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SUBJECT-INDEX

ADMINISTRATION OF JUSTICE:

(1) Criminal justice – Abuse of process of court.
(See under: Code of Criminal Procedure, 1973) 1059

(2) (i) Due process of Law – Meaning of – Discussed.

(ii) False claims and false defences – Held: Are serious problems with real estate litigation, predominantly because of ever escalating prices of the real estate – In order to curb uncalled for and frivolous litigation, courts have to ensure that there is no incentive or motive for uncalled for litigation – Exemplary cost may also be imposed for instituting frivolous litigation – Imposition of heavy costs would also control unnecessary adjournments by parties – In appropriate cases, courts may consider ordering prosecution.

(iii) Judicial process – Held: Truth alone has to be the foundation of justice – In the administration of justice, judges and lawyers play equal roles – Like judges, lawyers also must ensure that truth triumphs in the administration of justice – Courts must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth.

(Also see under: Injunction; Pleadings; and Possession)

Maria Margarida Sequeria Fernandes and Others v. Erasmo Jack de Sequeria (Dead) through LRs. 841

(3) Speedy trial – Held: The entitlement of the accused to speedy trial is an inherent and implicit aspect of Art. 21 of the Constitution – The purpose of speedy trial is to avoid oppression and prevent delay – However, speedy trial cannot be regarded as an exclusive right of the accused – There is, no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence.

(Also see under: Code of Criminal Procedure, 1973; and Criminal Jurisprudence)

Rattiram & Ors. v. State of M. P. Through Inspector of Police 496

ADMINISTRATIVE LAW:

(1) (i) Executive order – Municipal Council – Removal of elected office bearer – Held: An elected official cannot be permitted to be removed unceremoniously without following the procedure prescribed by law, in violation of the provisions of Art. 21 of the Constitution, by the State by adopting a casual approach and resorting to manipulations to achieve ulterior purpose – Removal of a duly elected Member on the basis of proved misconduct is a quasi-judicial proceeding in nature – Therefore, the principles of natural justice are required to be given full play and strict compliance should be ensured, even in the absence of any provision providing for the same – In service jurisprudence, for removal, termination or reduction in rank, a full fledged inquiry is required otherwise it will be violative of the provisions of Art. 311 of the Constitution – The case of elected office bearer is to be understood in an entirely different context as compared to the government employees, for the reason that for the removal of

the elected officials, a more stringent procedure and standard of proof is required.

(ii) Administrative order – Recording of reasons – Necessity of – Held: Even in administrative matters, reasons should be recorded as it is incumbent upon the authorities to pass a speaking and reasoned order – Spelling out reasons for the order made is one of the salutary requirements of natural justice.

(Also see under: Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965)

Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. 775

(2) (i) Judicial review – Scope of – Held: The power of judicial review should be exercised with great care and circumspection and court should not ordinarily interfere with the policy decisions of Government in financial matters – Court cannot substitute its opinion for the one formed by the experts in the particular field and due respect should be given to the wisdom of those who are entrusted with the task of framing the policies – Court should also not interfere with the fiscal policies of the State – However, when it is clearly demonstrated that the policy framed by the State or its agency/instrumentality and/or its implementation is contrary to public interest or is violative of the constitutional principles, it is the duty of the court to exercise its jurisdiction in larger public interest, that too when matters are brought by public spirited citizens.

(ii) Policy decision.

(Also see under: Telecommunications;

and Constitution of India, 1950)

Centre for Public Interest Litigation and Others v. Union of India and Others 147

(3) Subordinate legislation – Held: Subordinate legislation made by executive in exercise of powers delegated by legislature, at best, may reflect the understanding of executive of the scope of the powers delegated – But there is no inherent guarantee that such an understanding is consistent with the true meaning and purport of the parent enactment.

Jeevan Chandrabhan Idnani & Anr. v. Divisional Commissioner, Konkan Bhavan & Ors. 32

ADMINISTRATIVE TRIBUNALS ACT, 1985:
s.17.
(See under: Constitution of India, 1950) 974

AGRICULTURAL PRODUCE MARKET COMMITTEES:
Market fee.
(See under: Uttar Pradesh Krishi Utpadan Mandi Adhinyam, 1964) 898
and 947

APPEAL:
Benefit of judgment to non-appellants.
(See under: Land Acquisition Act, 1892) 1042

ARBITRATION:
(See under: Tenders) 571

ARBITRATION ACT, 1940:
ss.5, 11, 12 and 37 – Time barred arbitration petition – Time for giving the award by arbitrators

was up to March 31, 1993 – Arbitral award not passed – On July 3, 1999, respondent No.1 filed application u/ss.5,11 and 12 of the Act seeking removal of respondent No. 3 as co-arbitrator and for declaration that respondent No.2 was the sole arbitrator and in the alternative seeking revocation of authority of respondent No.3 as co-arbitrator and appointment of a new arbitrator in his place – High Court after revoking the authority of both the arbitrators appointed a former retired Judge of High Court as sole arbitrator – Held: Application u/ss. 5,11 and 12 of the Act filed by respondent No.1 was clearly time barred and deserved to be dismissed as such – s.37 of the Act makes provisions of Limitation Act applicable to arbitrations – Limitation Act does not expressly provide for limitation for an application u/ss.5,11 and 12 of the Act – Article 137 is a residuary provision which prescribes the period of three years for an application for which no period of limitation is provided elsewhere in the Limitation Act – Period of three years commences when the right to apply accrues – In the instant case, right to apply for removal of respondent No.3 as co-arbitrator or for revocation of his authority accrued on expiry of March 31, 1993 when the two arbitrators became functus officio – It was thus, on April 1, 1993 that respondent No.1 became entitled to apply for the reliefs claimed in the application u/ss. 5,11 and 12 of the Act – Such application could have been made by respondent No.1 within three years from April 1, 1993 and not thereafter –Limitation Act, 1963 – Article 137.

Minerals & Metals Trading Corporation of India Ltd. v. Ocean Knigh Maritime Co. Ltd. and Others

.... 965

ARBITRATION AND CONCILIATION ACT, 1996:

s.11 – Appointment of arbitrator – Application by respondent before High Court for appointment of arbitrator/ arbitrators – A Sr. Advocate appointed as arbitrator – Petitioner submitted that the retired High Court Judge, suggested by it, be appointed as arbitrator – Held: From the petitioner’s reply to the notice, it is clear that it declined to appoint its arbitrator – The stance of the petitioner amounted to failure to appoint its arbitrator – The petitioner’s right to appoint its arbitrator in terms of the Agreement got extinguished once it failed to appoint the arbitrator on receipt of the notice – There is no error in nominating the Sr. Advocate as an arbitrator.

M/s Dakshin Shelters Pvt. Ltd. v. Geeta S. Johari

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AUCTION:

Issuance of directions for regrant of licences and allocation of spectrum in 2G band by auction.
(See under: Telecommunications)

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BAIL:

(i) Grant of bail – Detention in jail custody for long period – Delay in trial – Effect of – Held: When there is delay in trial, bail should be granted to the accused, though the same should not be applied to all cases mechanically – When undertrial prisoners are detained in jail custody to an indefinite period, Art. 21 of the Constitution is violated – In the instant case, it is clear that due to various factors, trial may take a longer time – Appellant was charged with economic offences of huge magnitude – At the same time, though Investigating Agency had completed investigation

and submitted charge sheet including additional charge sheet, necessary charges were not framed, therefore, presence of appellant in custody may not be necessary for further investigation – In view of the same, considering the precarious health condition of appellant, as supported by certificate of Medical Officer, appellant entitled to an order of bail pending trial on stringent conditions in order to safeguard the interest of CBI – Constitution of India, 1950 – Art. 21.

(ii) Bail – Grant of – Exercise of discretion by court – Manner of – Factors to be considered by court granting bail – Stated.

Dipak Shubhashchandra Mehta v. C.B.I. and Anr.

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BOMBAY PROVINCIAL MUNICIPAL CORPORATION ACT, 1949:

(i) s.31-A(2), second proviso – Interpretation and purport of – Election to Municipal Corporation – Formation of post electoral aghadis or fronts – Held: The second proviso to sub-s (2) of s.31A enables the formation of an Aghadi or front within a period of one month from the date of notification of election results – To permit recognition of variations in relative strength of political parties beyond the mentioned period of one month would be plainly in violation of the language of second proviso to s.31A – Such an Aghadi or front can be formed by various possible combinations of councillors belonging to either two or more registered parties or recognised parties or independent councillors – The component parties or individual independent Councillors, as the case may be, in the case of a given front/aghadi do not

lose their political identity and merge into the aghadi/front or bring into existence a new political party – On formation of such an Aghadi or front, the same is required to be registered – Once such an Aghadi is registered by a legal fiction created under the proviso, such an Aghadi is treated as if it were a pre-poll Aghadi or front – Maharashtra Local Authority Members Disqualification Act, 1986 – ss.2(a), 3(2) and 5 – Maharashtra Local Authority Members Disqualification Rules, 1987.

(ii) s.31A – Expressions ‘political party’, ‘registered party’, ‘recognised party’, ‘groups’ and ‘front or aghadi’ – Meaning of – Discussed – Maharashtra Local Authority Members Disqualification Act, 1986 – s.2(a) – Representation of the People Act, 1951 – Election Symbols (Reservation and Allotment) Order, 1968.

Jeevan Chandrabhan Idnani & Anr. v. Divisional Commissioner, Konkan Bhavan & Ors.

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BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947:

(i) s.4(1) – Exemption – Held: The provision applies to premises and not to parties or their relationship.

