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– relied on	271	Lamba (G.S.) & Ors. v. Union of India & Ors., 1985 (3) SCR 431		
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Kochunni (K.K.) v. State of Madras (1959) Suppl. (2) SCR 316	70	Laxman v. State of Maharashtra (2002) 6 SCC 710	132
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– approved	939	Lord Krishna Textile Mills v. Its Workmen 1961 SCR 204		
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			M.P. Oil Extraction and Another v. State of M.P. and Ors. 1997 (1) Suppl. SCR 671	664

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– relied on	1057
Maharashtra SEB v. Vaman, (1999) 3 SCC 132		
– relied on	271
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Mallikarjuna Mudhagal Nagappa & Ors. v. State of Karnataka & Ors. 2000 (3) Suppl. SCR 102		
– relied on	1057
Mangat Ram v. Sardar Mehartan Singh (1987) 4 SCC 319		
– relied on	1162
Maninderjit Singh Bitta v. Union of India & Ors. (2012) 1 SCC 273		
– cited	404
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– relied on	120

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– relied on	237
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– cited	677
Matru v. State of U.P. 1971 (3) SCR 914	1103
Maya Mathew v. State of Kerala and Ors. 2010 (3) SCR 16		
– cited	667
Medchl Chemicals & Pharma (P) Ltd. (M/s.) v. M/s. Biological E. Ltd. & Ors. AIR 2000 SC 1869	997
Medical Council of India v. Madhu Singh and Others (2002) 7 SCC 255		
– relied on	532
Medical Council of India v. Manas Ranjan Behera and Others 2009 (15) SCR 450		
– cited	533
Medical Council of India v. State of Karnataka (1988) 6 SCC 131		
– relied on	532
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Mohammed (A.) Farook v. Jt. Secy. to G.O.I and Others (2000) 2 SCC 360		
– relied on	237
Mohinder Pal Jolly v. State of Punjab 1979 (2) SCR 805	166
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– cited	668
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– relied on	1059

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– cited	677
Mridul Dhar (Minor) and Another v. Union of India and Others (2008) 17 SCC 435		
– cited	533
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Mulla & Anr. v. State of Uttar Pradesh, 2010 (2) SCR 633	359
Municipal Corporation for City of Pune v. Bharat Forge Co. Ltd. 1995 (2) SCR 716	666
– cited	677
Municipal Corporation of Greater Bombay v. Industrial Development and Investment Company (P) Limited 1996 (5) Suppl. SCR 551	388
Municipal Council, Ahmednagar, v. Shah Hyder Beig (2002) 2 SCC 48	388
Murti v. Bholu Ram (1894) ILR 16 All 165		
– approved	939
Musheer Khan v. State of Madhya Pradesh 2010 (2) SCR 119		
– relied on	1105, 1107
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– cited	132

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Nagarjuna Construction Company Ltd. v. Government of Andhra Pradesh & Ors. 2008 (14) SCR 859		
– cited	667
Nageshwar Sh. Krishna Ghobe v. State of Maharashtra 1973 (2) SCR 377		
– relied on	914
Nallam Veera Stayanandam and Others v. Public Prosecutor, High Court of A.P. (2004) 10 SCC 769	135
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– held inapplicable	214
Narayan Singh v. State of M.P. AIR 1985 SC 1678	97
Narender Chadha & Ors. v. Union of India & Ors. 1986 (1) SCR 211		
– relied on	1059
Narendra K. Amin (Dr.) v. State of Gujarat and Another 2008 (6) SCALE 415	590
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– cited	668
Neel Kumar @ Anil Kumar v. State of Haryana (2012) 5 SCC 766	359
Neelima Shangla v. State of Haryana and Others 1986 (3) SCR 785		
– cited	533
Nilakantha Sidramappa Ningshetti v. Kashinath Somanna Ningashetti 1962 (2) SCR 551		
– held inapplicable	1177
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Olga Tellis & Ors. v. Bombay Municipal Corporation 1985 (2) Suppl. SCR 51	70
Oma Ram v. State of Rajasthan and Ors. 2008 (6) SCR 747		
– relied on	119
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– relied on	653
P.T.R. Exports (Madras) Pvt. Ltd. & Ors. v. Union of India & Ors. 1996 (2) Suppl. SCR 662	664
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– relied on	94
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Pancho v. State of Haryana 2011 (12) SCR 1173	97
Pepsi Foods Ltd. & Anr. (M/s.) v. Special Judicial Magistrate & Ors. AIR 1988 SC 128	997
Phulia Tudu & Anr. v. State of Bihar (now Jharkhand) 2007 (9) SCR 997	....	166
Prabhu Babaji Navie v. State of Bombay, AIR 1956 SC 51		
– relied on	....	1107
Pradeep Kumar v. State of U.P. 1995 Suppl. (4) SCC 419		
– relied on	....	439, 478
Pradeep Nilkanth Paturkar v. S. Ramamurthi and Others, 1993 Supp (2) SCC 61		
– relied on	....	237
Prahlad Singh Bhati v. NCT, Delhi and Another 2001 (2) SCR 684	590
Prahlad Singh v. Union of India 2011 (5) SCR 1002	389
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Pramod Kumar v. U.P. Secondary Education Services Commission & Ors. 2008 (4) SCR 559	1075

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Pratik Sarkar, M.B. Suresh and Jitendra Laxman Thorve v. State of Jharkhand 2008 (56) 1 BLJR 660		
– cited	....	667
Praveen Mehta v. Inderjit Mehta AIR 2002 SC 2582 : 2002 (5) SCC 706		
– relied on	....	611
Praveen Singh v. State of Punjab & Ors. (2000) 8 SCC 436		
– relied on	....	1074
Preeti Srivastava (Dr.) & Anr. v. State of M.P. & Ors., 1999 (1) Suppl. SCR 249	....	1074
Prema (K.) S. Rao and Anr. v. Yadla Srinivasa Rao and Ors. 2002 (3) Suppl. SCR 339		
– cited	....	518
Prit Singh v. S.K. Mangal & Ors. 1992 (1) Suppl. SCR 337	1074
Punjab National Bank v. Vilas (2008) 14 SCC 545	255
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Pushpa Devi Bhagat v. Rajinder Singh & Ors. 2006 (3) Suppl. SCR 370		
– distinguished	1176
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Rafiq Ahmad alias Rafi v. State of Uttar Pradesh (2011) 8 SCC 300	
– cited 489
Rafiq Ahmed @ Rafi v. State of U.P. 2011 (11) SCR 907	
– relied on 548, 914
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– relied on 1107
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– stood overruled 334
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Rajendra Singh Verma (Dead) Through LRs. and Others v. Lieutenant Governor (NCT of Delhi) and Others 2011 (12) SCR 496 214
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– relied on 237
Rajinder Kumar & Anr. v. State of Punjab 1963 SCR 281	
– relied on 546
Rajwant and Anr. v. State of Kerala AIR 1966 SC 1874 166
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Ram Manohar Lohia (Dr.) v. State of Bihar 1966 SCR 709	
– relied on 671
Ram Mohan Raja (M.P.) v. State of T.N. & Ors. 2007 (5) SCR 576 650
– cited 677
Ram Singh v. Sonia and Ors. 2007 (2) SCR 651	
– relied on 95
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Ramachandra (P.) Rao v. State of Karnataka, (2002) 4 SCC 578	
– relied on 331
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Ramanatha (M.) Pillai v. State of Kerala (1974) 1 SCR 515 662
Ramchandra Rao P. v. State of Karnataka (2002) 4 SCC 578	
– followed 334

