.	.....	555	Mangesh Rajaram Wagle and Ors.; Abdul Razak (D) Through LRs. and Ors. v.	.....	899
International Auto Limited (M/s.); Commissioner of Central Excise v.	.....	211	Mohd. Laiquiddin and Anr. v. Kamala Devi Misra (Dead) by Lrs. and Ors.	.....	873
J.G. Engineering Pvt. Ltd.; N.B.C.C. Ltd. v.	.....	109	N.B.C.C. Ltd. v. J.G. Engineering Pvt. Ltd.	.....	109
Jitender Kumar Singh & Anr. v. State of U.P. & Ors.	.....	325	Nadagouda (G.R.) (Dead) by Lrs. & Anr.; State of Karnataka & Anr. v.	.....	130
Joint Commnr. of Income Tax, Coimbatore; Southern Technologies Ltd. v.	.....	380	National Hydroelectric Power Corpn. Ltd. v. Commissioner of Income Tax	.....	16
Joseph Kantharaj & Anr. v. Attharunnisa Begum S.	.....	629	Nav Bharat Const. Company; State of Rajasthan v.	.....	312
Kalyanpur Cements Ltd.; State of Bihar & Ors. v.	.....	928	Navin Jindal v. Asstt. Commissioner of Income Tax	.....	255
Kamala Devi Misra (Dead) by Lrs. and Ors.; Mohd. Laiquiddin and Anr. v.	.....	873			

(xix)

Nimesh S. Thakore; Mandvi Co-op Bank Ltd. (M/s.) v.	.....	219
Omkarappa (H.); Chaitanya Prakash & Anr. v.	.....	467
Oracle Software India Ltd. (M/s.); Commr. of Income Tax-V, New Delhi v.	.....	543
Parasnath Tiwari and Anr. v. Central Reserve Police Force and Anr.	.....	635
Pinninti Kistamma and Ors. v. Duvvada Parsuram Chowdary	.....	297
Public Prosecutor, High Court of A.P.; Boddella Babul Reddy v.	.....	149
Punjab State Warehousing Corporation; Harjinder Singh v.	.....	591
Raghunandan Sharma @ Baburam & Ors.; Vijay Kumar Sharma @ Manju v.	.....	582
Raja Mohammed Amir Mohammad Khan; Union of India & Anr. v.	.....	774
Rakesh Kumar and Ors., etc.; Union of India etc. v.	.....	483
Ram Phal and Ors.; Indresh Kumar v.	.....	185
Ramesh Kumar v. State of Haryana	.....	532
Ramvishal Gupta; Tameeshwar Vaishnav v.	.....	204
Rubabbuddin Sheikh v. State of Gujarat & Ors.	.....	991

(xx)

Sanjay Kumar Kedia @ Sanjay Kedia v. Intelligence Officer, Narcotic Control Bureau and Anr.	.....	555
Satyanarayana Sultania & Anr. v. State of Chhattisgarh	.....	1119
Sharda Kailash Mittal v. State of M.P. & Ors.	.....	451
Snehadeep Structures Private Limited v. Maharashtra Small Scale Industries Development Corporation Ltd.	.....	76
Southern Technologies Ltd. v. Joint Commnr. of Income Tax, Coimbatore	.....	380
Sree Swayam Prakash Ashramam v. G. Anandavally Amma	.....	271
Sri Jeyaram Educational Trust and Ors. v. A.G. Syed Mohideen and Ors.	.....	1127
State Govt. of NCT of Delhi; Vijay Kumar Arora v.	.....	1069
State of Andhra Pradesh; Gangula Mohan Reddy v.	.....	7
State of Assam; Abbas Ahmad Choudhary v.	.....	869
State of Bihar & Ors. v. Kalyanpur Cements Ltd.	.....	928
State of Bihar; Bengai Mandal @ Begai Mandal v.	.....	439
State of Chhattisgarh; Satyanarayana Sultania & Anr. v.	.....	1119

(xxi)

State of Gujarat & Ors.; Rubabbuddin Sheikh v.	.....	991
State of Haryana & Ors. v. Hem Lata Gupta & Ors.	.....	22
State of Haryana; Amarjit Singh v.	.....	572
State of Haryana; Hari Kishan v.	.....	134
State of Haryana; Ramesh Kumar v.	.....	532
State of Karnataka & Anr. v. G.R. Nadagouda (Dead) by Lrs. & Anr.	.....	130
State of Karnataka & Ors. v. Ganpathi Chaya Naik & Ors.	.....	807
State of Karnataka and Ors. v. Gadilingappa and Ors.	.....	815
State of M.P. & Ors.; Sharda Kailash Mittal v.	.....	451
State of M.P.; Dinesh Jaiswal v.	.....	1063
State of Maharashtra & Ors.; Harinarayan G. Bajaj v.	.....	171
State of Punjab & Anr.; Darshan Singh v.	.....	642
State of Rajasthan v. Nav Bharat Const. Company	.....	312
State of U.P. & Ors.; Jitender Kumar Singh & Anr. v.	.....	325
State of U.P.; Sunil Kumar and Anr. v.	.....	289

(xxii)

State of Uttaranchal v. Balwant Singh Chaufal & Others	.....	678
State of Uttaranchal; Aftab Ahmad Ansari v. Sunil Kumar and Anr. v. State of U.P.	.....	1027
Syed (A.G.) Mohideen and Ors.; Sri Jeyaram Educational Trust and Ors. v.	.....	289
Syed Siraj Ahmed & Ors.; Athar Hussain v.	.....	1127
Tameeshwar Vaishnav v. Ramvishal Gupta	.....	49
Trimex International Fze Ltd. Dubai v. Vedamta Aluminium Limited, India	.....	204
Union of India & Anr. v. Raja Mohammed Amir Mohammad Khan	.....	820
Union of India and Anr. v. Kartick Chandra Mondal and Anr.	.....	774
Union of India and Ors.; Mahesh Ratilal Shah v.	.....	1099
Union of India etc. v. Rakesh Kumar and Ors., etc.	.....	784
Vedanta Aluminium Limited, India; Trimex International Fze Ltd. Dubai v.	.....	483
Vijay Kumar Arora v. State Govt. of NCT of Delhi	.....	820
Vijay Kumar Sharma @ Manju v. Raghunandan Sharma @ Baburam & Ors.	.....	1069
	.....	582

CASES-CITED

A.P. Pollution Control Board v. Prof. M.V. Nayadu (Retd.) & Others (1999) 2 SCC 718;	...	684
Abdulla Bin Ali v. Galappa, AIR 1985 SC 577,	...	299
Abhayankar (S.R.) v. K.D. Bapat (1969) 2 SCC 74;		
– relied on	...	77
Abhijit Gupta v. S.N.B. National Centre, Basic Sciences 2006 (4) SCC 469;		
– relied on.	...	470
Ace Pipeline Contracts Private Limited v. Bharat Petroleum Corporation Limited (2007) 5 SCC 304,	...	112
Ajoy Kumar Ghose v. State of Jharkhand 2009 (4) SCR 515, relied on.	...	174
Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India & Others AIR 1981 SC 298;	...	682
Aleque Padamsee and Ors. v. Union of India and Ors. 2007 (6) SCC 171;		
distinguished.	...	996
Alingal Kunhinayan and Anr. v. Emperor Indian Law Reports 28 Madras 454;	...	644
Allahabad Bank Officers Assn. v. Allahabad Bank (1996) 4 SCC 504,		
– relied on.	...	470

Amrit Banaspati Co. Ltd and Anr. v. State of Punjab (1992) 2 SCC 411,	...	937
Anand (S.P.) v. H.D. Deve Gowda & Others AIR 1997 SC 272;	...	688
Anil Yadav & Others v. State of Bihar and Bachcho Lal Das, Superintendent, Central Jail, Bhagalpur, Bihar (1982) 2 SCC 195;	...	683
Annamalai v. Slaiyappa AIR 1935 Mad. 983;		
– approved.	...	1132
Annapurna Dutta v. Santosh Kumar Sett & Ors. AIR 1937 Cal.661,	...	273
Ansal Properties and Industries Limited v. State of Haryana (2009) 3 SCC 553, relied on.	...	1102
Arati Ray Chaudhary v. Union of India 1974 (1) SCC 87;	...	333
Arjun Kanoji Tankar v. Santaram Kanoji Tankar (1969) 3 SCC 555;	...	878
Arm Group Enterprises Ltd. v. Waldorf Restaurant (2003) 6 SCC 432;	...	878
Ashok Kumar Tripathi v. Union of India 2000 (2) MPHT 193,.	...	489
– approved	...	488
Atlas Cycle Industries Ltd. Sonapat v. Their Workmen 1962 Supp. (3) SCR 89;		
– relied on.	...	680