(ii) ss. 4(1) and 15.

(Also see under: Maharashtra Rent Control Act, 1999)

Kesri Commissariat & Others v. Ministry of Food and Civil Supplies, Govt. of Maharashtra, Mumbai & Anr.

1010

CENTRAL CIVIL SERVICES (CONDUCT) RULES,
1964:
r. 3(1)(ii) and (iii).
(See under: Service Law) 484

CIRCULARS/GOVERNMENT ORDERS/
NOTIFICATIONS:
Notifications No. 56 dated 1.12.2000.
(See under: Election Symbols
(Reservation and Allotment) Order, 1968) 1084

CODE OF CIVIL PROCEDURE, 1908:
(1) (i) O.6, r.17 – Amendment of pleadings – Suit for specific performance of agreement of sale of immovable property – Subsequent prayer by plaintiff for amendment of plaint – Plea of defendant that the proposed amendment altered the cause of action – Held: Not tenable – The amendment application was filed immediately after filing of the suit and before commencement of the trial – The proposed amendment merely introduced facts/evidence in support of the contention already pleaded, viz., that the entire consideration under the agreement had been paid – In the original plaint, details of payment of consideration were not stated and by amendment, plaintiff wanted to explain how money consideration was paid – There was thus no inconsistency in the case of plaintiff – By the proposed amendment, plaintiff was not altering the cause of action and in any way prejudice the defendants – The amendment sought for was also not barred by limitation.

(ii) O.6, r.17 – Amendment of pleadings – Object and scope of – Factors to be taken into consideration while dealing with application for amendment – Held: While deciding an application

for amendment, ordinarily, court must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide and dishonest amendments – Purpose and object of O. 6, r.17 is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just – Amendment cannot be claimed as a matter of right and under all circumstances, but courts while deciding such prayers should not adopt a hyper-technical approach – Liberal approach should be the general rule, particularly, in cases where the other side can be compensated with costs – Normally, amendments are allowed in the pleadings to avoid multiplicity of litigations.

Rameshkumar Agarwal v. Rajmala Exports Pvt. Ltd. & Ors. 992

(2) O. 23, r.3-A – Suit – Maintainability of – Appellant filed suit seeking declaration that decree passed by the Assistant Collector, in a suit u/ ss.176, 178 and 182 of the Land Reforms Act was fraudulent, inoperative and not binding upon him, since it was based on a fraudulent compromise petition – Maintainability of the suit – Held: A compromise forming the basis of the decree can only be questioned before the same court that recorded the compromise and a fresh suit for setting aside the compromise decree is expressly barred under O. 23 r. 3-A – However, the compromise decree was passed not by a civil court but by a revenue court in a suit u/s.176 of the Land Reforms Act – Revenue courts are neither equipped nor competent to effectively adjudicate on allegations of fraud that has overtones of criminality and the courts constituted under the CPC are really skilled and experienced

to try such issues – Under s.9, civil court has inherent jurisdiction to try all types of civil disputes unless its jurisdiction is barred expressly or by necessary implication, by any statutory provision and conferred on any other tribunal or authority – Nothing in O. 23 r. 3-A bars the institution of a suit before civil court even in regard to decrees or orders passed in suits and/or proceedings under different statutes before a court, tribunal or authority of limited and restricted jurisdiction – Provision of O. 23 not a bar against the suit filed by appellant – Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 – ss. 176, 178, 182, 331 and 341 and Schedule II.

Horil v. Keshav & Anr. 1

(3) O. 43, r.1(u) r/w O.41, r.23-A and s.100 – Miscellaneous civil appeal filed before High Court against order of remand passed in a first appeal under O.41 – Held: Is maintainable – Order of remand passed under O. 41, r.23-A is amenable to appeal under O. 43, r.1(u) – However, the constraints of s.100 continue to be attached to such an appeal – There is a difference between maintainability of an appeal and the scope of hearing of an appeal – Order of High Court holding the civil miscellaneous appeal as not maintainable set aside.

Jegannathan v. Raju Sigamani & Anr. 1003

CODE OF CRIMINAL PROCEDURE, 1861:
(See under: Code of Criminal Procedure,
1973) 114

CODE OF CRIMINAL PROCEDURE, 1872:
(See under: Code of Criminal Procedure,
1973) 114

CODE OF CRIMINAL PROCEDURE, 1898:
(See under: Code of Criminal Procedure,
1973) 114

CODE OF CRIMINAL PROCEDURE, 1973:

(1) (i) s.193 – Effect and impact of not committing an accused in terms of s.193 in cases where charge-sheet is filed u/s.3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and cognizance is directly taken by Special Judge under the Act – Held: Special Court as constituted under 1989 Act is a Court of Session – If cognizance is directly taken by Special Court under the Act and an accused without assailing the same at the inception allows trial to continue and invites a judgment of conviction, he would not be permitted in law to question the same and seek quashment of conviction on the ground that the Special Court had no jurisdiction or authority to take cognizance without the case being committed to it – It is only when non-compliance has occasioned in ‘failure of justice’ or culminated in causation of prejudice to the accused that the trial is vitiated – The decision rendered in *Bhooraji* lays down the correct law – The decisions rendered in *Moly* and *Vidyadharan* did not note the decision in *Bhooraji*, a binding precedent and, as such, they are *per incuriam*.

(ii) s.209 – Committal proceedings – Procedure of, in old Code of Criminal Procedure and new Code of 1973 – Held: Under the Code of Criminal Procedure, 1898, a full-fledged Magisterial enquiry was postulated in the committal proceeding and the prosecution was then required to examine all the witnesses at this stage itself – But, in the

committal proceedings in praesenti, the Magistrate is only required to see whether the offence is exclusively triable by the Court of Session – Because of the restricted role assigned to the Magistrate at the stage of commitment under the new Code, non-compliance of the same and raising of any objection in that regard after conviction attracts the applicability of the principle of ‘failure of justice’ and the convict-appellant becomes obliged in law to satisfy the appellate court that he has been prejudiced and deprived of a fair trial or there has been miscarriage of justice.

(Also see under: Administration of Justice; and Criminal jurisprudence)

Rattiram & Ors. v. State of M. P. Through Inspector of Police 496

(2) ss. 239, 195, 340, 482 – Respondent No.2 alleging that he was wrongly enroped and convicted, lodged FIR, whereupon chargesheet was filed against petitioner u/ss. 177, 181, 182, 195 of IPC – Petitioner filed application u/s.239 Cr.P.C. contending that FIR at the behest of respondent No.2 was not maintainable in view of the provisions of s.195 r/w s.340 Cr.P.C – Application rejected by Magistrate – Order upheld by High Court in revision – Held: The petitioner did not disclose anywhere in the instant SLP that he had approached the High Court u/s.482 Cr.P.C. for quashing of the charge-sheet, which stood rejected and the said order attained finality having not been challenged any further – Thus, he was guilty of suppressing the material fact which makes the petition liable to be dismissed only on this sole ground – Filing of successive petition

before court amounts to abuse of the process of court – Considering the composite nature of offences, no cogent reason for interference by Supreme Court – Penal Code, 1860 – ss. 364, 149, 177, 181, 182, 195.

Ram Dhan v. State of U.P. and Anr. 1059

(3) s.300 – Applicability of – Rule of double jeopardy – Complaint against appellant u/s.138 NI Act – Appellant tried for the said offence and the case sub judice before High Court – Subsequent case filed against appellant u/ss.406/420 r/w s.114 IPC – Plea of appellant that subsequent criminal case involving provisions of IPC was barred by s.300 Cr.P.C. and s.26 of General Clauses Act, 1897 as appellant was already dealt with/tried u/s.138 NI Act – Held: There may be some overlapping of facts in both the cases but ingredients of offences are entirely different – Thus, the subsequent case is not barred by any of the said statutory provisions – Negotiable Instruments Act, 1881 – s.138 – Penal Code, 1860 – General Clauses Act, 1897 – s.26 – ss.406/420 r/w s.114.

Sangeetaben Mahendrabhai Patel v. State of Gujarat and Anr. 1155

(4) (i) s. 313 – Statement of accused – Held: Can be used as evidence against accused, insofar as it supports the case of prosecution – Statement u/s. 313 simplicitor normally cannot be made the basis for conviction of accused – However, where the statement of accused u/s. 313 is in line with the case of prosecution, then certainly heavy onus of proof on prosecution is to some extent reduced.

(ii) s. 354 (3) – Award of death sentence – Recording of special reasons – Need for – Principles governing exercise of such discretion – Stated.

(Also see under: Penal Code, 1860)

Brajendrasingh v. State of Madhya Pradesh 599

(5) (i) s.320 – Compounding of offence – Whether sanction of a scheme u/s.391 of Companies Act amounts to compounding of an offence u/s.138 read with s.141 of N.I. Act and whether such sanction has the effect of termination or dismissal of complaint proceedings under N.I. Act – Held: The effect of approval of a scheme of compromise and arrangement u/s.391 of Companies Act is that it binds the dissenting minority, the company as also the liquidator if the company is under winding up – A scheme u/s.391 of Companies Act does not have the effect of creating new debt – The scheme simply makes the original debt payable in a manner and to the extent provided for in the scheme – The offence under N.I. Act which has already been committed prior to the scheme does not get automatically compounded only as a result of the said scheme – Compounding of an offence cannot be achieved indirectly by sanctioning of a scheme by Company Court – Negotiable Instruments Act, 1881 – s.138 r/w s.141 – Companies Act, 1956 – s.391.