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– cited 70
.... 999	Rupan Deol Bajaj & Anr. (Mrs.) v. Kanwar Pal Singh Gill & Ors. AIR 1996 SC 309
Ramesh Kumar v. State of Chhattisgarh 2001 (4) Suppl. SCR 247 997
– relied on	Sadhanantham (P.S.R.) v. Arunachalam and Another AIR 1980 SC 856
.... 518 590
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.... 359 997
Ramji Singh and Anr. v. State of Bihar 2001 (3) Suppl. SCR 24	Sahadevan & Another v. State of Tamil Nadu 2012 AIR SCW 3206
.... 914	– relied on
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.... 359	Sahib Ram v. State of Haryana 1994 (3) Suppl. SCR 674
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– relied on	Samar Ghosh v. Jaya Ghosh 2007 (4) SCR 428
.... 95	– relied on
Rao Shiv Bahadur Singh v. State of Vindhya Pradesh AIR 1954 SC 322 611
.... 97	Samsher Singh v. State of Punjab and Another 1975 (1) SCR 814
Rattiram & Ors. v. State of M.P. AIR 2012 SC 1485: 2012 (4) SCC 516 214
– relied on	Sandeep v. State of U.P. (2012) 6 SCC 107
.... 914 359
Rattiram & Ors. v. State of M.P. through Inspector of Police AIR 2012 SC 1485: 2012 (4) SCC 516	Sandur Manganese & Iron Ores Ltd. v. State of Karnataka 2010 (11) SCR 240
– relied on 650
.... 548	– relied on
.... 360 676
Ravji v. State of Rajasthan 1995 (6) Suppl. SCR 195	Sanichar Sahni v. State of Bihar 2009 (10) SCR 112
.... 70	– relied on
.... 70 548, 914
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.... 70	– relied on
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Sarla Verma & Ors. v. Delhi Transport Corporation & Anr. 2009 (5) SCR 1098		
– relied on	383
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Sattatiya @ Satish Rajanna Kartalla v. State of Maharashtra 2008 AIR 1184		
– distinguished	1108
Sattatiya Alias Satish Rajanna Kartalla v. State of Maharashtra 2007 (11) SCR 238		
– distinguished	....	97
Satyaprata Sahoo and Others v. State of Orissa and Others JT 2012 (7) 500		
– relied on	....	532
Savita v. State of Rajasthan (2005) 12 SCC 338	....	998
Sayed Taher Bawamiya v. Joint Secretary, Government of India (2000) 8 SCC 630	....	70
Sevaka Perumal etc. v. State of Tamil Nadu 1991 (2) SCR 711	....	360
Shakson Belthissor v. State of Kerala & Anr. (2009) 14 SCC 466	997
Shambhu Dayal Agarwala v. State of West Bengal and Anr. 1990 (2) SCR 987		
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– relied on	914
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– relied on	94, 1102, 1084
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Sheo Shankar Singh v. State of Jharkhand & Anr. 2011 (4) SCR 312		
– relied on	546
Sher Singh & Anr. v. State of Punjab 2008 (2) SCR 959	135
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Shiv Nandan Dixit v. State of U.P. 2003 (12) SCC 636	459
Shivaji Sahebrao Bobade v. State of Maharashtra 1974 (1) SCR 489	95
Shobha Rani v. Madhukar Reddi 1988 (1) SCR 1010		
– relied on	611
Shyam Babu Verma v. Union of India 1994 (1) SCR 700	310
Simon and Others v. State of Karnataka 2004 (1) SCR 1164		
– relied on	489

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– cited	668
Sirajmohamedkhan Janmohamadkhan v. Hafizunnisa Yasinkhan and Another 1982 (1) SCR 695		
– relied on	611
Sirpur Paper Mills Ltd. v. Commissioner of Wealth Tax, Hyderabad 1971 (1) SCR 304		
– relied on	188
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– relied on	237
Southern Petrochemical Industries Corpn. Ltd. v. Madras Refineries Ltd., (1998) 9 SCC 209		
– relied on	271
Srinivasan (T.) v. T. Varalakshmi (Mrs.) AIR 1999 SC 595		
– relied on	1059
Star Wire (India) Ltd. v. State of Haryana 1996 (7) Suppl. SCR 6	388
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– relied on	914
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– relied on	1036

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State of Bihar v. Kameshwar Singh 1952 SCR 1056	668
State of Bihar v. Pandey Jagdishwar Prasad 2008 (17) SCR 297		
– cited	....	310
State of Bihar v. Ramesh Singh (1977) 4 SCC 39	....	991
State of Haryana & Ors. v. Bhajan Lal & Ors. 1992 Suppl. (1) SCC 335	....	992
State of Haryana and Another v. Chanan Mal and Others 1976 (3) SCR 688		
– relied on	....	653
State of Haryana v. Bhajan Lal 1990 (3) Suppl. SCR 259		
– relied on	....	321
State of Haryana v. Jagdish 2010 (3) SCR 716	....	360
State of Haryana v. Subhash Chandra Marwah & Ors., 1974 (1) SCR 165	1074
State of J & K v. Shiv Ram Sharma & Ors., AIR 1999 SC 2012		
– relied on	1074

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– relied on	504
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– cited	677
State of Kerala v. C.P. Rao 2011 (6) SCR 864	890
State of Kerala v. Gwalior Rayon Silk Manufacturing Co. Ltd. 1974 (1) SCR 671	662
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– relied on	1074
State of Madhya Pradesh v. Ghanshyam Singh 2003 (3) Suppl. SCR 618	360
State of Maharashtra v. ARK Builders Pvt. Ltd. 2011 (4) SCR 432		
– relied on	....	1176
State of Maharashtra v. Bhaurao Punjabrao Gawande 2008 (3) SCR 967	....	70
State of Maharashtra v. Indian Oil Corporation (2004) 5 WLC (Raj.) 703	....	1152
State of Maharashtra v. Milind 2000 (5) Suppl. SCR 65	....	255
State of Maharashtra v. Narayan Shamrao Puranik & Ors. 1983 (1) SCR 655	666
– cited	677