(xxv)

Authorised Officer, Thanjavur and another v. S. Naganatha Ayyar and others 1979 (3) SCR 1121 = (1979) 3 SCC 466,		
– relied on.	...	596
Avinash Mehrotra v. Union of India & Others (2009) 6 SCC 398,	...	684
Babu Lodhi v. State of UP 1987 (2) SCC 352;		
– relied on.	...	996
Baij Nath v. State of Punjab (1996) 8 SCC 516;	...	25
Baishnab Patnaik & Others v. The State AIR 1952 Orissa 60	...	680
Bakul Cashew Co. v. STO (1986) 2 SCC 365;	...	932
Bal Kishan v. Om Parkash (1986) 4 SCC 155		
– distinguished.	...	909
Bal Krishna Pandey v. Sanjeev Bajpayee AIR 2004 UTR 1;	...	55
Balaji (M.R.) v. State of Mysore, 1963 Suppl. SCR 439 = AIR 1963 SC 649	...	486
BALCO Employees' Union (Regd.) v. Union of India & Others AIR 2002 SC 350;	...	688
Bandhua Mukti Morcha v. Union of India & Others AIR 1984 SC 802,	...	682
Bannari Amma Sugars Ltd. v. Commercial Tax Officer (2005) 1 SCC 625;	...	932
Bar Council of Maharashtra v. M.V. Dabholkar & Others 1976 SCR 306;	...	683

(xxvi)

Barclays Mercantile Business Finance Ltd. v. Mawson (Inspector of Taxes), 2005 (1) All ER 97,	...	388
Basu (D.K.) v. State of West Bengal (1997) 1 SCC 416;	...	684
Bhagwan Swaroop v. State of Madhya Pradesh (1992) 2 SCC 406; relied on.	...	648
Bhagwati Oxygen Ltd. v. Hindustan Cooper Ltd. 2005 (6) SCC 462;		
– relied on.	...	314
Bharat Coking Coal Ltd. v. Annapurna Construction 2008 (6) SCC 732 ;	...	313
Bharati Vidyapeeth and Ors v. State of Maharashtra and Anr. 2004 (11) SCC 755;	...	333
Bhavesh D. Parish v. Union of India, (2000) 5 SCC 471;		
– relied on.	...	388
Bhogpur Coop. Sugar Mills Ltd. v. Harmesh Kumar 2006 (8) Suppl. SCR 1021 =(2006) 13 SCC 28,	...	594
Bidi Supply Co. v. Union of India and others 1956 SCR 267 = AIR 1956 SC 479,	...	596
Binay Kant Mani Tripathi v. Union of India & Others (1993) 4 SCC 49,		
– relied on.	...	680
Bolo (Mt.) v. Mt. Koklan and others AIR 1930 PC 270,		
– relied on.	...	195

(xxvii)

Buta Singh v. The State of Punjab (1991) 2 SCC 612, – relied on.	...	648
C.I.T. v. M/s. Oracle Software India Ltd. 2010 (1) SCALE 425, – relied on.	...	802
Central Bank of India v. S. Satyam 1996 (4) Suppl. SCR 214 = (1996) 5 SCC 419; – relied on	...	594
Central Bank of India v. State of Kerala 2009 (3) SCR 735;	...	77
Centre for Public Interest Litigation v. Union of India & Another AIR 2003 SC 3277;	...	685
Chakradhar Paswan (Dr.) v. State of Bihar (1998) 2 SCC 214;	...	333
Chaman Lal v. State of Haryana 1987 (2) SCR 923 = (1987) 3 SCC 113;	...	25
Chandra Bhan Singh(Dr.) v. State of Rajasthan & Others AIR 1983 Raj. 149;	...	680
Chandra Pandian (S.V.) v. S.V. Sivalinga Nadar (1993) 1 SCC 589,	...	878
Chandra Singh v. State of Rajasthan (2003) 6 SCC 545,	...	876
Chandrakumar (L) v. Union of India & Others (1997) 3 SCC 261,	...	685
Charan Lal Sahu & Others v. Giani Zail Singh & Another AIR 1984 SC 309;	...	688

(xxviii)

Charanjit Kaur (Smt.) v. Union of India and Others, (1994) 2 SCC 1 – distinguished.	...	637
Chatterjee (J.C.) v. Sri Kishan (1972) 2 SCC 461, – relied on.	...	908
Chhetriya Pardushan Mukti Sangharsh Samiti v. State of U.P. & Others AIR 1990 SC 2060;	...	684
Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009 (11) SCALE 24, – relied on.	...	8
Citizens for Democracy v. State of Assam & Others (1995) 3 SCC 743;	...	684
Commissioner of Central Excise, Mumbai-V v. Swastik Rayon Processors 2007 (209) E.L.T. 163 (S.C.), – held inapplicable.	...	802
Commissioner of Central Excise, Pune v. SKF India Limited (2009) 239 ELT 385, – relied on.	...	211
Commissioner of Income Tax v. Jwala Prasad Tewari 24 ITR 537, – relied on.	...	383
Commissioner of Income Tax, Madhya Pradesh v. Dewas Cine Corporation (1968) 2 SCR 173;	...	878
Commissioner of Income-Tax v. Woodward Governor India P. Ltd., 312 ITR 254;	...	383

(xxix)

Commissioner of Income-tax, A.P. v. T. Veerabhadra Rao K. Koteswara Rao & Co. 155 ITR 152,	...	383
Commissioner of Wealth-Tax, Bombay v. Bombay Suburban Electric Supply Ltd. 103 ITR 384, – relied on.	...	386
Dakor Temple Committee v. Shankerlal AIR 1944 Bom. 300; – approved.	...	1132
Dattaraj Nathuji Thaware v. State of Maharashtra & Others (2005) 1 SCC 590,	...	688
DCM Ltd. v. Union of India (1996) 5 SCC 468;	...	932
Delhi Domestic Working Women’s Forum v. Union of India & Others (1995) 1 SCC 14;	...	684
Dental Council of India v. Hari Prakash and Ors., (2001) 8 SCC 61	...	223
– distinguished.	...	996
District Mining Officer and Ors. v. Tata Iron and Steel Co. and Anr. (2001) 7 SCC 358,	...	935
Dresser Rand S.A. v. Bindal Agro Chem Ltd. (2006) 1 SCC 751, – distinguished.	...	823
Duport Steels Ltd. v. Sirs, 1980 1 All ER 534 – relied on.	...	226
Essar Oil Ltd. v. Halar Utkarsh Samiti & Others AIR 2004 SC 1834,	...	685

(xxx)

Excise Commissioner v. Ram Kumar (1976) 3 SCC 540,	...	932
Faridabad CT. Scan Centre v. D.G. Health Services and Others (1997) 7 SCC 752; – relied on.	...	1104
Fertilizer Corporation Kamagar Union (Regd., Sindri & Others v. Union of India & Others AIR 1981 SC 844;	...	682
Food Corporation of India v. Chandu Construction 2007 (4) SCC 697, – relied on.	...	314
Ganguly (B.N.) v. C.H. Sarkar AIR 1961 MP 173;	...	54
Garg (R.K.) v. Union of India (1981) 4 SCC 675; – relied on.	...	388
Garwal Mandal Vikas Nigam Ltd. v. Krishna Travel Agency 2008 (6) SCC 741;	...	313
Gaurav Nagpal v. Sumedha Nagpal (2009) 1 SCC 42, – distinguished	...	54
Geetha v. State of Karnataka (2000) 10 SCC 72, – relied on.	...	1038
General Manager, Department of Telecommunications, Thiruvananthapuram v. Jacob S/o Kochuvarkey Kalliath (Dead) by LRs. and Others 2003 (9) SCC 662; – held inapplicable.	...	111

(xxxi)