(ii) s.320 – Compounding of offence – Historical background – Discussed – Code of Criminal Procedure, 1861 – Code of Criminal Procedure, 1872 – Code of Criminal Procedure, 1898.

JIK Industries Limited & Ors. v. Amarlal V. Jumani and Another 114

COMPANIES ACT, 1956:

s. 391 – Sanction of scheme – Held: The proposed scheme cannot be violative of any provision of law, nor can it be contrary to public policy.

(Also see under: Code of Criminal Procedure, 1973)

JIK Industries Limited & Ors. v. Amarlal V. Jumani and Another 114

COMPROMISE:

Compromise forming the basis of decree – Challenge to.

(See under: Code of Civil Procedure, 1908) 1

CONDUCT OF ELECTION RULES, 1961:

rr. 5 and 10.

(See under: Election Symbols (Reservation and Allotment) Order, 1968) 1084

CONSTITUTION OF INDIA, 1950:

(1) Art. 21 – Detention of under trial prisoners in jail for an indefinite period, is violative of Art. 21.

(See under: Bail) 278

(2) Arts. 21 and 311.

(See under: Administrative Law; and Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965)

Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. 775

(3) (i) Arts. 38, 39, 48, 48A and 51A(g) – Natural resources – Concept of – Held: Natural resources

belong to the people but the State legally owns them on behalf of its people and from that point of view natural resources are considered as national assets - Courts have given an expansive interpretation to the concept of natural resources and have from time to time issued directions, by relying upon the provisions contained in Arts. 38, 39, 48, 48A and 51A(g), for protection and proper allocation/distribution of natural resources.

(ii) Art. 14 – Doctrine of equality – Distribution of national resources – Held: State is the legal owner of the natural resources as a trustee of the people and although it is empowered to distribute the same, the process of distribution must be guided by the constitutional principles including the doctrine of equality and larger public good – A duly publicised auction conducted fairly and impartially is the best method for discharging this burden and the methods like first-come-first-served are likely to be misused by unscrupulous people.

(iii) Art. 14 – Policy decision – Held: First-come-first-served policy involves an element of pure chance or accident – In matters involving award of contracts or grant of licence or permission to use public property, the invocation of first-come-first-served policy has inherently dangerous implications – Wherever a contract is to be awarded or a licence is to be given, the public authority must adopt a transparent and fair method for making selections so that all eligible persons get a fair opportunity of competition.

Centre for Public Interest Litigation and Others v. Union of India and Others 147

(4) Art. 51A(g).
(See under: Wildlife (Protection) Act, 1972) 460

(5) Art.136 – Order passed by Tribunal in contempt proceedings before it – Appeal by way of special leave before Supreme Court against the order of Tribunal, without exercising the remedy before High Court – Maintainability of – Held: Appeal by way of special leave is maintainable and is the appropriate remedy – Any order or decision of Tribunal punishing for contempt is appealable u/s. 19 of the 1971 Act to Supreme Court only – Contempt of Courts Act, 1971 – s. 19 – Administrative Tribunals Act, 1985 – 17.R.
(Also see under: Service Law)

Mohajan & Ors. v. Shefali Sengupta & Ors.... 974

(6) Art. 142 – Extra-ordinary powers of Supreme Court to quash criminal proceedings – Dispute between banks and petitioners over non-payment of dues – Compromise – Continuance/Quashing of criminal proceeding after compromise – Permissibility – Held: Ordinarily, continuance of a criminal proceeding after a compromise has been arrived at between the complainant and the accused, would amount to abuse of the process of court and an exercise in futility – In such situation, inherent powers of courts can be invoked – However, exercise of inherent powers would depend entirely on the facts and circumstances of each case – In the instant case, special case was registered alleging that petitioners had secured credit facilities from Bank by submitting forged property documents as collaterals and utilized such facilities in a dishonest and fraudulent manner – The actual owner of property had also filed a criminal complaint against petitioners – The

emphasis was, thus, more on the criminal intent of petitioners than on civil aspect involving the dues of the Bank in respect of which a compromise was worked out, therefore, writ petitioners were not entitled to quashing of criminal proceedings.

Ashok Sadarangani & Anr. v. Union of India & Ors. 826

(7) Art. 142.

(i) (See under: Education) 11

(ii) (See under: Land Acquisition Act, 1894) 1042

(8) Art. 162.

(See under: Consumer Protection Act, 1986) 720

(9) Art. 226 – Land acquisition – Challenged by filing writ petition after a long delay – Explanation by land-owner that she was hopeful that after having withdrawn the acquisition in respect of one parcel of land, the State Government would accept her prayer for withdrawal of acquisition in respect of adjoining land – Writ petition dismissed by Single Judge on the ground of delay – Division Bench holding the land-owner not guilty of laches – Held: Non-consideration of vital facts and documents by Single Judge resulted in miscarriage of justice – Division Bench is correct in holding that land-owner was not guilty of laches – Delay/Laches.

(Also see under: Constitution of India, 1950; Doctrines; and Mysore High Court Act, 1884)

Bangalore City Cooperative Housing Society Ltd. v. State of Karnataka and Others 295

(10) Art. 324.

(See under: Election Symbols (Reservation and Allotment) Order, 1968) 1084

CONSUMER PROTECTION ACT, 1986:

ss. 16(2), 30(2), 31, 2(jj), 2(n) – Retired High Court judge appointed as President of State Consumer Dispute Redressal Commission – Rendered service as President, State Commission for 4 years, 10 months and 22 days – Pension for the said subsequent period – Entitlement to – Held: In view of difference of opinion, matter referred to larger Bench – Reference to larger bench – Madhya Pradesh Consumer Protection Rules, 1987 – r. 6 – Constitution of India, 1950 – Article 162.

The Accountant General, M.P. v. S.K. Dubey & Anr. 720

CONTEMPT OF COURTS ACT, 1971:

(i) Non-compliance of order of Tribunal.

(ii) s. 19.

(See under: Service Law) 974

CONTRACT ACT, 1872:

s. 23.

(See under: Land Acquisition Act, 1894) 295

COSTS:

2G Spectrum case – Imposition of cost of Rs. 5 crores on parties getting the most undue benefit.

(See under: Telecommunications) 147

CRIMES AGAINST WOMEN:

(See under: Penal Code, 1860) 630

CRIMINAL JURISPRUDENCE:

(i) Fair trial – Denial of – Held: A ‘fair trial’ is ingrained in the concept of due process of law – While emphasising the principle of ‘fair trial’ and the practice of the same in the course of trial, it is obligatory on the part of the courts to see whether in an individual case or category of cases, because of non-compliance of a certain provision, reversion of judgment of conviction is inevitable or it is dependent on arriving at an indubitable conclusion that substantial injustice has in fact occurred.

(ii) Procedural lapse and delay in conclusion of trial – Effect of – Held: Every procedural lapse or every interdict that has been acceded to and not objected at the appropriate stage would not get the trial dented or make it unfair – Unless it is established that there has been failure of justice or prejudice has been caused to accused, setting aside of conviction as a natural corollary or direction for retrial as the third step of the syllogism solely on the said foundation would be an anathema to justice – Victim cannot be treated as an alien or a total stranger to criminal trial – Criminal jurisprudence, with passage of time, has laid emphasis on victimology which fundamentally is a perception of a trial from the view point of the criminal as well as the victim – It would be a travesty of justice to direct for retrial if the trial really has not been unfair and there has been no miscarriage of justice or failure of justice.

(Also see under: Administration of Justice; and Code of Criminal Procedure, 1973)

Rattiram & Ors. v. State of M. P. Through Inspector of Police 496

DECREE:

Decree based on fraudulent compromise.
(See under: Code of Civil Procedure, 1908) 1

DELAY/LACHES:

(1) Delay in trial – Effect of, on grant of bail.
(See under: Bail) 278
(2) (See under: Constitution of India, 1950) 295

DOCTRINES/PRINCIPLES:

(1) Doctrine of prospective overruling – Invocation of – Acquisition of land by State for the benefit of appellant-Cooperative Housing Society - Quashed by High Court on the ground of violation of provisions of Land Acquisition Act and manipulations made for acquisition of land – Plea of appellant that doctrine of prospective overruling be invoked – Held: Doctrine of prospective overruling cannot be invoked since it would result in conferring legitimacy to influence of money power over rule of law, which is edifice of the Constitution.

Bangalore City Cooperative Housing Society Ltd. v. State of Karnataka and Others 295

(2) Double jeopardy – Held: The rule against double jeopardy provides foundation for the pleas of autrefois acquit and autrefois convict – The manifestation of this rule is to be found contained in s.300 Cr.P.C; s.26 of the General Clauses Act; and s.71 IPC – In order to attract the provisions of Art. 20(2) of the Constitution i.e. doctrine of autrefois acquit or s.300 Cr.P.C. or s.71 IPC or s.26 of General Clauses Act, ingredients of the offences in the earlier case as well as in the latter case must be the same and not different – The

test to ascertain whether the two offences are the same is not the identity of the allegations but the identity of the ingredients of the offence – Motive for committing offence cannot be termed as ingredient of offence to determine the issue – The plea of autrefois acquit is not proved unless it is shown that the judgment of acquittal in the previous charge necessarily involves an acquittal of the latter charge.