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State of Maharashtra v. Om Raj (2007) 14 SCC 488	255
State of Maharashtra v. Sanjay K. Nimje 2007 (1) SCR 960	255
State of Maharashtra v. Som Nath Thapa & Ors. (1996) 4 SCC 659	991
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State of Orissa & Anr. v. M/s M.A. Tulloch & Co. 1964 SCR 461	650, 674
State of Orissa & Anr. v. Mamata Mohanty 2011 (2) SCR 704	1058
– relied on	....	1074
State of Orissa & Anr. v. Mamta Mohanty (2011) 3 SCC 436		
– relied on	....	1074
State of Orissa and Ors. v. Mangalam Timber Products Limited 2003 Suppl. SCR 476	....	662
State of Punjab and Others v. Renuka Single and Others 1993 (3) Suppl. SCR 866		
– relied on	....	532
State of Punjab v. Nestle India Ltd. and Another 2004 (2) Suppl. SCR	662
– cited	677
State of Rajasthan v. Iqbal Hussien, 2004 (4) Suppl. SCR 189	334
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State of Tamil Nadu & Ors. v. K. Shyam Sunder & Ors. 2011 (11) SCR 1094		
– relied on	1059
State of Tamil Nadu v. M/s Hind Stone 1981 2 SCR 742		
– relied on	....	650, 676
State of U.P. and Another v. Bihari Lal 1994 (3) Suppl. SCR 108	....	215
State of U.P. through CBI v. Amarmani Tripathi 2005 (3) Suppl. SCR 454	....	590
State of U.P. v. Ashok Kumar Srivastava 1992 (1) SCR 37		
– relied on	95
State of U.P. v. Hari 2009 (7) SCR 149		
– relied on	545
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State of U.P. v. Krishan Gopal (1998) 4 SCC 302		
– relied on	1037
State of U.P. v. O.P. Sharma (1996) 7 SCC 705	997
State of Uttar Pradesh v. Kishanpal and Others 2008 (11) SCR 1048		
– relied on	....	1036
State of Uttaranchal & Anr. v. Ajit Singh Bhola & Anr. 2004 (2) Suppl. SCR 627		
– relied on	1057

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State of West Bengal & Ors. v. Swapan Kumar Guha & Ors. AIR 1982 SC 949	997
State of West Bengal & Ors. v. The Committee for Protection of Democratic Rights, West Bengal and Ors. 2010 (2) SCR 979	360
State of West Bengal v. Mir Mohammed Omar 2000 (2) Suppl. SCR 712		
– relied on	1088
State Rep. by Inspector of Police v. Saravanan and Anr. 2008 (14) SCR 405		
– relied on	95
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State, Govt. of NCT of Delhi v. Sunil & Anr., 2000 (5) Suppl. SCR 144		
– relied on	1107
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– relied on	98

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– relied on	7
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– relied on	611, 616
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– relied on	95
Suraj Bhan Meena and Anr. v. State of Rajasthan and Ors. (2010) 14 SCR 532	405
Suraj Pal v. State of Haryana 1994 (5) Suppl. SCR 373	489
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Surinder Kumar v. State of Haryana 2001 (12) SCR 1205	132
Surinder Singh v. Central Government & Ors. 1986 (3) SCR 946		
– relied on	905
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– relied on	518
Topandas v. State of Bombay 1955 SCR 881	914
Transport Commissioner (The), A.P., Hyderabad & Anr. v. S. Sardar Ali & Ors. 1983 (3) SCR 729		
– relied on	1105, 1107
Trivedi (D.K.) and Sons and Others v. State of Gujarat and Others 1986 SCR 479	650
– distinguished	673
Ujagar Singh v. State of Punjab 2007 (13) SCR 653		
– relied on	95
Umesh Singh and Anr. v. State of Bihar, (2000) 6 SCC 89		
– relied on	478
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– relied on	1073
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Union of India v. Atam Prakash & Anr. 2008 (16) SCR 607	70
Union of India v. Col. J.N. Sinha and Another 1971 (1) SCR 791	215
Union of India v. Dattatray 2008 (2) SCR 1096 – cited	255
Union of India v. Indo-Afghan Agencies [1968] 2 SCR 366	662
Union of India v. Parasmal Rampuria (1998) 8 SCC 402	70
Union of India v. R. Gandhi, President, Madras Bar Association 2010 (6) SCR 857 – relied on	189
Union of India v. Swadeshi Cotton Mills Co. Ltd. 1979 (1) SCR 735 – relied on	271
Union of India v. Tara Chand Gupta (1971) 1 SCC 486 – cited	964
Union of India v. Tecco Trechy Engineers & Contractors 2005 (2) SCR 983 – relied on	1176

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Union of India v. V.P. Seth and Another (1994) SCC (L&S) 1052	215
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(ii) O. 2, r.2 - Applicability - Based upon an agreement of sale entered into between the parties, respondent filed suit for permanent injunction restraining the defendant-appellant from alienating the suit property to any party other than the plaintiff - During pendency of the said suit, respondent filed suit for specific performance of the agreement of sale - Maintainability of the subsequent suit - Held: The cause of action for both suits were the same - The foundation for the relief of permanent injunction claimed in the earlier suit furnished a complete cause of action to the plaintiff-respondent to also sue for the relief of specific performance - Consequently, subsequent suit filed by respondent for specific performance was barred under the provisions of O. 2, r.2 - Plaint in the subsequent suit filed by respondent accordingly struck off.

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(3) O.12, r.6 - Judgment on admissions - Held: In a suit for recovery of possession from a tenant whose tenancy is not protected under the provisions of the Rent Control Act, plaintiff-landlord is required to establish the existence of jural relationship of landlord and tenant between parties and termination of tenancy either by lapse of time or by notice served - In the instant case, the averments made in the plaint and the written statement clearly establish admissions by tenant on both the aspects - Trial court was perfectly justified in decreeing the suit for possession filed by appellant by invoking its powers under O.12 r.6 - Transfer of Property Act, 1882 - s.106.