Ghanshyam Chandra Mathur v. The State of Rajasthan & Others 1979 Weekly Law Notes 773;	...	680
Girija Shankar v. State of U.P. (2004) 3 SCC 793		
– relied on.	...	440
Glaxo Laboratories (India) Ltd. v. Presiding Officer 1984 (1) SCR 230 = (1984) 1 SCC 1,		
– relied on.	...	594
Gotipulla Venkatasiva Subbrayanam and Ors. v. The State of Andhra Pradesh and Anr. (1970) 1 SCC 235;		
– relied on.	...	648
Government Branch Press v. D.B. Belliappa 1979 (2) SCR 458 = (1979) 1 SCC 477;	...	594
Gramophone Co. of India Ltd. v. Collector of Customs, Calcutta 114 ELT 770,		
– relied on.	...	544
Gramophone Company of India v. Birendra Bahadur Pandey and Ors. (1984) 2 SCC 534;	...	77
Great Offshore Ltd. v. Iranian Offshore Engg. & Construction Co., (2008) 14 SCC 240,		
– relied on.	...	824
Gudalure M. J. Cherian and Ors. v. Union of India 1992 (1) SCC 397;		
– relied on.	...	996

(xxxii)

Gupta (S.P.) v. President of India & Others AIR 1982 SC 149 ;	...	683
Gurbachan Singh v. Satpal Singh and Ors. 1990 (1) SCC 445,		
– relied on.	...	225
Gurpal Singh v. State of Punjab & Others (2005) 5 SCC 136,	...	680
Gurpal Tuli v. State of Punjab 1984 Supp SCC 716;	...	25
Haji Iqbal Shariff v. C. Manjula ILR 2006 Kar 2766,		
– held inapplicable.	...	629
Hanskumar Keshavchand v. Union of India AIR 1958 SC 947,	...	78
Hardayal Gir v. Sohna Ram 1970 (3) SCC 635	...	876
Hassan Bhatt v. Ghulam Mohamad Bhat AIR 1961 J & K 5,		
– approved.	...	53
His Holiness Kesavananda Bharati Sripadagalvaru and others v. State of Kerela and another 1973 (0) Suppl. SCR 1 = 1973 SC 1461;	...	596
Hitendra Vishnu Thakur and others v. State of Maharashtra and Others 1994 (4) SCC 602		
– relied on.	...	557
Holicow Pictures Pvt. Ltd. v. Prem Chandra Mishra & Others AIR 2008 SC 913,	...	688

(xxxiii)

Hussainara Khaton & Others v. Home Secretary, State of Bihar, Patna AIR 1979 SC 1369;	...	683
Indian Council for Enviro-Legal Action v. Union of India & Others (1996) 5 SCC 281;	...	685
Indra Sawhney v. Union of India (1992) Supp 3 SCC 217;	...	485, 486
– relied on	...	596
– followed	...	328, 331, 335
Indramani Pyarelal Gupta (Dr.) & Ors. v. W.R. Natu & Ors. AIR 1964 SC 274;	...	787
Jagannath (S.) v. Union of India & Others (1997) 2 SCC 87,	...	685
– referred to.	...	685
Jagtar Singh v. State of Punjab AIR 1993 SC 970;	...	648
– relied on.	...	648
Jai Dev v. State of Punjab AIR 1963 SC 612;	...	648
– relied on.	...	648
James Martin v. State of Kerala (2004) 2 SCC 203;	...	648
– relied on.	...	648
Janardhan Paswan v. State of Bihar, AIR 1988 Pat 75,	...	485
– distinguished.	...	485

(xxxiv)

Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed & Others (1976) 1 SCC 671;	...	683
Jatinder Nath v. M/s Chopra Land Developers Pvt. Ltd. & Anr. AIR 2007 SC 1401;	...	111
– held inapplicable.	...	111
Jay Engineering Works v. Industry Facilitation Council and Anr. 2006 (8) SCC 677,	...	78
Jayalalitha (J.) v. Government of Tamil Nadu & Others (1999) 1 SCC 53;	...	688
Justiniano Antao & Ors. v. Smt. Bernadette B. Pereira 2005 (1) SCC 471,	...	274
– held inapplicable.	...	274
Kapoor (B.R.) & Another v. Union of India & Others AIR 1990 SC 752 ;	...	684
Karkare (G.D.) v. T.L. Shevde & Others AIR 1952 Nagpur 330,	...	680
Karnataka Industrial Areas Development Board v. Sri C. Kenchappa & Others AIR 2006 SC 2038;	...	685
Kashmeri Devi v. Delhi Administration AIR 1988 SC 1323;	...	996
– relied on.	...	996
Kashmiri Lal and Ors. v. State of Punjab (1996) 10 SCC 471;	...	648
– relied on.	...	648
Kasinka Trading v. Union of India (1995) 1 SCC 274;	...	932

(xxxv)

Krishna Kumar Mishra v. State of Bihar, AIR 1996 Pat. 112	...	486
L.I.C. of India v. Consumer Education and Research Centre and Others 1995 (1) Suppl. SCR 349 = (1995) 5 SCC 482;	...	594
Labourers Working on Salal Hydro Project v. State of Jammu & Kashmir & Others AIR 1984 SC 177;	...	683
Laxman Sahu v. State of Orissa 1986 (1) Supp SCC 555; – relied on.	...	648
M.R.F. Limited v. Collector of Central Excise, Madras (1997) 92 ELT 309, – held inapplicable.	...	211
Mahabir Choudhary v. State of Bihar (1996) 5 SCC 107; – relied on.	...	648
Mahandi v. Emperor (1930) 31 Criminal Law Journal 654 (Lahore);	...	644
Maharaj Krishan Bhatt and Another v. State of J&K and Others (2008) 9 SCC 24, – relied on.	...	1104
Mahendra Singh & Another v. State of M.P. 1995 Supp. (3) SCC 731; – relied on	...	8
Malabar Fisheries Co. Calicut v. CIT (1979) 4 SCC 766	...	878

(xxxvi)

Mamarde (Y.A.) v. Authority under the Minimum Wages Act 1973 (1) SCR 161 = (1972) 2 SCC 108;	...	594
Managing Director, A.P.S.R.T.C. v. S.P. Satyanarayana AIR 1998 SC 2962;	...	685
Manendra Nath Rai & Another v. Virendra Bhatia & Others AIR 2004 All. 133;	...	680
Mangalore Chemical and Fertilizer Ltd. v. Deputy Commissioner of Commercial Taxes and Ors. (1992) Suppl. 1 SCC 21; – relied on.	...	932
Mathew P. Thomas v. Kerala State Civil Supply Corpn. Ltd. 2003 (3) SCC 263; – relied on.	...	470
Mathur(M.P.) v. DTC (2006) 13 SCC 706;	...	932
Mausami Moitra Ganguli v. Jayant Ganguli AIR 2008 SC 2262,	...	51,55
Mcdermott International Inc. v. Burn Standard Co. Ltd. and Others 2005 (10) SCC 353	...	313
Mehta (M. C.) & Another v. Union of India & Others AIR 1987 SC 1086;	...	683, 684
Mehta (M. C.) v. State of Tamil Nadu & Others (1996) 6 SCC 756;	...	684
Mehta (M.C.) v. Union of India & Others (2007) 1 SCC 110;	...	685
Mehta (M.C.) v. Union of India & Others (2007) 12 SCALE 91;	...	685

(xxxvii)

Mehta (M.C.) v. Union of India & Others AIR 1988 SC 1037;	...	684
Mehta (M.C.) v. Union of India & Others AIR 1997 SC 734;	...	684
Mehta (M.C.) v. Kamal Nath & Others (2000) 6 SCC 213;	...	685
Mehta (M.C.) v. Union of India & Others (1988) 1 SCC 471;	...	684
Mehta (M.C.) v. Union of India and Ors. 2008 (1) SCC 407,		
– distinguished.	...	996
Mela Ram v. CIT AIR 1956 SC 367;		
– relied on	...	77
Michael Machado v. Central Bureau of Investigation 2000 (3) SCC 263;	...	174
Miss Dhun Dadabhoy Kapadia v. Commissioner of Income-Tax, Bombay (1967) 63 ITR 651,		
– relied on.	...	257
Modi (K.K.) v. K.N. Modi, (1998) 3 SCC 573	...	906
Mohammad Yunus (C.) v. Syed Unnissa and others 1962 SCR 67 = AIR 1961 SC 808,	...	195
Mool Chand v. Jagdish Singh Bedi and Ors. 1992 CrI. L.J. 1539,	...	153
Morgan Securities and Credit Pvt. Ltd. v. Modi Rubber Ltd. AIR 2007 SC 683,		
– relied on	...	78

(xxxviii)