- Sangeetaben Mahendrabhai Patel v. State of Gujarat and Anr.* 1155
- (3) Principles of 'Sustainable Development', 'Polluter Pays' and 'Inter-generational Equity'.
(See under: Environmental Law) 460
- (4) (i) Public trust doctrine.
(ii) Doctrine of equality.
(See under: Constitution of India, 1950) 147

EDUCATION/EDUCATIONAL INSTITUTIONS:

(1) Medical Education – MBBS course – Admission – Irregular admission – Relief under Art. 142 of the Constitution – Students admitted to MBBS course in different Private Unaided Medical Colleges in Kerala in academic year 2007-08, though they were not eligible for such admissions as per Regulations of MCI, but had satisfied all the eligibility criteria stipulated in the "Prospectus for MBBS Admission, 2007" issued by respondent-Medical Colleges – Held: The instant case is an eminently fit case for invoking Supreme Court's powers under Art. 142 – Although admissions of appellants were irregular as they did not satisfy the requirement of securing not less than 50% marks in the CEE as prescribed

in MCI Regulations, in special facts and circumstances, appellants should be allowed to continue and complete their MBBS course and also permitted to appear in the University examinations as if they had been regularly admitted to the course – Such an order is necessary for doing complete justice in the matter – Constitution of India, 1950 – Art. 142.

Deepa Thomas & Ors. v. Medical Council of India & Ors. 11

(2) Medical Education – Screening test for students with foreign medical qualifications – Eligibility criteria for screening test – Eligibility of "primary medical qualification" – Appellants-students, who had completed medical course from the off-shore campus of VMRF in Thailand, claimed eligibility for screening test – Claim upheld by Single Judge of High Court but negated by Division Bench – Held: The eligibility criteria provided in the 2002 Regulations make it clear that a candidate intending to appear in screening test must, inter-alia, possess primary medical qualification – Such qualification must be a recognised qualification for enrollment as a medical practitioner in the country in which the institution awarding such qualification is situated – In the instant case, the provisional degree awarded was not recognised by Medical Council of Thailand – Appellants-students were not entitled to register the degree awarded to them by VMRF with Medical Council of Thailand – The provisional degree awarded by VMRF to these students, therefore, did not amount to primary medical qualification – Screening Test Regulations, 2002 of the Medical Council of India – Regulations 2(f) and 4(1) – Indian Medical

Council Act, 1956.

Mohamed Ibrahim and Ors. v.

Vinayaka Mission University and Ors. 550

ELECTION LAWS:

(1) Election to Municipal Corporation – Formation of post-electoral aghadis or fronts.

(See under: Bombay Provincial Municipal Corporation Act, 1949) 32

(2) (See under: Election Symbols (Reservation and Allotment) Order, 1968) 1084

(2) (See under: Representation of the People Act, 1951) 1031

ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968:

(1) Clauses 6A and 6B as inserted by Notification No. 56 dated 1.12.2000 – Political parties – Reservation/allocation of symbols – Criterion for recognition of political parties at State level and National level – Constitutional validity of – Held: In addition to rr. 5 and 10 of Conduct of Election Rules, the powers vested in the Election Commission can be traced to Art. 324 of the Constitution – The Election Commission has set down a bench-mark which is not unreasonable – In order to gain recognition as a political party, a party has to prove itself and to establish its credibility as a serious player in political arena of the State – There is no variance between the views expressed by Constitution Bench in PUCL case and the amendments effected by Election Commission to Election Symbols Order, 1968, by its Notification dated 1.12.2000 – Representation of the People Act, 1951 – Conduct

of Election Rules, 1961 – rr. 5 and 10 – Constitution of India, 1950 – Art. 324.

Desiya Murpokku Dravida Kazhagam & Anr. v. The Election Commission of India 1084

(2) (See under: Bombay Provincial Municipal Corporation Act, 1949) 32

ENVIRONMENTAL LAW:

Wildlife – Human-wildlife conflict – Critical threat to survival of many endangered species – Anthropocentric bias towards man – Held: Environmental justice can be achieved only if there is a drift away from the principle of anthropocentric to ecocentric – Many principles like sustainable development, polluter-pays principle, inter-generational equity have their roots in anthropocentric principles – Anthropocentrism is always human interest focussed while ecocentrism is life-centred, nature-centred where nature includes both human and non-humans – National Wildlife Action Plan 2002-2012 and Centrally sponsored scheme (Integrated Development of Wildlife Habitats) is centred on the principle of ecocentrism.

(Also see under: Wildlife (Protection) Act, 1972)

T.N. Godavarman Thirumulpad v. Union of India & Others 460

EVIDENCE:

(1) Conviction based on circumstantial evidence – General Principles – Stated.

Brajendrasingh v. State of Madhya Pradesh 599

(2) Evidence of child witness.

(See under: Penal Code, 1860) 887

(3) (i) Right of self defence – Held: It is a settled canon of evidence that one who alleges a fact must prove the same – When a person claims exercise of private self-defence, the onus lies on him to show that there were circumstances and occasions for exercising such a right.

(ii) Non-explanation of injuries sustained by accused persons – Effect on prosecution case – Held: Before the non-explanation of injuries of the accused may be held to affect the prosecution case, court has to be satisfied of existence of two conditions: that the injuries of the accused were also of a serious nature; and that such injuries must have been caused at the time of occurrence – Where the evidence is clear, cogent and creditworthy; and where court can distinguish the truth from falsehood, the mere fact that the injuries of the accused are not explained by the prosecution cannot, by itself, be a sole basis to reject the testimony of prosecution witnesses and consequently, the whole case of the prosecution. (Also see under: Penal Code, 1860; and Witnesses)

Mano Dutt & Anr. v. State of U.P. 686

(4) (See under: Penal Code, 1860) 1066

FIR:

FIR recorded by Sub-inspector based on statement of accused, made in Police Station – Evidentiary value – Held: FIR cannot be treated in law and in fact, as a confessional statement made by accused – It would certainly attain its admissibility in evidence as an FIR recorded by

the competent officer in accordance with law.

(Also see under: Code of Criminal Procedure, 1973; and Penal Code, 1860)

Brajendrasingh v. State of Madhya Pradesh 599

GENERAL CLAUSES ACT, 1897:

s.26.

(See under: Code of Criminal Procedure, 1973) 1155

GOA PANCHAYAT RAJ ACT, 1994:

(i) s.10(f) – Disqualification from membership of panchayat – Appellant, a Panch member in a Village Panchayat in the State of Goa – Her husband awarded contract by village panchayat – Held: The Panch member and her husband are governed by the Portuguese Code – Provisions contained in Articles 1098 and 1108 of the Portuguese Code and s.5A of the Income Tax Act give appellant a participation in the profits of the contract and advantages like apportionment of income from that contract – Appellant's participation in the profits of the contract constitute an "indirect monetary interest" in the contract awarded to her husband – Consequently, appellant incurred disqualification u/s.10(f) – Portuguese Civil Code, 1860 – Articles 1098 and 1108 – Income Tax Act, 1961 – s.5A.

(ii) s.10(f) – Disqualification of member from panchayat in terms of s.10(f) – Purpose and interpretation of – Held: Is to ensure that there is no conflict between the private interest of the member and his duty as a member of the Panchayat – It is based on general principle of conflict between duty and interest – Prohibition in s.10(f) should not receive unduly narrow or

restricted construction.

Zelia M. Xavier Fernandes E. Gonsalves v. Joana Rodrigues and Ors. 258

INCOME TAX ACT, 1961:

(1) s.5A.
(See under: Goa Panchayat Raj Act, 1994) 258

(2) ss. 80 HHC and 28(iiid) – Deductions in respect of profits retained for export business – Claim for, by exporter – Assessing Officer held that the entire sale value of Duty Entitlement Pass Book (DEPB) represents profit on transfer of DEPB u/s 28(iiid) and did not allow exemption/ deduction u/s 80 HHC – Held: Appeals disposed of in terms of the judgment passed by Supreme Court in Topman Exports and in ACG Associated Capsules Private Limited.

Vikas Kalra v. The Commissioner of Income Tax-VIII, New Delhi 273

INDIAN MEDICAL COUNCIL ACT, 1956:

(See under: Education/Educational Institutions) 550

INFORMATION TECHNOLOGY:

Allocation of 2G Spectrum.
(See under: Telecommunications) 147

INJUNCTION:

(i) Suit for injunction – Maintainability of – Suit for injunction filed by brother on ground that he was dispossessed from the suit house by the sister without following due process of law – Decreed by courts below – Held: The house was given by the sister to the brother who was to act as its caretaker – Admittedly, plaintiff did not claim any

title to the suit property – Defendant had a valid title to the property which was clearly proved from the pleadings and documents on record – The caretaker holds the property of the principal only on his behalf – Suit for injunction against the true owner was, therefore, not maintainable – Judgments of courts below set aside.

(ii) Grant or refusal of injunction – Governing principles – Discussed.

(Also see under: Pleadings; and Possession)

Maria Margarida Sequeria Fernandes and Others v. Erasmo Jack de Sequeria (Dead) through L.Rs. 841

INTERNATIONAL UNION FOR CONSERVATION OF NATURE (IUCN):

IUCN Red List of threatened species.
(See under: Wildlife (Protection) Act, 1972) 460

INTERPRETATION OF STATUTES:

(1) Non-obstante clause – Significance of – Held: The insertion of a non-obstante clause is a well known legislative device and in olden times it had the effect of *non obstante aliquo statuto in contrarium* (notwithstanding any statute to the contrary) – Under the Scheme of modern legislation, non-obstante clause has a contextual and limited application – The impact of a ‘non-obstante clause’ has to be limited to the extent it is intended by Parliament and not beyond that.

JIK Industries Limited & Ors. v. Amarlal V. Jumani and Another 114

(2) Prohibition in s. 10 of Goa Panchayat Raj Act, 1994 – Not to receive unduly narrow or restrictive construction.