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CODE OF CRIMINAL PROCEDURE, 1973:

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any stage prior to the conclusion of the trial - An accused can be convicted for an offence minor than the one, he has been charged with (s.302 IPC in the instant case), unless the accused satisfies the court that there has been a failure of justice by non-framing of a charge under a particular penal provision, and some prejudice has been caused to him - Further, the defect must be so serious that it cannot be covered u/ss.464/465 CrPC - The plea of prejudice has to be in relation to investigation or trial and not matters falling beyond their scope - Penal Code, 1860 - ss. 447, 504 and 302 r/w s.34.

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(4) (i) s. 313 - Examination of accused - Held: It is obligatory on the part of the accused while being examined u/s 313, to furnish some explanation with respect to incriminating circumstances associated with him, and court must take note of such explanation even in a case of circumstantial evidence, to decide as to whether or not the chain of circumstances is complete - In the instant case, accused could not furnish any explanation as to how the blood stained clothes were found in his room.

(ii) ss. 162 (1) and 162 (2) - Statement made to police officer - Held: There is a prohibition in peremptory terms and law requires that a

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(6) (i) ss. 397 and 482 - Extent and scope of powers exercisable by High Court u/s. 397 independently or read with s. 482 - Explained - Exercise of jurisdiction u/s. 397 or s. 482 or

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(ii) s. 397 - Revision before High Court challenging the framing of charges against accused for offences punishable u/ss.306 and 448 IPC - High Court quashing the charge for offence punishable u/s. 306 - Held: As per suicide note left by deceased and statement of her son, she committed suicide, and abetment by accused cannot be ruled out at this stage, but is obviously subject to final view that the court may take upon trial - Grabbing of property, as alleged in suicide note and statement made by son of deceased, as well as getting blank papers signed and not giving monies due to them are the circumstances stated to have led to suicide of deceased - Order of High Court quashing the charge framed for offence punishable u/s. 306 IPC, set aside - Penal Code, 1860 - ss. 107 and 306.

(iii) ss.227 and 228 - Discharge and framing of charge - Explained.

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(7) s.433, 433-A.

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(8) s.438 - Anticipatory bail - Complaint against appellant for committing forgery in lease deed and other documents in respect of property belonging to complainant and furnishing false information to Education Authorities - Held: It is true that parties have also approached civil court for various reliefs - At the same time, considering the seriousness

relating to additions/alterations made in various documents, information furnished to Education Authorities which, according to them, are incorrect, in order to secure possession of those documents, custodial interrogation of appellant is necessary - Courts below rightly rejected the relief of anticipatory bail - Penal Code, 1860 - ss.420, 465, 468 and 471 r/w s.34 IPC.

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(9) s.438 r/w s.82 - Application for anticipatory bail by an accused declared as "proclaimed offender" in a case of dowry death - Held: Normally, court should not exercise its discretion to grant anticipatory bail in disregard of the magnitude and seriousness of the matter - When a person against whom a warrant has been issued is absconding or concealing himself in order to avoid execution of warrant and has been declared as a "proclaimed offender", he is not entitled to anticipatory bail - On facts, FIR and statements recorded during investigation indicate that all the family members of husband of deceased including the appellant subjected her to cruelty by demanding a sizable amount - Even after the appellant was granted interim protection, he did not co-operate with investigating agency - Considering his conduct not amenable for investigation and his being declared as an absconder, he is not entitled to anticipatory bail.

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(12) (i) s.482 - Exercise of power by High Court to quash criminal proceedings - Explained.

(ii) s.482 - High Court quashing the FIR registered against respondent, a Surgeon in Govt. Hospital for accepting illegal gratification - Held: In the instant case, it cannot be said that the allegations made in FIR and the evidence collected do not disclose commission of any offence and continuance of proceedings would be abuse of the process of court - This is certainly not a case where FIR can be quashed - High Court failed to appreciate that the wholesome power vested in it u/s 482 has to be exercised with circumspection and very sparingly - In the circumstances, impugned judgment and order set aside.

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(4) Art. 21 - Speedy trial - Samastipur bomb-blast - 37 years delay in trial - Held: The Constitution does not expressly declare right to speedy trial as a fundamental right - Unintentional and unavoidable delays or administrative factors over which prosecution has no control may be a good cause for failure to complete the trial within a reasonable time - Such delay cannot be violative of accused's right to a speedy trial and needs to be excluded while deciding whether there is unreasonable and unexplained delay - In view of long adjournments sought by accused persons they cannot take advantage or benefit of right of speedy trial by causing delay and then use that delay in order to assert their rights.

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(8) (i) Art.22(5) - Preventive detention - Delay of 14½ months in executing the order of detention and also a delay of 15 months in making the order of detention - Held: Delay at both stages has to be explained and court is required to consider the question having regard to overall picture - The

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(1) Defect in investigation.

(See under: Investigation; and Penal Code, 1860) 1033

(2) Defect in framing of charges - Effect - Conviction of appellant u/s.302 IPC - Challenge to - Defence plea that appellant was never charged u/s.302 r/w 34 IPC - Held: The defect in framing of charges must be so serious that it cannot be covered u/ss.464/465 Cr.P.C. - The plea of prejudice has to be in relation to investigation or trial, and not with respect to matters falling outside their scope - In the instant case, appellant was unable to show what prejudice, if any, was caused to him, even if charge under s.302 r/w 34 IPC was not framed against him - He was always fully aware of all the facts and he had, in fact, gone along with two other accused with an intention to kill the victim - Appellant caused grievous injury on deceased's head with a kirpan - He clearly shared a common intention with co-accused to kill the victim - Code of Criminal Procedure, 1973 - ss.464 and 465.

(Also see under: Evidence; and Criminal Law)

Darbara Singh v. State of Punjab 541

(3) Delay in completion of trial - Samastipur bomb-

blast - 37 years delay in completion of trial - Held: Prescribing a time limit for the trial court to terminate the proceedings or, at the end thereof, to acquit or discharge the accused in all cases will amount to legislation, which cannot be done by judicial directives within the arena of judicial law making power available to constitutional courts however liberally courts may interpret Arts. 21, 32, 141 and 142 - It is for the criminal court to exercise powers u/ss 258, 309 and 311, Cr.P.C. to effectuate the right to a speedy trial - In the instant case, credit should be given to judicial officers who have taken care to see that trial is completed at the earliest, and have painstakingly suffered with all the dilatory tactics adopted by accused in dragging on with the proceedings for nearly thirty seven years - The trial judge is directed to take up the case on day to day basis and conclude the proceedings as early as possible - Judiciary - Conducting of trial - Appreciated - Judicial discipline - Precedent - Administration of justice - Code of Criminal Procedure, 1973 - ss. 258, 309 and 311 - Constitution of India, 1950 - Arts. 21, 32, 141 and 142.