Motilal Padampat Sugar Mills Co. Ltd. v. State of UP (1979) 2 SCC 409,	...	932
Motilal v. State of Madhya Pradesh 2008 (10) SCR 983 = (2008) 11 SCC 20,	...	1064
MRF Ltd. Kottayam v. Asstt. Commissioner (Assessment) Sales Tax and Ors. (2006) 8 SCC 702;		
– relied on.	...	932
Municipal Council, Ratlam v. Vardhichand & Others AIR 1980 SC 1622;	...	683
Munna & Others v. State of Uttar Pradesh & Others, (1982) 1 SCC 545;	...	683
Munshi Ram and Ors. v. Delhi Administration (1968) 2 SCR 455;		
– relied on.	...	648
Nagendra Nath v. Suresh Chandra AIR 1932 PC 165;		
– relied on	...	77
Narayanappa v. Krishtappa (1966) 3 SCR 400;	...	878
Naresh Shridhar Mirajkar and others v. State of Maharashtra and Anr. 1966 SCR 744 = AIR 1967 SC 1;		
– relied on.	...	596
Nathi Devi v. Radha Devi, (2005) 2 SCC 271;	...	223
National Aluminum Co. Ltd. v. Pressteel & Fabrications (P) Ltd. and Another 2004 (1) SCC 540,		
– held inapplicable.	...	111

Navkiran Singh & Others v. State of Punjab through Chief Secretary & Another (1995) 4 SCC 591;	...	684
Nayak (R.S.) v. A.R. Antulay 1986 (2) SCC 716;	...	174
Neetu v. State of Punjab & Others AIR 2007 SC 758;	...	688
Nil Ratan Kundu and Anr. v. Abhijit Kundu (2008) 9 SCC 413,	...	55
Nilabati Behera alias Lalita Behera (Smt.) v. State of Orissa & Others AIR 1993 SC 1960;	...	684
Northern Railway Administration, Ministry of Railway v. Patel Engineering Company Ltd. 2008 (10) SCC 240,		
– relied on.	...	112
Official Liquidator v. Dayanand and Others (2008) 10 SCC 1,		
– relied on.	...	808,
		816,1104
Pandey (M/s.) & Co. Builders Pvt. Ltd. v. State of Bihar and Anr. (2007) 1 SCC 467,		
– relied on.	...	81
Paramjit Kaur (Mrs.) v. State of Punjab & Others (1996) 7 SCC 20;	...	684
Pareena Swarup v. Union of India (2008) 13 SCALE 84;	...	685
Parvathammal (S.) (Smt.) v. CIT 1987 Income Tax Reports 161,		
– approved.	...	877

Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences (2002) 1 SCC 520;		
– relied on.	...	470
Pawan Alloys and Castings (P) Ltd. UPSEB (1997) 7 SCC 251;	...	932
Pazhukkamattom Devaswom v. Lakshmi Kutty Amma 1980 Kerala LT 645, approved.	...	1132
People's Union for Democratic Rights & Others v. Union of India & Others (1982) 3 SCC 235,		
– relied on.	...	681
Ponnuswami (N.P.) v. Returning Officer Namakkal Constituency Namakkal Salem Dist. 1952 SCR 218= 1952 AIR 64	...	490
Poona Electric Supply Co. Ltd. v. Commissioner of Income-Tax, Bombay City I, 57 ITR 521;		
– relied on.	...	386
Post Graduate Institute of Medical Education & Research, Chandigarh v. Faculty Association & Ors. 1998 (4) SCC 1,		
– relied on.	...	328
Post Graduate Institute of Medical Education & Research, Chandigarh and Ors. v. K.L.Narsimhan and Ors. 1997 (6) SCC 283,		
– held inapplicable.	...	332
Poudyal (R.C)v. Union of India 1993 (1) SCR 891 = (1994) Supp. 1 SCC 324,	...	489
Prajwala v. Union of India & Others (2009) 4 SCC 798;	...	684

(xli)	
Preeti Srivastava (Dr.) and Anr.v. State of M.P. and Ors. 1999 (7) SCC 120;	... 333
Prem Chand Vijay Kumar v. Yashpal Singh and Anr. (2005) 4 SCC 417, – relied on.	... 204
Prem Chandra Sharma & Others v. Milan Banerji & Others 2005 (3) ESC 2001	... 680
Prem Kumar and Anr.v. State of Bihar 1995 (3) SCC 228, – relied on.	... 996
Prem Shankar Shukla v. Delhi Administration AIR 1980 SC 1535;	... 683
Prestige Lights Ltd. v. State Bank of India (2007) 8 SCC 449;	... 937
Promotho Nath Roy v. W.A. Lee AIR 1921 Cal 415,	... 77,81
Pulukuri Kottaya & Ors. v. Emperor AIR 1947 PC 67,	... 1034
Punjab and Haryana High Court Bar Association v. State of Punjab and Ors. AIR 1994 SC 1023; – relied on.	... 996
Punjab and Haryana High Court Bar Association, Chandigarh through its Secretary v. State of Punjab & Others (1994) 1 SCC 616;	... 684
Punjab Higher Qualified Teachers' Union v. State of Punjab (1988) 2 SCC 407;	... 25
Puran Singh and Ors. v. The State of Punjab (1975) 4 SCC 518; – relied on.	... 648

(xlii)	
Rafiq v. Bashiran and Ors AIR 1963 Rajasthan 239;	... 54
Raghavan Achari v. State of Kerala 1993 Supp. (1) SCC 719; – relied on.	... 648
Raghunath and Ram Kishan and Ors. v. State of Haryana and Ors. 2003 CrI. L.J. 401;	... 153
Raghunath Rai Bareja v. Punjab National Bank, (2007) 2 SCC 230 – relied on.	... 223 ... 226
Raj Kumar v. Shiva Prasad Gupta AIR 1939 Cal. 500, – held inapplicable.	... 583
Raj Narain Pandey & Ors. v. Sant Prasad Tewari & Ors. (1973) 2 SCC 35, – relied on.	... 787
Raja Kulkarni v. State of Bombay AIR 1954 SCR 384; – relied on	... 77
Rajiv Ranjan Singh 'Lalan' & Another v. Union of India & Others (2006) 6 SCC 613.;	... 685
– distinguished	... 996
Rakesh v. State of Haryana 2001 (6) SCC 248, – distinguished	... 174
Ram Gopal and Anr. v. State 1999 CrLJ 1865,	... 174

(xliii)

Ram Sunder Yadav and Ors. v. State of Bihar 1998 (7) SCC 365;	...	153
Rama Subbarayalu Reddiar(R.) v. Rengammal AIR 1962 Madras 450; – approved.	...	1132
Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618; – relied on	...	8
Ramesh Kumari v. State (NCT Delhi) and Ors. 2006 (2) SCC 677; – relied on.	...	996
Ramon Services (P) Ltd. v. Subhash Kapoor 2000 (4) Suppl. SCR 550 = (2001) 1 SCC 118;	...	594
Ramsharan Autyanuprasi & Another v. Union of India & Others AIR 1989 SC 549,	...	682
Ranganadham Perayya (1957) 1 Andhra Weekly Reports 181,	...	644
Re. Noise Pollution AIR 2005 SC 3136;	...	685
Ritesh Agarwal v. SEBI (2008) 8 SCC 205;	...	787
Rom Industries Ltd. v. State of J & K (2005) 7 SCC 348;	...	932
Roop Lal Sathi v. Nachhattar Singh Gill, (1982) 3 SCC 487;	...	906
Rosy Jacob v. Jacob A.Chakramakkal (1973) 3 S.C.R. 918;	...	51
Ruia (V.V.) v. S. Dalmia AIR 1968 Bombay 347,	...	787

(xliv)

Rural Litigation and Entitlement Kendra, Dehradun & Others v. State of U.P. & Others AIR 1985 SC 652;	...	684
S.L. Constructions v. Alapati Srinivasa Rao (2009) 1 SCC 500, – distinguished.	...	205
Samishta Dube v. City Board Etawah 1999 (1) SCR 930 = (1999) 3 SCC 14, – relied on.	...	594
Sangubhotla Venkataramaiah v. Kallu Venkataswamy AIR 1976 AP 402,	...	299
Sanjeev Bhatnagar v. Union of India & Others AIR 2005 SC 2841;	...	688
Sanshin Chemicals Industry v. Oriental Carbons and Chemicals Ltd. and Ors. (2001) 3 SCC 341,	...	81
Santa Singh v. State of Punjab (1976) 4 SCC 190;	...	77
Santakumari & Ors. v. Lakshmi Amma Janaki Amma (D) By Lrs. & Ors. (2000) 7 SCC 60, – relied on.	...	876
Sathi Vijay Kumar v. Tota Singh and others, (2006) 13 SCC 353, – relied on.	...	906
Satyamaiah (V.) and Ors. v. State of A.P. 1978 (1) A.P.L.J. 83;	...	153