(See under: Goa Panchayat Raj Act, 1994) 258

INVESTIGATION:

Lapses – Held: Unless lapses on the part of the investigation are such as to cast reasonable doubt about the prosecution story or seriously prejudice the defence of the accused, court will not set aside the conviction.

Hiralal Pandey and Ors. v. State of U.P. 1066

JUDGMENTS/ORDERS:

Interpretation of – Held: A judgment is always an authority for what it decides – A judgment cannot be read as a statute – It has to be read in the context of the facts discussed in it – Negotiable Instruments Act, 1881 – s.147.

JIK industries Limited & Ors. v. Amarlal V. Jumanji and Anr. 114

JUDICIAL DISCIPLINE:

Supreme Court judgments – Levy of market fee on movement of goods from mandi area to places outside pursuant to sale but without obtaining gate-passes – Procedure prescribed in two judgments rendered by Supreme Court and the said procedure working effectively for years – High Court overlooking the effect of the judgments of Supreme Court and bringing in a new mechanism – Held: The matter was fully covered by the decisions of Supreme Court and further repair of the procedure and the mechanism so provided could only be under the orders of Supreme Court – High Court ought to have left it to Supreme Court to determine as to whether the mechanism and procedure provided by the orders of Supreme Court required any modification, and if so, in what

form and to what extent – Instead of doing that, High Court embarked upon an exercise which was not necessary especially when the same did no service to judicial discipline – Precedent.

Krishi Utpadan Mandi Samiti & Anr. v. Ved Ram 947

JUDICIAL NOTICE:

(See under: Motor Vehicles Act, 1988) 1178

JUDICIAL REVIEW:

Mandi Samiti – Market fee – Levy of – Judicial review of – Held: Court in exercise of power of judicial review does not substitute its judgment for that of the legislature or executive or their agents as to matters within the province of the either – In the instant case, the Mandi Samiti appreciated each piece of evidence and found the same to be insufficient to hold that the sale transactions had, in fact, taken place outside the Mandi area so that the presumption arising u/s 17(iii) of the Act stood rebutted – The Director exercising powers of the Mandi Parishad once again evaluated the evidence and concurred with the view taken by the Mandi Samiti.

Heinz India Pvt. Ltd. & Anr. v. State of U.P. & Ors. 898

JUDICIARY:

Higher Judicial Service.
(See under: Service Law) 581

JURISDICTION:

Jurisdiction of BIFR and Civil Courts.
(See under: Sick Industrial Companies (Special Provisions) Act, 1985) 388

JURISPRUDENCE:

Legal right – Held: A legal right is an averment of entitlement arising out of law – A person who suffers from legal injury can only challenge the act or omission – The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest, otherwise, he cannot be heard as a party in a lis – There must be injuria or a legal grievance which can be appreciated and not a stat pro ratione voluntas reasons i.e. a claim devoid of reasons – Torts.

(Also see under: Administrative law; and Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965)

Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. 775

KARNATAKA HIGH COURT ACT, (1961):

ss. 4, 9 and 10.

(See under: Mysore High Court Act, 1884) 295

KERALA STATE HIGHER JUDICIAL SERVICE RULES:

r. 39.

(See under: Service Law) 581

LAND ACQUISITION ACT, 1894:

(1) (i) ss. 4, 6 and 3(f)(vi) – Acquisition of land for public purpose for Co-operative Housing Society – Notification u/ss. 4(1) and 6 – Award – acquisition of land quashed by High Court – Held: High Court rightly held that in the absence of housing scheme framed by the housing society, acquisition of land was not for public purpose as defined in s. 3(f)(vi) – Housing society executed

agreement with Estate Agent for facilitating the acquisition of land in lieu of payment of more than rupees five crores – Said amount was charged by Estate Agent for manipulating the State Apparatus for facilitating the acquisition of land and sanction of layout etc. without any obstruction – Thus, such agreement is violative of s. 23 of the 1872 Act – However, the member of the society who had already constructed their houses on the land allotted to them allowed to negotiate with the State for purchase of their land at the prevailing market price to be paid to the rightful land-owners – Contract Act, 1872 – s. 23.

(ii) ss. 3(f), 3(f)(vi) – Expression ‘public purpose’ – Meaning and scope of – Held: Expression ‘public purpose’ contained in s. 3(f) is inclusive – Acquisition of land for carrying out any education, housing, health or slum clearance scheme by a registered society or a Co-operative society can be regarded as an acquisition for public purpose only if the Scheme has been approved by the appropriate Government before initiation of the acquisition proceedings – In case acquisition of land is for any purpose other than public purpose as defined in s. 3(f), then provisions of Part VII would be attracted and mandate thereof would have to be complied with.

(iii) ss. 3(f)(vi), 41 – Acquisition of land for public purpose – Housing scheme of Co-operative housing society – Agreement signed by the State Government with the co-operative society – Nominal contribution of Rs. 100/- by the Special Deputy Commissioner – Held: The nominal contribution cannot be construed as State Government’s implicit approval of the housing

scheme which had never been prepared.

(iv) s. 5A – Opportunity of hearing under – Finding by Division Bench of High Court that the land owner not given opportunity of hearing – Correctness of – Held: Land owner was given opportunity of hearing as her son appeared before the Special Land Acquisition Officer along with his advocate – Said error not sufficient to nullify the conclusion by the Division Bench of the High Court that the land acquisition was not for a public purpose and the exercise undertaken by State Government was vitiated due to influence of extraneous considerations.

Bangalore City Cooperative Housing Society Ltd. v. State of Karnataka and Others 295

(2) s.18 – Making of reference by Collector to court – Limitation period – Held: If the land owner is not present or is not represented before the Collector at the time of making of award then the application for reference has to be made within six weeks of the receipt of notice u/s.12(2) or within six months from the date of Collector's award, whichever period shall first expire – Along with the notice issued u/s.12(2), land owner should be supplied with a copy thereof so that he may effectively exercise his right u/s.18(1) to seek reference to court – In the instant case, copy of award was not sent to appellant along with notice and without that he could not have effectively made an application for seeking reference – Therefore, the award passed by reference court is liable to be set aside and respondents are directed to pay enhanced compensation to appellant @ Rs.450 per Are for the irrigated land and Rs.280 per Are

for non-irrigated land with an additional amount of Rs.2 per sq. meter – Appellant shall also be entitled to other statutory benefits like solatium and interest – In exercise of power under Art.142 of the Constitution, Supreme Court directed respondents to pay enhanced compensation, solatium etc. even to those land owners who did not file appeals before High Court and/or have not approached Supreme Court by filing petitions u/Art. 136 of the Constitution – Constitution of India, 1950 – Art.142.

Premji Nathu v. State of Gujarat and Another 1042

LIMITATION ACT, 1963:
Article 137.
(See under: Arbitration Act, 1940) 965

MADHYA PRADESH CONSUMER PROTECTION RULES, 1987:
r. 6.
(See under: Consumer Protection Act, 1986) 720

MAHARASHTRA LOCAL AUTHORITY MEMBERS DISQUALIFICATION ACT, 1986:
(i) s.2(a).

(ii) ss.2(a), 3(2) and 5.
(See under: Bombay Provincial Municipal Corporation Act, 1949) 32

MAHARASHTRA LOCAL AUTHORITY MEMBERS DISQUALIFICATION RULES, 1987:
(See under: Bombay Provincial Municipal Corporation Act, 1949) 32

MAHARASHTRA MUNICIPAL COUNCILS, NAGAR
PANCHAYATS AND INDUSTRIAL TOWNSHIPS
ACT, 1965:

s.55B – Complaint by Ex-President and sitting Municipal Councilor regarding misconduct of President-appellant – Appellant disqualified for the remaining tenure and further for a period of six years even as member of the Council – Held: Not calling the meeting of the General Body of the House would at most be a technical misconduct committed inadvertently in ignorance of statutory requirements – So far as the other charges were concerned, it was a consensus collective decision of the Council to accept the tender at higher rate and appellant could not have been held guilty of the said charges – High Court failed to appreciate that it was a case of political rivalry and a clear case of legal malice and therefore, the impugned orders are liable to be quashed – The duly elected Member/Chairman of the Council could not have been removed in such a casual and cavalier manner without giving strict adherence to the safeguards provided under the statute.

(Also see under: Administrative Law)

*Ravi Yashwant Bhoir v. District Collector,
Raigad and Ors.* 775

MAHARASHTRA RENT CONTROL ACT, 1999:

s.3(1)(b) – Exemption – Premises belonging to trust – Let out to New India Assurance Company in 1954 – Tenant subletting the premises to State Government in 1959 – Suit for recovery of possession – Tenant and sub-tenant claiming exemption – Held: Clause (b) of sub-s.(1) of s.3 makes it clear that the Act does not apply to any premises let or sub-let to a bank, public sector

undertaking or certain other categories of tenants – Insurance Company is covered u/s 3(1)(b) – Therefore, the Act does not apply to the tenant, New India Assurance Company – Thus, the tenant is not protected – When the Act does not cover the tenant, as basically, the exemption applies only to premises and not to any relationship, the sub-tenant cannot enjoy better protection – Order passed by High Court set aside and judgment and decree of eviction against both the defendants passed by appellate court restored – Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 – ss.4(1) and 15.

*Kesri Commissariat & Others v. Ministry of
Food and Civil Supplies, Govt. of
Maharashtra, Mumbai & Anr.* 1010

MEDICAL COUNCIL OF INDIA SCREENING TEST
REGULATIONS, 2002:

(See under: Education) 550

MESNE PROFITS:

Possession/title in respect of property claimed on the basis of false and fabricated documents – Grant of, mesne profits – Determinative factors – Discussed.