(Also see under: Constitution of India, 1950)

Ranjan Dwivedi v. C.B.I., Through the Director General 329

(4) Framing of charges and order of conviction - Discussed - Penal Code, 1860 - s.302 r/w s.34.

Bhimanna v. State of Karnataka 909

DELAY / LACHES:

Delay in completion of trial.

(See under: Criminal Trial) 329

DELHI JAIL MANUAL:

(See under: Delhi Prisons Act, 2000) 951

DELHI PRISONS ACT, 2000:

(i) Chapter VII - Employment of prisoners - Held: s.35 of the Act deals with employment of criminal prisoners - Further, Standing Order 38 bearing No.F.10(7832)/CJ/Legal/2012/2626 dated 24.05.2012 Office of the Director General (Prisons), Prison Headquarters, Tihar, New Delhi, lays down rules relating to employment of convicts for the guidance of prison staff in accordance with provisions mentioned in Delhi Jail Manual - Delhi Prisons (Definition) Rules, 1988 - r.2(k).

(ii) Wages paid to prisoners - Determination of - Tihar Jail, Delhi - Held: The rate of wages provided to convicts in Tihar Jail is prepared by a Wage Fixation Committee constituted by Government of NCT of Delhi.

(Also see under: Sentence / Sentencing)

Phool Kumari v. Office of the Superintendent Central Jail, Tihar, New Delhi and Anr. 951

DELHI PRISONS (DEFINITION) RULES, 1988:

r.2(k).
(See under: Delhi Prisons Act, 2000) 951

DELHI PRISONS (TRANSFER OF PRISONERS, LABOUR AND JAIL INDUSTRY, FOOD, CLOTHINGS AND SANITATION) RULES, 1988:

(i) r.43 - Classification of Labour - Held: r.43 classifies labour into three classes, namely, Hard Labour, Medium Labour and Light Labour - Hard Labour is further divided into three categories; skilled, semi-skilled and unskilled - Inspector General may, with sanction of Delhi Administration

from time to time, prescribe description of works to be carried out and tasks to be fixed for labour in respect of each class - Since Delhi Jail Manual does not give detailed description as to what kind of work/task will fall under which category of labour, Jail Authorities rely upon Punjab Jail Manual framed under Prisons Act, 1894 for determining the same - Prisons Act, 1894.

(ii) r.45 - Convicts - Work given to male and female convicts - Distinction between - Held: Under r.45, female convicts shall not, in any case, exceed two third of maximum task for hard labour and medium labour, respectively, prescribed in respect of adult male convicts.

(Also see under: Delhi Prisons Act, 2000)

Phool Kumari v. Office of the Superintendent Central Jail, Tihar, New Delhi and Anr. 951

DOCTRINES / PRINCIPLES:

(i) Doctrine of desuetude - Explained - Held: Insofar as 1962 and 1969 Notifications are concerned, doctrine of desuetude is not attracted for the reasons: Firstly, non-implementation of such Notifications for 30-35 years is not that long a period which may satisfy the requirement of doctrine of desuetude - Secondly, as a matter of fact, except stray grant of mining lease for a very small portion of reserved area to one or two parties there is nothing to suggest much less to establish contrary usage or contrary practice that reservation made in the two Notifications has been given a complete go by - Bihar Reorganization Act, 2000 - ss. 84, 85 and 86.

(ii) Doctrine of legitimate expectation.

(iii) Doctrine of promissory estoppel.
(Also see under: Constitution of India, 1950)

Monnet Ispat & Energy Ltd. v. Union of India and Ors. 644

DOWRY PROHIBITION ACT, 1961:
s.2.

(See under: Penal Code, 1860) 560

EDUCATION / EDUCATIONAL INSTITUTIONS:

(1) Admission - MBBS course - Government Medical colleges in State of Jammu & Kashmir - Seats under Scheduled Tribe Gujjar Bakerwal (STGB) category - Carry forward of unfilled seat pleaded - Held: On law as well as on facts, appellant had no right to make any claim for vacant MBBS seat of the year 2010 in the year 2011 or subsequent years - A medical seat has life only in the year it falls that too only till the cut-off date fixed in the respective year - Carry forward principle is unknown to professional courses like medical, engineering, dental etc. - A seat which fell vacant in a particular year cannot be carried forward or created in a succeeding year, in the absence of any rule or regulation to that effect - Medical Council of India Act - ss.10A and 11(2) - J & K Board of Professional Entrance Examination Act, 2002 - Jammu & Kashmir Reservation Act, 2004 - s.9.

Faiza Choudhary v. State of Jammu and Kashmir and Anr. 528

(2) (i) Elementary and primary education -Right to free and compulsory education of children - Obligation of State - Held: Imparting elementary

and basic education is a constitutional obligation on State as well as societies running Educational Institutions - Provision of free and compulsory education of satisfactory quality to children from disadvantaged and weaker sections is not merely responsibility of schools run or supported by Governments, but also is of schools which are not dependant on Government funds - Constitution of India, 1950 - Arts. 21, 21A, 45 and 51A.

(ii) Education - Requirement of trained teachers - Held: Education and, particularly, elementary/basic education, has to be qualitative and for that trained teachers are required.

Bhartiya Seva Samaj Trust & Anr. v. Yogeshbhai Ambalal Patel & Anr. 1054

(3) Maintaining of discipline on campus.
(See under: Constitution of India, 1950) 270

(4) (See under: Kerala Education Rules, 1959) 502

EMPLOYEES FAMILY PENSION SCHEME, 1971:

Pension Scheme - Employee not exercising option under the Scheme - Held: Notification dated 9.4.1971 issued by Regional Provident Fund Commissioner was circulated by employer-Corporation by letter dated 30.7.1971 - Resultantly, several employees opted for the Scheme and a few of them, including the deceased, did not opt for the same - There is no reason to assume that employees were unaware of the Scheme and Notifications - Further, wife of deceased had received the entire Provident Fund amount - Dispute raised by Employees' Union after nine years is absolutely untenable - Employees

Provident Fund and Family Pension Scheme,
1952 - Labour Laws.

*Rajasthan State Road Transport
Corporation v. President, Rajasthan
Roadways Union & Another* 1139

ESSENTIAL COMMODITIES ACT, 1955:

ss. 3, 6-A, 7 and 10 - Seizure of wheat - From premises of respondent - No one came forward to claim seized material - FIR u/ss. 7 and 10 of the Act and ss. 421/424 IPC - Respondents' application for release of wheat dismissed by CJM on the ground that they failed to prove their ownership to seized material, but allowed by High Court - Held: The question of ownership over seized goods being a question of fact could not have been gone into by High Court in its revisional or extra-ordinary jurisdiction - High Court dealt with the matter in complete disregard of legislation - Penal Code, 1860 - ss. 421/424 IPC - Public Distribution System (Control) Order, 2001 - Clause 6(a) - Jurisdiction.