(xlv)

Secretary, State of Karnataka and Others v. Umadevi (3) and Ors. (2006) 4 SCC 1;		
– relied on.	...	808, 816
– followed.	...	1104
Shakti Bhog Foods Limited v. Kola Shipping Limited (2009) 2 SCC 134,		
– relied on.	...	824
Shankarlal Narayandas Mundade v. The New Mofussil Co. Ltd. & Ors. AIR 1946 PC 97,		
– relied on.	...	822
Sharma Transport v. Govt. of A.P. (2002) 2 SCC 188;	...	932
Shashi Kant Singh v. Tarkeshwar Singh and Anr. 2002 (5) SCC 738,		
– relied on.	...	174
Sheela Barse v. State of Maharashtra AIR 1983 SC 378;	...	683
Sheikh Hasib alias Tabarak v. The State of Bihar 1972 (4) SCC 773;		
– relied on.	...	996
Shri Bakul Oil Industries v. State of Gujarat (1987) 1 SCC;	...	932
Shri Sachidanand Pandey & Another v. The State of West Bengal & Others (1987) 2 SCC 295;	...	683

(xlvi)

Shrijee Sales Corpn. v. Union of India (1997) 3 SCC 398;	...	932
Siddiquunnisa Bibi (Mt.) v. Nizamuddin Khan and Ors. AIR 1932 All 215,	...	51
Smita Conductors Ltd. v. Euro Alloys Ltd. (2001) 7 SCC 728;		
– relied on.	...	824
Sodhi (R. S.) v. State of U.P. AIR 1994 SC 38;		
– relied on.	...	996
South Eastern Coalfields Ltd. v. State of M.P. and Others (2003) 8 SCC 648		
– relied on.	...	1104
Southern Petrochemical Industries Co. Ltd. v. Electricity Inspector and ETIO and Ors. (2007) 5 SCC 447;		
– relied on.	...	932
Sri Srinivasa Theatre and Others v. Government of Tamil Nadu and Others 1992 (2) SCR 164 = (1992) 2 SCC 643;		
– relied on.	...	596
Srinath (R.V.) Prasad v. Nandamuri Jayakrishna AIR 2001 SC 1056;	...	51, 54
State of Bihar and Others v. Kripalu Shankar and Others (1987) 3 SCC 34,		
– relied on.	...	1103

(xlvii)

State of Bihar v. Upendra Narayan Singh & Others (2009) 5 SCC 69;		
– relied on.	...	1104
State of Gujarat v. Salimbhai Abudul Gaffar Shaikh and Ors. (2003) 8 SCC 50;	...	77
State of Haryana v. Kamal Singh Saharawat 1999 (3) Suppl. SCR 67 = (1999) 8 SCC 44,		
– relied on.	...	25
State of Haryana v. Ravi Bala (1997) 1 SCC 267,	...	25
State of Jharkhand v. Ambay Cements (2005) 1 SCC 368;	...	932
State of Kerala v. M.K. Krishnan Nair 1978 1 SCC 552,	...	77
State of Kerela and another v. N.M. Thomas and others 1976 (1) SCR 906 = AIR 1976 SC 490,		
– relied on.	...	596
State of Madhya Pradesh and Ors.v.Gopal D. Tripathi and Ors. 2003 (7) SCC 83,	...	333
State of Madhya Pradesh v. Ramesh (2005) 9 SCC 705;		
– relied on.	...	648
State of Madras v. V.G. Row 1952 SCR 597,		
– relied on.	...	388
State of Mysore v. Workers of Gold Mines 1959 SCR 895 = AIR 1958 SC 923;	...	594

(xlviii)

State of Orissa and Ors. v. Md.Illiyas 2006 (1) SCC 275;	...	332
State of Orissa v. Rabindranath Dalai and Anr. 1973 CrI LJ 1686 (Orissa) (FB),		
– approved.	...	648
State of Punjab v. Kirpal Singh Bhatia 1976 (1) SCR 529 = (1975) 4 SCC 740;	...	25
State of Punjab v. Naib Din (2001) 8 SCC 578,		
– distinguished.	...	224
State of Punjab v. Nestle India Ltd. and Anr. (2004) 6 SCC 465;		
– relied on.	...	932
State of Tamil Nadu v. Ramalinga Samigal Nadam, AIR 1986 SC 794;	...	299
State of U.P. v. M.K. Anthony AIR 1985 SC 48,		
– relied on.	...	1036
State of UP and Anr. v. Dinakar Sinha (2007) 10 SCC 548;	...	935
State of West Bengal v. Orilal Jaiswal & Another. (1994) 1 SCC 73;		
– relied on	...	8
STO v. Shree Durga Oil Mills (1998) 1 SCC 572;	...	932
Stock Exchange, Mumbai v. Vijay Bubna & Ors. 1999 (2) LJ 289;	...	787

(xlix)		(l)
Subhash Kumar v. State of Bihar & Others AIR 1991 SC 420;	... 684	Tata Consultancy Services v. State of Andhra Pradesh 137 STC 620, – relied on. ... 545
Subramanian (P.S.) v. K.L. Lakshmanan, 2007 (5) Mad. L.J. 921, – overruled.	... 1132	The Mumbai Kamgar Sabha, Bombay v. Abdulbhai Faizullabhai & Others AIR 1976 SC 1455; ... 683
Sunder Singh v. State of Punjab AIR 1962 SC 1211,	... 1077	The State of Uttar Pradesh v. Sahai and Ors. 1981 CrI. L.J. 1034; ... 153
Sunil Batra v. Delhi Administration & Others AIR 1978 SC 1675;	... 683	Tirupati Balaji v. State of Bihar (2004) 5 SCC 1, – relied on. ... 77
Supdt. and Remembrancer of Legal Affairs to Govt. of West Bengal v. Abani Maity (1979) 4 SCC 85, – relied on.	... 82	Triloki Nath and Ors. v. State of U.P. (2005) 13 SCC 323; – relied on. ... 648
Surinder Kumar v. State (Delhi Administration) AIR 1987 SC 692, – relied on.	... 1075	Uday Mohanlal Acharya v. State of Maharashtra (2001) 5 SCC 453, – relied on. ... 557
Surya Dev Rai v. Ram Chander Rai and others 2003 (2) Suppl. SCR 290 = 2003 (6) SCC 675, – relied on.	... 593, 908	Union Bank of India v. Naresh Kumar, (1996) 6 SCC 660, ... 906
Syed Yakoob v. K.S. Radhakrishnan and others, 1964 SCR 64 = AIR 1964 SC 477 – relied on.	... 593, 908	Union of India & Anr. v. Kartick Chandra Mondal and Anr. 2010 (1) JT. 206; – relied on. ... 808
Tarlochan Dev Sharma v. State of Punjab and Ors. (2001) 6 SCC 260,	... 453	Union of India & Ors. v. Dhanwanti Devi and Ors. 1996(6) SCC 44; ... 332
		Union of India and Anr. v. Deoki Nandan Aggarwal 1992 Supp. (1) SCC 323; , – relied on. ... 226

(li)	
Union of India and Anr. v. Satya Prakash and Ors. JT 2006 (4) SC 524,	... 335
Union of India v. Madhav (1997) 2 SCC 332;	... 333
Union of India v. Sushil Kumar Modi 1998 (8) SCC 661;	
– distinguished.	... 996
Upendra Baxi (Dr.) (I) v. State of Uttar Pradesh & Another 1983 (2) SCC 308 ;	... 683
Vaijayanti v. State of Maharashtra (2005) 13 SCC 134,	
– relied on.	... 440
Vasa Chandrasekhar Rao v. Ponna Satyanarayana & Anr. (2000) 6 SCC 286	
– relied on.	... 1038
Veena Sethi (Mrs.) v. State of Bihar & Others AIR 1983 SC 339;	... 683
Velji Lakhamsi (M/s.) and Co. and Ors. v. M/s. Benett Coleman and Co. and Ors. (1977) 3 SCC 160;	... 935
Vellore Citizens Welfare Forum v. Union of India & Others AIR 1996 SC 2715;	... 684
Vidhya Singh v. State of Madhya Pradesh (1971) 3 SCC 244;	
– relied on.	... 648
Vidyawati v. Man Mohan (1995) 5 SCC 431,	
– distinguished.	... 909