*Maria Margarida Sequeria Fernandes and
Others v. Erasmo Jack de Sequeria (D)
through L.Rs.* 841

MOTOR VEHICLES ACT, 1988:

s.166 – Motor accident – Death of a self-employed person aged 45 years – Claim petition – Dependents including 2 unemployed major sons – Benefit of increment in annual income – Deductions towards personal expenses –

Multiplier – Held: Keeping in view the challenges posed by high cost of living, the formula of 30% increase in the total income also deserves to be applied for calculating the amount of compensation of a self-employed person or a person engaged on fixed salary, who dies in a motor accident – Ordinarily, deductions towards personal expenses of such a person earning Rs.1500/- per month and the family consisting of 5 persons, should be 10% from his monthly income – It cannot be said that in the absence of any source of sustenance, the two major sons were not dependent on the deceased – High Court rightly applied the multiplier of 14 – Claimant also held entitled to charges for transportation of the dead body, funeral expenses and towards loss of consortium – Compensation enhanced accordingly with 7% interest on enhanced amount from the date of application – Precedent – Judicial notice.

Santosh Devi v. National Insurance Company Ltd. and Others 1178

MUNICIPAL CORPORATION:

Election to Municipal Corporation – Formation of post electoral aghadis or fronts.

(See under: Bombay Provincial Municipal Corporation Act, 1949) 32

MYSORE HIGH COURT ACT, 1884:

ss. 17, 18 and 19 – Karnataka High Court Act, 1961 – ss. 4, 9 and 10 – Writ appeal – Jurisdiction of High Court – Division Bench sustaining the order of Single Judge on a new ground by relying upon Supreme Court decision – Challenged on the ground that Division Bench did not have jurisdiction to decide the appeal relying upon

Supreme Court judgment because that ground was not taken by Single Judge and should have remitted the matter – Held: The ground is not sustainable since parties agreed for that course – Thus, Division Bench did not act in violation of provisions of 1884 and 1961 Acts.

(Also see under: Land Acquisition Act, 1894)

Bangalore City Cooperative Housing Society Ltd. v. State of Karnataka and Others 295

NATIONAL FOREST COMMISSION, 2006:

(See under: Wildlife (Protection) Act, 1972) 460

NATIONAL TELECOM POLICY, 1994:

Objectives of – Discussed.

(See under: Telecommunications) 147

NATIONAL TELECOM POLICY, 1999:

Objectives of – Discussed.

(See under: Telecommunications) 147

NATIONAL WILDLIFE ACTION PLAN (2002-2016):

(See under: Wildlife (Protection) Act, 1972) 460

NEGOTIABLE INSTRUMENTS ACT, 1881:

(1) s.138.

(See under: Code of Criminal Procedure, 1973) 1155

(2) (i) s.138 r/w s.141.

(ii) s.141 – Mode and manner of compounding offences under N.I. Act – Held: Compounding of an offence is statutorily provided u/s.320 Cr.P.C. – The act of compounding involves an element of mutuality and it has to be bilateral and not unilateral – Thus, representation of the person compounding

is essential u/s.320 Cr.P.C. – s.4(2) Cr.P.C. deals with offences under any other law which include offences under the N.I. Act – In view of s.4(2) Cr.P.C., the basic procedure of compounding an offence laid down in s.320 Cr.P.C. will apply to compounding of an offence under N.I. Act – Thus, in view of clear mandate of sub-s. (2) of s.4 Cr.P.C., in the absence of special procedure relating to compounding under the N.I. Act, the procedure relating to compounding u/s.320 Cr.P.C. shall automatically apply.

(iii) s.147 – Effect of non-obstante clause contained in s.147 – Held: The non-obstante clause used in s.147 does not refer to any particular section of the Code of Criminal Procedure but refers to the entire Code – When non-obstante clause is used in the said fashion the extent of its impact has to be found out on the basis of consideration of the intent and purpose of insertion of such a clause – s.147 came by way of amendment – The amendment introduced was “to make offences under the Act compoundable” – The offence under the N.I. Act, which was previously non-compoundable, in view of s.320(9), Cr.P.C. became compoundable – That would not mean that the effect of s.147 is to obliterate all statutory provisions of s.320 Cr.P.C. relating to the mode and manner of compounding of an offence – s.147 will only override s.320(9), Cr.P.C. in so far as offence u/s.147 of N.I. Act is concerned.

(Also see under: Code of Criminal Procedure, 1973; and Judgments/Orders)

JIK industries Limited & Ors. v. Amarlal V. Jumani and Another 114

PANCHAYATS:

Disqualification from membership of panchayat.
(See under: Goa Panchayat Raj Act, 1994) 258

PENAL CODE, 1860:

(1) s. 302 – Multiple murders – Allegations that the accused suspecting his wife having illicit relations with his neighbour killed his three young children who were asleep and sprinkled kerosene oil on his wife and put her on fire – Conviction u/ s. 302 and sentence of death by courts below – Held: Circumstantial evidences read with the statements of prosecution witnesses and statement of the accused himself prove that the accused had murdered his wife – He is also guilty of offence punishable u/s. 302 for murdering his three minor children – As regards quantum of sentence, drawing the balance sheet of aggravating and mitigating circumstances and examining them in the light of the facts and circumstances of the case, it is not a case where extreme penalty of death be imposed upon the accused – Death sentence commuted to life imprisonment – Sentence/Sentencing.

(Also see under: Code of Criminal Procedure, 1973)

Brajendrasingh v. State of Madhya Pradesh 599

(2) s.302 – Murder – Evidence of child witness – Conviction by trial court – Upheld by High Court – Held: The witness gave a very natural account of the incident – Right from the time of the incident till the time she was examined in court, she consistently said that accused-appellant had killed her mother – It cannot, therefore, be held that she was tutored to depose against the appellant –

Her evidence also corroborated by the fact that a blood-stained 'daa' was recovered on the very date of incident from the jungle by the side of the house of appellant – Guilt of appellant established beyond reasonable doubt – High Court right in sustaining the conviction of appellant.

Promode Dey v. State of West Bengal 887

(3) (i) ss.302/34 – Murder – Dispute over land – Six accused – Murderous assault on deceased with lathis – Conviction – Upheld by High Court – Held: All the accused persons had come prepared, mentally and physically, to assault the deceased and in furtherance to their common intention, had even given exhortation to kill the deceased – The incident was witnessed by natural witnesses, the father/brother of the deceased who also received number of injuries – Prosecution was able to prove its case beyond reasonable doubt and has brought home the guilt of the accused u/s.302 r/w s.34.

(ii) s.34 – Applicability of – Held: In the instant case, six accused were charge-sheeted for offences punishable u/s.302 r/w ss.149 and 323 – However, two of them acquitted by trial court and remaining convicted u/ss.302/34 and 323/34 – One of the accused died during the pendency of appeal before High Court – Because the alleged number of accused having become less than five, nature of the offences were changed from offence u/s.149 to s.34 – It cannot be ignored that the extent of participation, even in a case of common intention covered u/s.34 would not depend on the extent of overt act – If all the accused have committed the offence with common intention and inflicted injuries upon the deceased in a pre-planned manner, provisions of s.34 would be

applicable to all.

(Also see under: Evidence)

Mano Dutt & Anr. v. State of U.P. 686

(4) s.302/34 – Two persons shot dead by three accused – Conviction and life imprisonment – Upheld by High Court – Held: The evidence of the son of one of the deceased that the accused fired at them when he and the two victims were going on a motorcycle was corroborated by another witness who at the time of the incident reached there on a cycle along with others – Oral evidence was further supported by medical evidence – Minor defects in investigation cannot be a ground to disbelieve the prosecution case, which has been proved beyond reasonable doubt through the evidence of two eye-witnesses as supported by medical evidence – Evidence.

Hiralal Pandey and Ors. v. State of U.P. 1066

(5) ss.302, 376(2)(g), 499 – Rape and murder – Four accused raped the victim and thereafter strangulated her to death – Testimony of servant aged 16 years who was present at the time of incident and was threatened by the accused – Conviction u/ss.302, 376(2)(g), 499 and award of death sentence – Held: The cumulative effect of the oral/documentary and expert evidence was that the prosecution was able to prove its case beyond any reasonable doubt – The accused were guilty of committing the offence punishable u/ss.499, 376(2)(g) and 302 – As regard sentencing, the possibility of their being reformed not ruled out – Considering the age of the accused, possibility of the death of the deceased occurring accidentally and the possibility of the accused reforming themselves, they cannot be termed as 'social

menace' – The accused committed a heinous and inhumane crime for satisfaction of their lust, but it cannot be held with certainty that the case fell in the 'rarest of rare' cases – Accordingly, the sentence of death commuted to that for life imprisonment (21 years).

(Also see under: Sentence/Sentencing)

Ramnaresh & Ors. v. State of Chhattisgarh 630

(6) ss. 364, 149, 177, 181, 182, 195.

(Code of Criminal Procedure, 1973) 1059

(7) s. 396 – Conviction and sentence under – Commission of dacoity and murder of five persons including two minor children by appellant and four others – Appellant convicted u/s. 396 and sentenced to death by courts below – Held: Prosecution case proved beyond reasonable doubt – Clear and definite evidence to show that the appellant not only participated in the crime but also played the lead role in the commission of offence – Crime was committed for money after pre-meditation with absolutely no consideration for human lives – Even though appellant was young, his criminal propensities are beyond reform and he is a menace to society – Thus, this is one of those rarest of rare cases in which death sentence is the appropriate punishment – Conviction as well as sentence of death sustained – Sentence/Sentencing.