*State of Bihar & Anr. v. Arvind Kumar
& Anr.* 117

EVIDENCE:

(1) Circumstantial evidence.
(See under: Penal Code, 1860) 91

(2) Dacoity - Identification of accused in court - Held: Witness was a victim at the hands of appellant and suffered grievous injuries which disabled her movements for quite a long time - Trial court has observed descriptively as to how she was placed in a situation where she was able to observe the conduct of appellant and other

accused so closely giving no scope for any doubt as to her unhesitant identification of appellant in court - Penal Code, 1860 - ss.395, 396 and 397. (Also see under: Penal Code, 1860)

*Deepak @ Wireless v. State of
Maharashtra* 484

(3) Evidence - Inconsistency between medical evidence and ocular evidence - Effect of - Held: In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value vis-à-vis medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence - It is only when contradiction between the two is so extreme that medical evidence completely rules out all possibilities of ocular evidence being true at all, that the ocular evidence is liable to be disbelieved - Penal Code, 1860 - s.302.

(Also see under: Criminal Trial)

Darbara Singh v. State of Punjab 541

(4) Onus of proof - On prosecution and on defence - Held: Prosecution has to prove its case beyond any reasonable doubt while defence has to prove its case on the touchstone of preponderance of probabilities.

Shudhakar v. State of M.P. 128

(5) (i) Witness - Related witness.
(ii) Variation between medical evidence and ocular evidence.

(Also see under: Penal Code, 1860)

Gajoo v. State of Uttarakhand 1033

EVIDENCE ACT, 1872:

(1) ss. 24, 25 and 26 - Extra judicial confession - Held: If true and voluntary, can be relied upon to convict the accused for commission of the crime alleged - Corroboration of such evidence is required only by way of abundant caution.

Jagroop Singh v. State of Punjab 91

(2) (i) s.32 - Multiple dying declarations - Which one should be believed by the court - Principles governing such determination - Explained - Held: In the instant case, the first dying declaration, which had completely absolved the appellant, was not voluntary and not made by free will of deceased - Further, before recording the dying declaration, fitness certificate from doctor on duty had not been obtained - Second and third dying declarations, which implicated appellant had been recorded after due certification by doctor and were also authentic, voluntary and duly corroborated by other prosecution witnesses including the medical evidence, and, thus, could safely be made the basis for conviction - Conviction of appellant sustained - Penal Code, 1860 - s.302.

(ii) s.32 - Dying declaration - Admissibility and evidentiary value of - Held: Once such statement has been made voluntarily, it is reliable and is not an attempt by deceased to cover up the truth or falsely implicate a person, then courts can safely rely on such dying declaration and it can form basis of conviction - More so, where version given by deceased as dying declaration is supported and corroborated by other prosecution evidence, there is no reason for courts to doubt the truthfulness of such dying declaration.

(iii) s.114 - Adverse inference - When arises - Held: Question of presumption in terms of s.114 only arises when an evidence is withheld from court and is not produced by any of the parties to lis.

Shudhakar v. State of M.P. 128

(3) ss. 106 and 114.

(See under: Penal Code, 1860) 1083

(4) s.113A.

(See under: Penal Code, 1860) 513

(5) s.116 - Estoppel - Applicability of.

M/s Payal Vision Ltd. v. Radhika Choudhary 1160

FAMILY LAW:

(See under: Hindu Marriage Act, 1955) 607

GENERAL CLAUSES ACT, 1897:

(1) s.3(42).

(See under: Rajasthan Tenancy Act, 1955) 1148

(2) s.6.

(See under: Prevention of Corruption Act, 1988) 455

HARYANA URBAN DEVELOPMENT AUTHORITY ACT, 1977:

(See under: Land Acquisition Act, 1894) 387

HINDU MARRIAGE ACT, 1955:

(1) (i) s. 13(1)(ia) - Divorce petition filed by husband - On ground of cruelty - Held: Conduct of wife and circumstances of the case make it graphically clear that wife had really humiliated the husband and caused him mental cruelty - Her

conduct clearly exposit that it resulted in causing agony and anguish in the mind of husband - Cumulative effect of evidence brought on record clearly establishes a sustained attitude of causing humiliation and calculated torture on the part of wife to make the life of husband miserable - Behaviour of wife was cruel - Therefore, appellant-husband entitled to decree for divorce.

(ii) Family law - Matrimonial proceedings - Divorce petition - Events subsequent to filing of divorce petition - Held: Can be taken into consideration.

(iii) Family law - Matrimonial proceedings - Divorce - Permanent alimony - Grant of - Factors to be considered - Held: Permanent alimony is to be granted taking into consideration the social status, the conduct of the parties, the way of living of the spouse and such other ancillary aspects - In the instant case, keeping in view totality of circumstances and social strata from which parties come from and regard being had to business prospects of appellant-husband, permanent alimony fixed at Rs.50 lacs.

(iv) Family law - Matrimonial proceedings - Witness - Interested/related witnesses - Testimony of - Veracity - Held: In a matrimonial dispute, it would be inappropriate to expect outsiders to come and depose - Family members and sometimes relatives, friends and neighbours are the most natural witnesses - Veracity of testimony is to be tested on objective parameters and not to be thrown overboard on the ground that witnesses are related to either of the spouse.

Vishwanath S/o Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal

607

(2) s.13-B r/w s.12.

(See under: Constitution of India, 1950) 372

IDENTIFICATION:

Identification of accused in court.

(See under: Penal Code, 1860) 484

IMMORAL TRAFFIC (PREVENTION) ACT, 1956

Sex Workers - Rehabilitation of - Application filed on behalf of Union of India, for modification of earlier order passed by Supreme Court on 19.07.2011 - Held: The presence of Durbar Mahila Samanwaya Samiti in the Committee is necessary - The third term of reference, modified - Modification, should not, however, be construed to mean that any attempt is being made to encourage prostitution in any way.