(lii)	
Vinayakrao Gangaramji Deshmukh v. P.C. Agrawal & Ors., AIR 1999 Bom 142;	... 485, 488
Vineet Narain & Others v. Union of India & Another AIR 1998 SC 889;	... 685
Vineet Naryan and Ors. v. Union of India 1996 (2) SCC 199;	
– distinguished.	... 996
Virgo Conductors Pvt. Ltd. represented by its Managing Director v. A.P. Transmission Corporation represented by its Chairman and Managing Director and Anr. AIR 2008 AP 123,	
– held inapplicable.	... 81
Vishaka & Others v. State of Rajasthan & Others (1997) 6 SCC 241;	... 684
Vithaldas H. Dhanjibhai Bardanwala v. Commissioner of Income-Tax, Gujarat-V 130 ITR 95;	... 383
Wazir Singh v. State of Haryana 1995 (4) Suppl. SCR 138 = 1995 Supp. (3) SCC 697;	
– relied on	... 25

(liii)

(liv)

(iv)

(lv)

(lvii)

(lviii)

(lix)

(lx)

(lxiii)

(lxiv)

(lxxiii)

(lxxiv)

(lxxvii)

(lxxviii)

(lxxix)

(lxxx)

(lxxxi)

(lxxxii)

(lxxxiii)

(lxxxiv)

(lxxxv)

(lxxxvi)

(ii)

**REFERENCE MADE BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI K.G. BALAKRISHNAN
IN THE MEMORY OF
LATE HON'BLE SHRI AMARENDRA NATH SEN,
FORMER JUDGE, SUPREME COURT OF INDIA
ON 19TH JANUARY, 2010**

Mr. Attorney General for India, Shri Goolam E. Vahanvati
President of Supreme Court Bar Association Mr. M.N.
Krishnamani, my esteemed Brother Judges, learned members
of the Bar and dear friends.

We have assembled here this morning with a profound
sense of grief and sorrow, to pay our tributes to the memory of
late Shri Justice Amarendra Nath Sen, a distinguished former
Judge of this Court, who breathed his last on 2nd January, 2010
at the age of 89 years.

Late Shri Justice Sen was born on 1st October, 1920 in a
prominent Bengali family at Kolkata, West Bengal. He was the
eldest son of late Shri Tarak Nath Sen and late Smt. Susama
Devi Sen. His grandfather Raibahadur Baikuntha Nath Sen, was
C.I.E. of Berhampore, Bengal, and was an active member in the
Indian National Congress. Mahatma Gandhi, Dr. Rajendra
Prasad and other leaders of the then National Congress would
stay at his home during their visits to Bengal. After schooling
from Saidabad Hariginge H.E. School in Khagra, Murshidabad
in 1936, Justice Sen passed his I.S.C. Examination from
Behrampore K.N. College in 1938 and was awarded a
Divisional Scholarship. He graduated from Scottish Church
College in 1940 with honours in Economics and obtained his
B.L. Degree from University Law College Calcutta in 1943.
Justice AN Sen had brilliant academic career and had received
several awards including "Sir Ashutosh Law Prize". He was

(i)

called to the Bar by the Inner Temple London 1946 and was
enrolled as an advocate of the Calcutta High Court in January,
1947. He practiced in Calcutta High Court mainly in civil cases.

Justice Sen was elevated to Bench of the Calcutta High
Court as an Additional Judge on 15th November, 1965 at the
age of 45 years, became a Permanent Judge on 25th July, 1966
and Chief Justice of Calcutta on 26th December, 1979. He was
appointed as a Judge of this Court on 28th January, 1981 and
retired on 30th September, 1985. Soon after his retirement from
the Supreme Court, Justice Sen adorned the office of Chairman,
Press Council of India for the period from 10th October, 1985
to 18th January, 1989. Thereafter Justice Sen rendered his
services as Chairman of the West Bengal Commission for
Backward Classes for 2 terms.

The character and work of a Judge are an open record to
the world. They are impressed on judgments which survive the
man, and may be imperishable. A great Judge hearing
contending arguments and settling their issues with convincing
logic erects and leaves behind him a monument standing high
in the public view. Justice Sen was a man of pleasure
personality.

He was a rare combination of dignity of character with a
great sense of fairness and a gentleman to the core, and those
who had the opportunity to coming into close contact with him
held him in high esteem and regard. There are several landmark
judgments to the credit of Justice Sen in almost all branches of
law. Justice Sen rendered several important judgments in
matters relating to Preventive detention, Election Laws, Labour
Laws, Trademarks etc.

Justice Sen's sensitivity as a Judge, his progressive outlook
and his concern for socio-cultural causes like gender justice are
well evident from the following observations in *State (Delhi
Administration vs. Laxman Kumar & Ors.* [(1985) 4 SCC 476]:

(iii)

"56. Every marriage ordinarily involves a transplant. A girl born and brought up in her natural family, when given in marriage, has to leave the natural setting and come into a new family. When a tender plant is shifted from the place of origin to a new setting, great care is taken to ensure that the new soil is suitable and not far different from the soil where the plant had hitherto been growing; care is taken to ensure that there is not much of variation of the temperature, watering facility is asserted and congeniality is attempted to be provided. When a girl is transplanted from her natural setting into an alien family, the care expected is bound to be more than in the case of a plant. Plant has life but the girl has a more developed one."

While considering the issue as to whether tenancy under the Delhi Rent Control Act is heritable or not, Justice Sen held in *Gian Devi Anand vs. Jeevan Kumar & Ors.* [(1985) 2 SCC 683] that the rule of heritability extends to statutory tenancy of commercial premises as much as to residential premises and that they are entitled to the same protection against eviction afforded by the Act to the tenant.

While dealing with matters relating to Public Interest Litigation in *Bandhua Mukti Morcha vs. Union of India & Ors.* [(1984) 3 SCC 161] Justice Sen held as follows:

"...whenever any person is wrongfully and illegally deprived of his liberty, it is open to anybody who is interested in the person to move the Court under Article 32 for his release. It may not very often be possible for the person who is deprived of his liberty to approach the Court, as by virtue of such illegal and wrongful detention, he may not be free and in a position to move the Court."

In *Harbans Singh vs. State of U.P.* [(1982) 2 SCC 101] on the issue of inconsistent decisions between Benches of the Supreme Court on award of death sentence while disposing of separate appeals of co-accused equally guilty in the same case, Justice Sen held that benefit of commutation to life

(iv)

imprisonment given to one accused must be extended to remaining co-accused and directed the Jail Authorities to verify the consistency in award of death sentence between co-accused before carrying out any death sentence.

In the demise of late Justice Sen we have lost an able Judge and an eminent jurist. He was pre-deceased by his wife and he had no issue. He is survived by his only brother Mr. Bithin Sen and three sisters with a few nephews and nieces.

I and my brother Judges convey our heartfelt condolences to the bereaved family and pray to almighty God to give them strength to bear this irreparable loss with fortitude.

May the eternal soul rest in peace.

**REFERENCE MADE BY
ATTORNEY GENERAL FOR INDIA
SHRI G.E. VAHANVATI
IN THE MEMORY OF
LATE HON'BLE SHRI AMARENDRA NATH SEN,
FORMER JUDGE, SUPREME COURT OF INDIA
ON 19TH JANUARY, 2010**

My Lord Justice Balakrishnan, Chief Justice of India, Hon'ble Judges, Mr. Krishnamani, President of the Supreme Court Bar Association, Office Bearers of the Bar Association, (the Learned Solicitor General, Mr Gopal Subramaniam), Law Officers, Members of the Bar, Ladies and Gentlemen.

The period between 1980 to 1983 were exciting days in this court. Judges of this Hon'ble Court were like Christopher Columbus and Vasco da Gama, who undertook journeys of discovery. They went into uncharted seas and found new lands and new continents. Judges who participated in this voyage and worked on board these wonderful ships were blessed and fortunate. Justice A.N. Sen who passed away on 2nd January 2010 was one of these privileged persons.