Sonu Sardar v. State of Chhattisgarh 558

(8) ss. 406, 420 r/w. s. 114.

(See under: Code of Criminal Procedure, 1973) 1155

PLEADINGS:

Requirement of – Held: In pleadings, only the necessary and relevant material must be included and unnecessary and irrelevant material must be excluded – In civil cases, pleadings are extremely important for ascertaining the title and possession of the property in question – Once the title is prima facie established, it is for the person who is resisting the title holder's claim to possession to plead with sufficient particularity on the basis of his claim to remain in possession and place before the court all such documents as are expected to be there in the ordinary course of human affairs – Only if the pleadings are sufficient, would an issue be struck and the matter sent to trial, where the onus will be on him to prove the averred facts and documents.

(Also see under: Administration of justice; Possession; and Injunction)

Maria Margarida Sequeria Fernandes and Ors v. Erasmo Jack de Sequeria (D) Thr. L.Rs. 841

PORTUGUESE CIVIL CODE, 1860:

Articles 1098 and 1108.

(See under: Goa Panchayat Raj Act, 1994) 258

POSSESSION:

Right over property – Claim for – Held: No one acquires title to the property if allowed to stay in the premises gratuitously – Caretaker, watchman or servant can never acquire interest in the property irrespective of his long possession – Courts are not justified in protecting the possession of a caretaker, servant or any person who was allowed to live in the premises for some

time either as a friend, relative, caretaker or as a servant – The protection of the court can only be granted or extended to the person who has valid, subsisting rent agreement, lease agreement or license agreement in his favour – Caretaker or agent holds property of the principal only on behalf of the principal – He acquires no right or interest whatsoever for himself in such property irrespective of his long stay or possession.

Maria Margarida Sequeria Fernandes and Others v. Erasmo Jack de Sequeria(Dead) through L.Rs. 841

PRECEDENT:

(1) Compensation – Held: The judgments which have bearing on socio-economic conditions of citizens and issues relating to compensation payable to victims of motor accidents, those who are deprived of their lands and in similar matters need to be frequently revisited keeping in view the fast changing social values and price rise – The victims or their dependents should be awarded just compensation – Social justice.

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(2) Per incuriam.

(See under: Code of Criminal Procedure, 1973) 496

(3) (See under: Judicial Discipline) 947

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(i) s. 19 – Sanction for prosecution – Prosecution of public servant for commission of offence under the Act – Filing of complaint by private citizen –

Permissibility of – Taking appropriate decision within the time specified in *Vineet Narain v. Union of India*; guidelines issued by the Department of Personnel and Training and CVC – Requirement of – Illegal grant of licence in 2G Mobile Service at the behest of Minister – Held: Appellant had right to file complaint for prosecution of the Minister as there is no bar either in the Act or Cr.P.C. – It cannot be said that grant of sanction for prosecution of a public servant arises only at the stage of taking cognizance and any request made prior to that is premature – Material placed on record does not show that the CBI had registered a case or started investigation at the instance of Prime Minister – Officers concerned in the PMO kept the matter pending – They were duty bound to apprise Prime Minister about seriousness of allegations made by the appellant and the directions in **Vineet Narain's* case that time limit of three months for grant of sanction for prosecution must be strictly adhered to with one month additional in specified situation, as also the guidelines framed by the CVC so as to enable him to take appropriate decision in the matter – In future every Competent Authority to take appropriate action for grant of sanction for prosecution of a public servant strictly in accordance with the direction in *Vineet Narain* and the guidelines framed by the CVC.

(ii) Previous sanction for prosecution – Necessity of – Offence allegedly committed by Minister (Public servant) under the Act – Sanction for prosecution – Requirement of, even after he resigned from the Council of Ministers, though he continued to be a Member of Parliament – Held: Sanction for prosecution not necessary as clearly

answered by the Constitution Bench in *A.R. Antulay's* case.

(iii) Sanction for prosecution – Time limit for Competent Authority to grant sanction – Held: In terms with the directions laid down in *Vineet Narain*, time limit of three months for grant of sanction for prosecution must be strictly adhered to – However, additional time of one month may be allowed where consultation is required with the Attorney General or any other law officer in AG's office.

(iv) Sanction for prosecution – Person for whose prosecution sanction sought – Opportunity of hearing by Competent Authority – Held: Grant or refusal of sanction is not a quasi judicial function – Said person is not required to be heard by the Competent Authority before it takes a decision in the matter – Competent Authority is required to see whether the material collected by the complainant or the investigating agency prima facie discloses commission of an offence by the public servant – It cannot undertake a detailed inquiry – If material placed are sufficient for sanction, then Competent Authority is required to grant sanction, otherwise, it can refuse – In either case, said decision is to be communicated to the public servant concerned to avail appropriate legal remedy.

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REPRESENTATION OF THE PEOPLE ACT, 1951:

(1) s.110(3)(c) – Withdrawal of election petition – Right to be substituted in place of the original election petitioner – Held: Clause (c) of s.110(3) permits “a person, who might himself have been a petitioner”, to apply for substitution as petitioner in place of the party withdrawing – In the instant case, the complaint in the Election Petition was that the nomination paper of the Election Petitioner ‘Y’ had been wrongly rejected by Returning Officer – Respondent, who had been substituted in place of ‘Y’, did not have the same interest as ‘Y’ – The Election Petition filed by ‘Y’ was an action in personam and, was, therefore, confined to his own situation – Grievance of the original Election Petitioner ‘Y’ was not against the elected candidate, but against the action of Returning Officer in rejecting his nomination paper – Once the Election Petitioner ‘Y’ decided not to pursue the matter, the Election Petition could not have been continued by the respondent.

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(2) (See under: Election Symbols (Reservation and Allotment) Order, 1968) 1084

(3) (See under: Bombay Provincial Municipal Corporation Act, 1949) 32

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SENTENCE/SENTENCING:

(1) Death sentence.

(See under: Penal Code, 1860) 558

(2) Sentencing policy – Guiding principles – Death sentence and principles governing its conversion to life sentence – Held: The law requires courts to record special reasons for awarding death sentence – The principle of proportion between the crime and the punishment is the principle of ‘just deserts’ that serves as the foundation of every criminal sentence that is justifiable – ‘Doctrine of proportionality’ has a valuable application to the sentencing policy under Indian criminal jurisprudence – Court will not only have to examine what is just but also as to what the accused deserves keeping in view the impact on the society at large – Every punishment imposed is bound to have its effect not only on the accused alone, but also on the society as a whole – Courts should consider retributive and deterrent aspect of punishment while imposing the extreme punishment of death.

(Also see under: Penal Code, 1860)

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SERVICE LAW:

(1) Appointment/Selection – Filling up of non-notified vacancies – Propriety of – Held: Power

vested in the Government u/r. 39 could not have been invoked for filling up the vacancies which had not been advertised and which had occurred after the issue of the initial advertisement – It could not be done for protecting the service of someone who had found a place in the merit list on account of additional marks given to him and who was bound to lose that place by reasons of the judgment of the court – Proposed addition of the vacancies was contingent upon the Government agreeing to exercise its power u/r. 39 – Since the Government did not and could not possibly exercise the said power as a result of the quashing of the marks awarded by way of moderation, the proposed addition of the vacancies to the number already notified became clearly infructuous – High Court was, in the light of the subsequent development, justified in recalling the recommendations made by it – Kerala State Higher Judicial Service Rules – r. 39.

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(2) Back wages – Claim for – Parties came to an amicable settlement – Appeal accordingly disposed of by Supreme Court – Employee-appellant directed to be paid by respondent No.1-Samiti and respondent no.2-Institution jointly and severally a sum of Rupees one lakh towards back wages in full and final settlement of the claim of the appellant on that account.

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(3) Dismissal – Employee unauthorisedly absent from duty for three consecutive periods – Held

guilty of violating r. 3(1)(ii) and (iii) for failure to maintain devotion to duty and conduct unbecoming of Government servant – Dismissal from service – Upheld by appellate authority, tribunal and High Court – Held: If allegation of unauthorised absence from duty is made, disciplinary authority is required to prove that the absence is willful – The absence will not amount to misconduct if it is not wilful – On facts, the Inquiry Officer failed to hold that the absence was willful – Specific defence of appellant that he was prevented from attending duty by Controlling Officer and other evidence ignored - Thus, the order of dismissal set aside – Employee reinstated with 50% back wages – Central Civil Services (Conduct) Rules, 1964 – r. 3(1)(ii) and (iii).

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(4) Promotion – Seniority list challenged by respondents – Certain directions issued by Tribunal to appellant-department stated to have not been implemented – Tribunal in contempt petition filed before it directing the appellants to be present before the court to receive the charges of contempt – Held: Though Tribunal expressed that its order was not complied with, appellants explained the matter – While considering the seniority or promotion, court cannot go into and examine the same contrary to the Rules/Policy applicable to the persons concerned framed by the Government – Thus, direction of Tribunal in contempt petition is unsustainable and set aside – Since appellants have complied with the earlier order of Tribunal, contempt petition dismissed.