Budhadev Karmaskar v. State of West Bengal

881

INCOME TAX ACT, 1961:

Chapter XIX-B; ss. 245N(a) and 245S - Authority for Advance Rulings (Income Tax) - Nature of - Forum of challenge to advance ruling of Authority - Held: The Authority is a body exercising judicial power conferred on it by Chapter XIX-B of the Act and is a tribunal within the meaning of the expression in Arts.136 and 227 of the Constitution - Sub-s. (1) of s.245S of the Act, insofar as, it makes the advance ruling of the Authority binding on the applicant, in respect of the transaction and on the Commissioner and income-tax authorities subordinate to him, does not bar jurisdiction of Supreme Court u/Art.136 or jurisdiction of High Court u/Arts. 226 and 227 of the Constitution to entertain a challenge to the advance ruling of the

Authority - However, when an advance ruling of the Authority is challenged before High Court u/ Arts. 226 and/or 227, the same should be heard directly by a Division Bench and decided expeditiously - Supreme Court may, in its discretion, refuse to grant special leave on the ground that challenge to the advance ruling of the authority can also be made to High Court u/Arts. 226 and/or 227 on the self same grounds - Instant SLP neither raised any substantial question of general importance nor was it shown that a similar question was already pending before Supreme Court for which petitioner should be permitted to approach Supreme Court directly against the advance ruling of the Authority - SLP accordingly disposed of with liberty to the petitioner to move the appropriate High Court u/Arts. 226 and/or 227 - Constitution of India, 1950 - Articles 136, 226 and 227.

Columbia Sportswear Company v. Director of Income Tax, Bangalore 187

INDIAN MEDICAL COUNCIL ACT, 1956:
ss.10A and 11(2).

(See under: Education / Educational Institution) 528

INTERIM ORDERS:

(See under: Constitution of India, 1950) 270

INTERPRETATION OF STATUTES:

(1) Prospective operation of a statutory provision - Held: Presumption of prospectivity operates unless shown to the contrary by express provision or is discernible by necessary implication - Maxim, '*Nova constitution futuris formam imponere debet non praete ritis.*'

(Also see under: Mines And Minerals (Regulation and Development) Act, 1957)

Monnet Ispat & Energy Ltd. v. Union of India and Ors. 644

(2) Tariff Entries in First Schedule to Central Excise Tariff Act, 1985 - Interpretation of - Held: Resort must first be had only to particular tariff entries, along with relevant Section and Chapter Notes, to see whether a clear picture emerges - It is only in the absence of such a picture emerging, that recourse can be made to Rules for Interpretation - In the instant case, Section Note 2 of Section XVI being not applicable, there is no bar to application of r.2 of Rules for Interpretation to goods produced and transported by assessee and in terms of this Rule the said goods do, in fact, possess the essential character of 'Television Receivers' - Rules for Interpretation of the Tariff. (Also see under: Central Excise Tariff Act, 1985)

M/s Salora International Ltd. v. Commissioner of Central Excise, New Delhi 963

INVESTIGATION:

(i) Defect in investigation - Effect of - Held: A defective investigation, unless it affects the very root of prosecution case and is prejudicial to accused, should not be an aspect of material consideration by court - In the instant murder case, there was omission on the part of investigating officer as he did not obtain serologist report in respect of two Exhibits - Though, on facts, such omission on the part of IO did not give any advantage to accused, the definite lapse cannot be overlooked - Director General of Police directed to take disciplinary action against IO.

	1235	
(ii) Defects in investigation - Disciplinary action against IO. (Also see under: Penal Code, 1860) <i>Gajoo v. State of Uttarakhand</i>	1033	
JAMMU AND KASHMIR BOARD OF PROFESSIONAL ENTRANCE EXAMINATION ACT, 2002: (See under: Education / Educational Institutions)	528	
JAMMU AND KASHMIR RESERVATION ACT, 2004: s.9. (See under: Education / Educational Institution)	528	
JUDICIARY: (1) Conducting of trial - Appreciated. (See under: Criminal Trial)	329	
(2) Judicial Officer - Conduct of - Held: Judicial service is not an ordinary government service and Judges are not employees as such - Judges hold public office and in discharge of their functions and duties, they represent State - A Judge must be a person of impeccable integrity and unimpeachable independence. <i>R.C. Chandel v. High Court of M.P. & Anr.</i>	205	
JUDICIAL DISCIPLINE: (See under: Criminal Trial)	329	
JURISDICTION: (See under: Essential Commodities Act, 1955)	117	

	1236	
JURISPRUDENCE: 'Ownership'. (See under: Constitution of India, 1950)	644	
JUVENILE JUSTICE ACT, 1986: s. 2(h). (See under: Juvenile Justice (Care and Protection of Children) Act 2000)	477	
JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2000: (1) ss. 2(k) and 15 - Plea of juvenility - Held: Can be raised even before Supreme Court for the first time - Report of Addl. Sessions Judge concluding that appellant was aged about 10-15 years on the date of commission of offence is accepted - Appellant is, thus, juvenile within the expression u/s 2(h) of 1986 Act and s.2(k) of 2000 Act - Appellant has undergone the actual period of more than 3 years out of the maximum period prescribed u/s 15 - While sustaining the conviction, sentence awarded to him by courts below is set aside - Juvenile Justice Act, 1986 -s.2(h) - Juvenile Justice (Care and Protection of Children) Rules, 2007 - r.2 - Penal Code, 1860 - s.302/149. <i>Babla @ Dinesh v. State of Uttarakhand</i>	477	
(2) ss. 2(k), 2(l), 7A, 20 and 49 and rr.12 and 98 of the Rules - Trial court convicted appellant u/s.307 IPC and sentenced him to rigorous imprisonment for five years - Conviction and sentence confirmed by High Court - Before Supreme Court, for the first time appellant took the plea of juvenility - Held: On facts, order of conviction imposed on appellant not liable to be interfered with - Since appellant was below 18		

years of age on the date of commission of offence, provisions of Juvenile Justice Act would apply in full force in his case - Consequently, conviction of appellant sustained, but sentence imposed on him set aside - Penal Code, 1860 - s.307 - Juvenile Justice (Care and Protection of Children) Rules, 2007 - rr.12 and 98.

Vijay Singh v. State of Delhi 434

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) RULES, 2007:

(1) r.2.

(See under: Juvenile Justice (Care and Protection of Children) Act 2000) 477

(2) rr.12 and 98.

(See under: Juvenile Justice (Care and Protection of Children) Act 2000) 434

KERALA EDUCATION RULES 1959:

rr. 2 and 2A r/w Government's Policy dated 13.6.2007 - Granting of recognition to schools in unaided sector - Held: Indiscriminate grant of recognition to schools in unaided sector may have an adverse affect on State owned schools as well as existing schools in aided sector, by way of division fall, retrenchment of teachers etc. - Therefore, the procedure laid down in rr. 2, 2A cannot be overlooked, otherwise it is bound to provide scope for discrimination, arbitrariness, favouritism - Besides, Para 1 of the Policy indicates that unaided schools need not be given recognition in future - However, recognition granted by State Government to respondent school for conducting classes 1 to 10 from academic year 2010-11 onwards, in peculiar

circumstances of the case, not interfered with, but it shall not be treated as a precedent - Education/Educational institutions.