In 1983 the Supreme Court of India gave a landmark decision which changed the landscape of Public litigation in India forever. The Bandhua Mukti Morcha case decided on 16-12-1983 is a landmark in the history of public interest litigation in India. The petitioner organization made a survey of some of the stone quarries in Faridabad District near Delhi and found that there were large number of labourers from M.P, Maharashtra, U.P. and Rajasthan working therein under 'inhuman and intolerable conditions' and many of them were bonded labourers. They, therefore, addressed a letter to a Hon'ble Judge of the Court praying for necessary action. The

letter was accepted as a writ petition.

The main judgment was given by Justice PN Bhagwati, as his Lordship then was. The judgment of Justice Pathak shows that the second judgment was written by Justice AN Sen which expressly dealt with the preliminary objections raised by Mr. KL Bhagat, the then Additional Solicitor General of India with regard to the scope of Article 32, whether a letter addressed to a Judge could be treated as a Writ Petition and whether this court had powers to appoint any commission or investigating body to enable it to exercise its powers and jurisdiction under the Constitution. Justice Sen considered it necessary to put public interest litigation into perspective and he said that whenever there is an allegation of violation of fundamental rights it became the responsibility and sacred duty of this Hon'ble Court to protect the fundamental rights guaranteed under the Constitution. He wrote in simple but clear terms. There is no flourish in his judgment. There are no extensive quotations. The conclusions are clear and crisp.

Justice Amarendra Nath Sen was born on 1st October, 1920. He was the eldest son of late Shri Tarak Nath Sen of Berhampore, Bengal. Justice Sen had an excellent education. After undergoing his schooling at Murshidabad, he went to the Scottish Church College for his honours in Economics. The Scottish Church College is the oldest continuously running Christian liberal arts and sciences college in India and many top jurists including, Justice Amal Kumar Sarkar, (former Chief Justice of India), Justice Ganendra Narayan Ray, (former Judge of the Supreme Court) have been alumni of this prestigious college. He graduated in law from the University of Calcutta. He was awarded a Certificate of Honour and Sir Ashutosh Law Prize in the Preliminary Law Examination and he graduated in Law from the University of Calcutta in 1943. He was called to the Bar by the Inner Temple in London in 1946 and started practicing as a Barrister from 1947 at Calcutta.

(vii)

Justice Sen was appointed Additional Judge of the Calcutta High Court in the year 1965. He was confirmed as Permanent Judge in July 1966. He was Chief Justice of the Calcutta High Court and was finally elevated as Judge of the Supreme Court of India on 28 January 1981. He continued to adorn this Bench till 30 September 1985.

Justice A.N. Sen's judicial career is marked by many landmark judgments which have stood the test of time. During his tenure as a judge of the Apex Court he was in the midst of other eminent judges such as Justice Bhagwati, Justice Fazal Ali and Justice R.S. Pathak amongst others.

However, his extraordinary judicial approach is brought out by two incidents, brought to my attention by Mr. Bhaskar Gupta, Sr. Advocate. During the days of the Emergency Mr. Gupta was practicing as a Junior in the Calcutta High Court. A notice was issued to the 'Statesman' Group under Section 408 of the Companies Act as to why the Board should not be superseded and why government directors should not be appointed. A Writ Petition was moved before Mr. Justice A.N. Sen and His Lordship issued notice and granted a stay. In the afternoon, Government Counsel appeared and requested him to withdraw the stay. Other judges may have agreed but Justice Sen politely declined and said 'I have granted a stay, you can file a counter in four days'. After four days the Government Counsel appeared and said they had decided to withdraw the Notice. Later, once again during the Emergency 'The Statesman' had a problem with one of their editors, Mr. Pran Chopra. Mr. Palkhiwala appeared before Justice A.N. Sen. Whilst addressing the Court Mr. Palkhiwala got emotional and stated that they even had made an offer for settlement earlier. Justice Sen said why don't you repeat this offer again. Mr. Palkhiwala agreed. The learned Judge rose and went into his Chamber. He called the parties to the Chamber and resolved the matter in half an hour. In both

(viii)

these cases Mr. Bhaskar Gupta was personally appearing as a Junior. Such anecdotes are rare and, according to me, reveal so much about his judicial qualities.

After retiring as a Judge of the Supreme Court of India, Justice A.N. Sen became the Chairman of the Press Council of India.

When the government in 1986 was seriously considering of introducing a media policy to regulate the media Mr. Justice A.N. Sen, chairman of the Press council of India, has echoed the fears of the media in a forthright manner. He said the national media policy would infringe upon section 13 of the Press Council Act and that it may also be in contravention of the constitution and against the spirit of article 19 of the universal declaration of human rights. A national media policy, according to him would hurt expression and publication of opinion counter to the government's view of national interest and that may amount to censorship and interference with the freedom of the press.

However, as the press council chairman he proposed some norms to be adopted by the media and they include:

- support movements against illiteracy, superstition and poverty,
- fight casteism, communalism and social prejudice,
- fight all divisive forces,
- support economic, social, cultural and scientific development,
- respect the right to privacy and avoid character assassination.

In a speech delivered by Justice A.N. Sen, as Chairman, Press Council of India on 26th Aug., 1986 at the Symposium organised at Jaipur by the Rajasthan Unit of the All India Small

(ix)

& Medium Newspapers. Federation, he said:

"The Press Council acts as a watch-dog to see that the guaranteed freedom of the press, is not interfered with... and the Press Council will, always try to safeguard the independence of the press and to remedy any situation that may arise as a result of any interference by any authority with the freedom of the press. In case of any interference with the freedom of the poses, the Press Council even takes suo moto action."

Justice A.N. Sen played an active part in the Dignity Foundation, Kolkata chapter which is an NGO working for the cause and care of the elderly and his patronage to this foundation was deeply cherished and acknowledged with gratitude by the said NGO.

Justice A.N. Sen was a much sought after arbitrator. He acted as an arbitrator in many matters after his retirement from the Apex Court.

I think Justice Amarendra Nath Sen had all characteristics of a great Judge, his term in this court shall always be remembered. Justice Sen lost his wife a few years ago. He had no children and he lived a lonely life until 2nd January, 2010 when he left for heavenly abode. May his soul rest in peace.

**REFERENCE MADE BY
SHRI M.N. KRISHNAMANI, PRESIDENT
SUPREME COURT BAR ASSOCIATION
IN THE MEMORY OF
LATE HON'BLE SHRI AMARENDRA NATH SEN,
FORMER JUDGE, SUPREME COURT OF INDIA
ON 19TH JANUARY, 2010**

**Hon'ble Chief Justice of India, Hon'ble Judges of the
Supreme Court of India, Learned Attorney General for India
and my dear brothers and sisters in the Bar.**

Justice A.N. Sen was one of those judges whom we always admire and revere.

As a barrister, he had roaring practice in Calcutta. It was a real sacrifice of huge earning for the sake of service to the Society. In course of time, he became the darling of the Bar. Since he retired 25 years back, most of the members of the Bar here may not be knowing him. But those who knew him and who appeared before him cannot forget him. He was such a sweet personality.

He was a brilliant student. He was a trustworthy advocate who would never mislead the court. He became a judge at the age of 45 years in 1965. In 1979 he became the Chief Justice of the Calcutta High Court. When he was Chief Justice, he selected and got appointed 4 lady-lawyers as judges of the High Court on the same day. It was a unique event. It never happened earlier or later.

When Justice AN Sen came to Supreme Court as a Judge in 1981 and was here for a short spell of 4 1/2 years, I had several opportunities to appear before him. I found him to be an ideal judge. In Aapasthamba Dharma Sutras and in Katyayana's Smritis, certain great qualities of an ideal judge are

(x)

(xi)

set out. They say:

1. He should be well-versed in law.
2. He should hail from a good family.
3. He should be sufficiently old.
4. He should be endowed with viveka.
5. He should be a scrupulous adherent of dharma.
6. He should be restrained nature.
7. He should be man of impeccable integrity.
8. He should be impartial and devoid of prejudices.
9. He should not be harsh or stone-hearted.
10. He should not be a person of hot temper.
11. He should be afraid of the next world.
12. He should be assiduous.

Justice A.N. Sen possessed all these great qualities. In addition he was always kind and was full of compassion. He was extremely soft-spoken. From 1981 to 1985, till he retired I have watched him. He was very affable to juniors. He had a sense of humour and that made him a complete man.