(Also see under: Constitution of India, 1950)

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SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) ACT, 1985:

(i) ss. 22, 22(3), 22A, 17(3) – Sale of assets of sick company – Rehabilitation scheme – Jurisdiction of BIFR to restrain transfer of sick industrial company's property – Held: Asset of the company and/or its sale proceeds received under the agreements had been integral part of the formation and finalization of the revival scheme, and as such transaction cannot be stated to be beyond the ambit and scope of s. 22(3) whereby all instruments to which the sick industrial company is a party, would be subject to the orders of BIFR – Further, in view of the provisions of s. 53A, even if part performance of the agreement is accepted, yet no title is created in favour of appellant-Company – BIFR had jurisdiction to issue prohibitory order which was passed clearly at the stage of consideration of the revival scheme for formulation of which asset was duly taken into consideration – Prohibitory orders were issued by BIFR within the ambit and scope of ss. 22(1), 22(3) and 22A – Further, there was no jurisdictional or other error in the order of the High Court in restoring the order of BIFR – Thus, order of BIFR, which merged into the order of High Court upheld – Transfer of Property Act, 1882 – ss. 53A, 54.

(ii) ss. 22 and 22A – Scope and ambit of – Held: s.22 deals with the suspension of legal proceedings, execution and distress sale etc.

against the assets of a sick company while s.22A deals with restrictions and prohibitory orders which BIFR can pass, all for the purposes of preparation of the scheme and proper implementation and effective management of revival of the sick industrial company – s.22 operates from the presentation of the scheme, its consideration, preparation, finalization and ultimately implementation of the said scheme and consequent rehabilitation of the sick industrial company, while s.22A operates only during the preparation or consideration of the scheme, or upto the commencement of the proceedings for winding up before High Court – These provisions primarily ensure that the scheme prepared by BIFR does not get frustrated because of certain other legal proceedings and to prevent untimely and unwarranted disposal of the assets of the sick industrial company – These Sections operate at different stages and in different fields.

(iii) ss. 22 and 22A – Powers of BIFR under – Held: ss.22 and 22A specify the complete jurisdiction and authority of BIFR in relation to preparation, consideration, finalization and implementation of a revival scheme in relation to a sick industrial company – BIFR is vested with the power to issue directions in the interest of the company or even in public interest, to prevent the disposal of assets of the company during the period of preparation, consideration or implementation of the scheme – Also, BIFR is expected to ensure proper implementation by appropriately monitoring the scheme during the entire relevant period.

(iv) Overriding Effect of the 1985 Act – Held:

Provisions of the 1985 Act would prevail over the provisions of the 1882 Act – 1985 Act is a special legislation providing for imperative functioning of specialized bodies like the BIFR and AAIFR and is intended to apply to a sick industrial company – Legislature gave an overriding effect to the provisions of the 1985 Act and even the jurisdiction of the civil courts is restricted – Transfer of Property Act, 1882.

(v) Legislative scheme and object of the Act – Held: Is to develop the mechanism of revival and rehabilitation of sick industrial units and channelization of the complete administrative-cum-quasi judicial process within the framework of the Act –The Act empowers the quasi-judicial body-BIFR, to take appropriate measures for revival and rehabilitation of the potentially viable sick industrial companies and for liquidation of non-viable companies within the time specified – It is regulatory only to a limited extent – Matters covered under the Act as also matters allied to the formulation and sanction of the scheme, have to be decided by the BIFR itself, and jurisdiction of the civil courts is ousted.

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Strictures against State Authorities – State Authorities asked to produce original record before Supreme Court within a period of two weeks – Neither the record produced nor any

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(Also see under: Administrative law; and Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965)

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concerns regarding fairness and transparency in spectrum allocation raised from various quarters including the Prime Minister, Ministry of Finance and also some of its own officers – The material produced clearly showed that the then Minister of C&IT wanted to favour some companies at the cost of Public Exchequer and took various steps to achieve the same – In view of illegality of entire process, licences and spectrum allocation quashed – Costs of Rs 5 crores each imposed on parties getting the most undue benefit – Directions issued for regrant of licences and allocation spectrum in 2G band in 22 service areas by auction, as was done for allocation of spectrum in 3G band.

(ii) History of the growth of telecommunications in the country and the reforms introduced 1984 onwards – Discussed.

(iii) New Economic Policy of India as announced on 24.7.1991; National Telecom Policy 1994 and National Telecom Policy 1999 – Objectives of – Discussed.

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TENDERS:

Invitation of tenders for appointment of handling and transportation contracts at various depots – Allotment of contract to the appellant – However, appellant expressed his inability to undertake the contract due to security problems and withdrew the offer made by him – Meanwhile, appellant had deposited certain amount towards security with the respondent-Corporation, pursuant to the order of High Court – Refusal of Corporation to refund

the amount – Writ petition seeking refund of the security amount, dismissed – Held: In view of arbitration clause in the agreement and in view of the nature of dispute, the claim for refund of the amount deposited by the appellant should have been raised before the arbitrator – However, relegating the parties to arbitration when the matter has been pending for past ten years, not feasible – Availability of alternative remedy cannot be pressed into service at this belated stage – The amount deposited was refundable in case the contract was not allotted and was adjustable towards security if the appellant succeeded in emerging as the successful tenderer – Corporation directed to refund the balance amount to the appellant after deducting the amount towards forfeiture of security deposit and a sum towards extra expenditure in getting the work executed at the risk and cost of the appellant.

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UTTAR PRADESH KRISHI UTPADAN MANDI ADHINIYAM, 1964:

(1) (i) ss. 2(h), 32 and 33 of the Act r/w r.133-A of the Rules framed under the Act – Market fee – Levy of – Assessment and adjudicatory machinery – Held: Dealers aggrieved of an order of assessment or an order declining refund of the

fee paid by them are entitled to question the correctness of any such demand in terms of s.32 which is in the nature of a revisional power vested in the Board – Rule 133-A regulates the filing and disposal of the revision petitions u/s 32 and is, therefore, a step in the direction of providing a machinery under the Act for adjudication of disputes that may arise between dealers on the one hand and the market committee on the other – That being so, the Act is not completely bereft of a machinery nor can it be said that the observations made in *Ram Chandra Kailash Kumar's* case have gone unheeded – However, in order to make the Board's revisional power more effective and its exercise more transparent and credible, the Board would do well to delegate the power of hearing and disposal of the revision petitions to a senior and experienced officer who is well-versed in dealing with legal issues concerning assessment and/or determination of liability under the Act.

(ii) s.2(h) – 'Director' – Held: It is manifest from a plain reading of s.2(h) that the expression 'Director' wherever used in the Act including s. 33 thereof includes an officer authorised by the Director to perform all or any of his functions under the Act.

(iii) s.17(iii), Explanation – Presumption as regards sale of a product within the market area – Standard of proof to rebut the presumption – Held: The presumption is rebuttable in nature, for it holds good only till the contrary is not proved by the dealer – The evidence intended to rebut the statutory presumption u/s 17 of the Act ought to be clear and convincing, showing that what is presumed under the provision is not the real fact – In the instant case, the Market Committee and

the Director have recorded concurrent findings of fact to the effect that the dealers had failed to establish that no sale of the stocks of Ghee had taken place within the Mandi limits – The statutory presumption that any transfer of stocks from within the Mandi area was pursuant to a sale was, thus, held to have remained un rebutted.

Heinz India Pvt. Ltd. & Anr. v. State of U.P. & Ors. 898

(2) s.17(iii)(b), Explanation – Movement of goods from mandi area to places outside such area pursuant to sale but without obtaining gate-passes – Levy of market fee – Held: There is presumption under Explanation to s.17(iii)(b) that movement of goods from mandi area to places outside such area is pursuant to sale effected within the said area – Obtaining of gate passes after producing evidence to rebut the presumption is necessary – Absence of gate passes tantamount to removal of the goods in breach of the relevant rules – A dealer adopting such dubious procedure and means cannot complain of failure of opportunity to produce material in support of its claim that no sale was involved – In the instant case, the Mandi Samiti and Revisional authority concurrently held that the respondent-dealer was not able to rebut the presumption u/s.17 – Therefore, there was no reason to interfere with that finding especially when the appraisal of the evidence by the said authorities was not shown to be in any way perverse to warrant interference with the same.

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(ii) s.36A – New categories of Protected Areas (PAs) – Conservation Reserves and Community Reserves – Centrally Sponsored Scheme of 2009

(CSS) titled “Integrated Development of Wildlife Habitats” – Held: Conservation Reserves and Community Reserves have an important role to play in maintaining geographical integrity of the Nation – The Centrally Sponsored Scheme of 2009 (CSS) intended to bring the said two categories of PAs also under the ambit of the Scheme along with the existing National Parks and Wildlife Sanctuaries.

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(ii) Injured witness – Evidentiary value of – Held: Normally, an injured witness would enjoy greater credibility because he is the sufferer himself and thus, there will be no occasion for such a person to state an incorrect version of the occurrence, or to involve anybody falsely and in the bargain, protect the real culprit.

(iii) Sole witness – Evidentiary value of – Held: Court can convict an accused on the statement of a sole witness, even if he is a relative of the

deceased and thus, an interested party – It is only when the court finds that the single eye-witness is a wholly unreliable witness that his testimony is discarded in toto and no amount of corroboration can cure its defect.

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सत्यमेव जयते

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(From 01.02.2012 to 23.04.2012)

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(From 01.02.2012 to 23.04.2012)

Hon'ble Mr. Justice G.S. Singhvi, Judge, Supreme Court of India was on leave for three days w.e.f. 16.04.2012 to 18.04.2012, on full allowances.

Hon'ble Mr. Justice A.K. Patnaik, Judge, Supreme Court of India was on leave for one day i.e. on 02.03.2012, on full allowances.

Hon'ble Mr. Justice Dalveer Bhandari, Judge, Supreme Court of India was on leave for fifteen days w.e.f. 09.04.2012 to 23.04.2012, on full allowances.

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