Once one Sri Mukul Gopal Mukherjee! appeared before him in the Supreme Court. He had been an Umpire in the Cricket matches, even in Test Cricket. The moment Mukherjee stood, Justice A.N. Sen immediately remarked:

"Mr. Mukherjee You are neither an umpire nor a lawyer now! How do you appear before us?"

Sri Mukul Mukherjee stood stunned! After a pause, Justice A.N. Sen smilingly remarked:

(xii)

"Mr. Mukherjee! You may not be aware. But I know that the warrant for your appointment as a judge, in Calcutta High Court was signed by the President Yesterday! You can not do umpiring! You can not appear as a lawyer too."

It was a pleasant surprise to Sri Mukul Gopal Mukherjee. Everyone in the court was amused!

Justice A.N. Sen will not speak harsh words even in provocative circumstances. Once, when Mr. A.K. Ganguly, Senior Advocate and my dear friend was appearing for a financier in a Motor Vehicle case, when the case was being argued, suddenly, Justice A.N. Sen remarked. "Your client is not honest!" Mr. Ganguly spontaneously retorted: "On what basis and upon which material on record, this observation was being made?" There was a lull for a while. Then Justice P.N. Bhagwati broke the silence in the court by asking the counsel to read the provisions. At the end, Justice A.N. Sen told Mr. Ganguly: "I am sorry for my remark". Again when Mr. Ganguly was leaving the court, he said: "I am sorry. I should not have made that remark. Please do not keep it in mind". Even thereafter when there was a bar function after a week. Justice A.N. Sen came to Mr. Ganguly and said: "I should not have made that remark. It was unintentional." So touchy and sensitive he was as to whether he had hurt someone!

Justice A.N. Sen had rendered several land-mark judgments. He was part of the Bench which decided "Sheela Barse and Bhandua Mukti Morcha" and such important matters. In 1985 (4) SCC 289, the Calcutta High Court had proscribed a novel called "Prajapathi", on the ground that it was full of obscenity in dealing with kissing, sex and man-woman relationship. When the matter came before the Supreme Court, Justice A.N. Sen reversed the judgment of Calcutta High Court and held:

"Vulgarity is different from obscenity".

(xiii)

"If a reference to sex in a novel, by itself is to be considered as obscene and not fit to be read by adolescents, then adolescents will not be in a position to read any novel and have to read only books which are purely religious."

He was a fine human being. Justice AN Sen and his wife had no issue. His brother and he were living in a joint family under the same roof. His brothers' wife passed away when she was very young. Justice AN Sen and his wife brought up her Children with care, concern and incomparable affection. He acquired all his great qualities from his great grand father Rai Bahadur Vaikuntanath Sen who was a great freedom fighter. His great grand father Vaikuntanath Sen became Bengal Congress President after the great poet Ravindranath Tagore demitted office as President, and he defeated Sri Aurobindo in that election.

Justice AN Sen was a great devotee of Sri Ramakrishna Paramahansa and Swami Vivekananda. After his retirement from the Supreme Court, the last 25 years were spent by him by doing some Arbitration work and in reading spiritual literature of Ramakrishna Mission and Sri Aurobindo.

Everyone who interacted with him, admired him. All his family members remember him with a sense of gratitude. All junior members of the Bar of his time, remember his kindness. His compassion and softness won admiration of one and all.

He lived a glorious life. His greatest boon was his contentment. He lived for 90 years. He had no major ailment. He was moving around till he died! Dying at such ripe old age, is a God's gift. When the body is unable to house the Soul, the Soul leaves the body! I remember the following words of an anonymous Sanskrit scholar:

"Kaha shochati priyam bhandhu

(xiv)

Kaaraagaaraathu vinirgatam"

Meaning:

"Who will grieve for the beloved who is released from a prison?"

With these words, on behalf of the Bar and on my personal behalf, I extend my heart-felt condolences to the bereaved family.

May Justice A.N. Sen's soul rest in peace.



THE
SUPREME COURT REPORTS

Containing Cases Determined by the Supreme Court of India

VOLUME INDEX
[2010] 1 S.C.R.

ADDITIONAL REGISTRAR (EDITORIAL)
G. NATARAJAN, B. Com., LL.M.

EDITOR
RAJENDRA PRASAD, M.A., LL.M.

ASSISTANT EDITORS
KALPANA K. TRIPATHY, M.A., LL.B.
NIDHI JAIN, B.A., LL.B., PGD in IPR and ITL.
BIBHUTI BHUSHAN BOSE, B.Sc. (Hons.), M.B.E., LL.B.
DEVIKA GUJRAL, B.Com. (Hons.), GRAD. C.W.A., LL.B.,

PUBLISHED UNDER THE AUTHORITY OF THE SUPREME COURT OF INDIA
BY THE CONTROLLER OF PUBLICATIONS, DELHI

ALL RIGHTS RESERVED

**LIST OF THE MEMBERS OF THE SUPREME COURT
COUNCIL OF LAW REPORTING**

Chairman

HON'BLE SHRI K.G. BALAKRISHNAN
CHIEF JUSTICE OF INDIA

MEMBERS

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE G.S. SINGHVI

MR. G.E. VAHANVATI
(ATTORNEY GENERAL FOR INDIA)

MR. M.N. KRISHNAMANI
(NOMINEE OF THE BAR ASSOCIATION)

Secretary

T. SIVADASAN
(Registrar)

JUDGES OF THE SUPREME COURT OF INDIA

(From 04.01.2010 to 22.01.2010)

1. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India
2. Hon'ble Mr. Justice S.H. Kapadia
3. Hon'ble Mr. Justice Tarun Chatterjee
(Retired on 13.01.2010)
4. Hon'ble Mr. Justice Altamas Kabir
5. Hon'ble Mr. Justice R.V. Raveendran
6. Hon'ble Mr. Justice Dalveer Bhandari
7. Hon'ble Mr. Justice D.K. Jain
8. Hon'ble Mr. Justice Markandey Katju
9. Hon'ble Mr. Justice H.S. Bedi
10. Hon'ble Mr. Justice V.S. Sirpurkar
11. Hon'ble Mr. Justice B. Sudershan Reddy
12. Hon'ble Mr. Justice P. Sathasivam
13. Hon'ble Mr. Justice G.S. Singhvi
14. Hon'ble Mr. Justice Aftab Alam
15. Hon'ble Mr. Justice J.M. Panchal
16. Hon'ble Dr. Justice Mukundakam Sharma
17. Hon'ble Mr. Justice Cyriac Joseph
18. Hon'ble Mr. Justice Asok Kumar Ganguly
19. Hon'ble Mr. Justice R.M. Lodha
20. Hon'ble Mr. Justice H.L. Dattu
21. Hon'ble Mr. Justice Deepak Verma
22. Hon'ble Dr. Justice B.S. Chauhan
23. Hon'ble Mr. Justice A.K. Patnaik
24. Hon'ble Mr. Justice T.S. Thakur
25. Hon'ble Mr. Justice K.S. Radhakrishnan
26. Hon'ble Mr. Justice Surinder Singh Nijjar
27. Hon'ble Mr. Justice Swatanter Kumar

MEMORANDA

OF

JUDGES OF THE SUPREME COURT OF INDIA

(From 04.01.2010 to 22.01.2010)

Hon'ble Dr. Justice K.S. Radhakrishnan, Judge, Supreme Court of India was on leave for three days from 13.01.2010 to 15.01.2010 on full allowances.

ERRATA

<i>Page No.</i>	<i>Line No.</i>	<i>Read for</i>	<i>Read as</i>
185	9	Conviction of appellant	Conviction of respondent-accused
185	10-11	High Court acquitted appellant	High Court acquitted the respondent

CORRIGENDA

<i>SCR Volume</i>	<i>Page No.</i>	<i>Line No.</i>	<i>Read for</i>	<i>Read as</i>
2010 (1)	188	19-24	From this, the High Court deduced that the story put forth by the Police that <u>Ramphal (respondent No. 1-accused)</u> had gone to the residence of Prem Chand and had created a ruckus there and during that <u>Ramphal (respondent No. 1-accused)</u> was injured at the hands of Anil Kumar	From this, the High Court deduced that the story put forth by the Police that <u>Indresh Kumar</u> had gone to the residence of Prem Chand and had created a ruckus there and during that <u>Indresh Kumar</u> was injured at the hands of Anil Kumar
2010 (1)	712	21	<u>bounded</u> duty	<u>bounden</u> duty
2010 (1)	971	11	All the aforesaid material <u>would be leading</u>	All the aforesaid material <u>would lead</u>