State of Kerala and Others v. The Tribal Mission 502

LAND ACQUISITION ACT, 1894:

ss.4 and 6 - Acquisition of land - Award passed - Acquired land included land of appellant - Writ petition by appellant challenging acquisition of her land on the ground that in the garb of acquiring land for a public purpose, State Government misused its power u/ss.4 and 6 for benefit of a private colonizer - Held: High Court was not right in holding that writ petition of appellant was not maintainable because the same was filed after passing of the award - Respondents failed to discharge the onus to prove that after passing of the award, possession of acquired land had been taken and delivered to Estate Officer, HUDA - Acquisition of appellant's land was vitiated due to colourable exercise of power by State Government as respondents misused the provisions of ss.4 and 6 - Real object of acquisition was to benefit the private colonizer - Official respondents are guilty of practicing discrimination in the matter of release of land - The policy framed by Government clearly stipulates release of land on which construction had been raised prior to s.4 notification - Appellant's case is covered by that policy - Therefore, her land ought to have been released as was done in another case - Acquisition of appellant's land declared illegal and quashed - Haryana Urban Development Authority Act, 1977.

Patasi Devi v. State of Haryana & Ors. 387

LAND LAWS AND AGRICULTURAL TENANCY:	
Land belonging to members of Scheduled Caste / Scheduled Tribes - Restriction on transfer. (See under: Rajasthan Tenancy Act, 1955)	1148
LEGISLATION:	
There may be need to amend Rajasthan Tenancy Act for benefit of Scheduled Castes / Scheduled Tribes. (See under: Rajasthan Tenancy Act, 1955)	1148
MADHYA PRADESH CIVIL SERVICES (PENSION) RULES, 1976:	
r. 42(1)(b). (See under: Service Law)	205
MADHYA PRADESH DISTRICT AND SESSIONS JUDGES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1964:	
r. 1-A. (See under: Service Law)	205
MADHYA PRADESH HIGHER JUDICIAL SERVICE (RECRUITMENT AND SERVICE CONDITIONS) RULES, 1994:	
r. 14. (See under: Service Law)	205
MAXIMS:	
(1) ' <i>Allegans suam turpitudinem non est audiendus</i> ', ' <i>Commodum ex injuria sua nemo habere debet</i> '; and ' <i>nullus commodum capere potest de injuria sua propria</i> '. <i>Bhartiya Seva Samaj Trust Tr. Pres. & Anr. v. Yogeshbhai Ambalal Patel & Anr.</i>	1054
(2) ' <i>Quando lex liquid alicuiconcedit, conceder videtur id quo res ipsa non protest</i> '.	

(See under: Code of Criminal Procedure, 1973)	988	
(3) ' <i>Nova constitution futuris formam imponere debet non praete ritis</i> '. (See under: Interpretation of Statutes)	644	
MINERAL CONCESSION RULES 1960: rr. 58, 59 and 63A. (See under: Constitution of India, 1950)		644
MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1957:		
s.17-A read with rr.58 and 59 of 1960 Rules - Approval of Central Government for grant of mining lease - Held: Rule 58 as amended in 1980 expressly provided that State Government by Notification in official gazette can reserve any area for exploitation in public sector - According to s.17-A(2), State Government with approval of Central Government may reserve any area not already held under any mining lease, to undertake mining operations in public sector - Section 17-A is prospective in nature - Reservations made prior to insertion of s.17-A continue to be in force - Besides, approval contemplated by s.17-A may be obtained by State Government before exercise of power of reservation or after exercise of such power - It may be express or implied - Interpretation of Statutes - Prospective operation. (Also see under: Constitution of India, 1950) <i>Monnet Ispat & Energy Ltd. v. Union of India and Ors.</i>	644	
MOTOR VEHICLES ACT, 1988:		
Accidental death - Quantum of compensation - Appropriate multiplier - Rate of interest payable -		

Held: Since deceased was 35 years old at the time of his death, multiplier applicable would be 16 - Tribunal had found that after deducting 1/3rd of personal expenses, monthly income of deceased was Rs.7,000/- and net contribution to family was ascertained at Rs. 84,000/- p.a. - Compensation of Rs. 13,44,000/- awarded with interest @ 7% p.a. from date of application till date of realization.

Rebeka Minz and Ors. v. Divisional Manager, United India Insurance Co. Ltd. and Anr. 381

NEGOTIABLE INSTRUMENTS ACT, 1881:

(1) s.138 - Conviction and sentence awarded to accused for issuing cheque without sufficient balance in the bank - Upheld - Complainant's evidence was wholly satisfactory - High Court was perfectly justified in confirming the conviction and sentence.

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

R. Mohan v. A.K. Vijaya Kumar 1

PENAL CODE, 1860:

(1) s.53 - Punishments.

(See under: Sentence / Sentencing) 951

(2) s.64.

(See under: Code of Criminal Procedure, 1973; and Negotiable Instruments Act, 1881) 1

(3) ss. 107, 108 and 306 - Ingredients - Explained.

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

Amit Kapoor v. Ramesh Chander & Anr. 988

(4) ss.120-B and 409.

(See under: Prevention of Corruption Act, 1988) 455

(5) s.302.

(See under: Evidence Act, 1872) 128

(6) s.302 - Conviction - Death of one person in course of a quarrel - Trial court convicted accused-appellant and two others u/s.302 r/w s.34 - High Court acquitted the other two accused but convicted appellant u/s.302 - Held: Statement of accused recorded u/s.313 CrPC should not be considered in isolation, but in conjunction with evidence adduced by prosecution - There is absolute contradiction in the statement made by appellant in his statement u/s.313 CrPC and that statement could not have been put against him in concluding that the named witness was present at the place of incident at or immediately after the occurrence - Therefore, the said witness cannot be considered as eye-witness to the incident as such - Since entire evidence of eye-witnesses was not accepted by High Court, it could not have merely relied upon postmortem report to convict appellant for an offence u/s.302 - Further, postmortem report should be in corroboration with evidence of eye-witnesses - Appellant accordingly acquitted - Code of Criminal Procedure, 1973 - s.313.

Balaji Gunthu Dhule v. State of Maharashtra 577

(7) s.302 - Murder - Appellant and another accused - Conviction of appellant - Held: Injuries on victim evidently were inflicted by appellant holding a 'Daranti' in one hand and holding neck of victim-

widow with other hand - It was the pressing of her neck and body to the earth by both the accused that resulted in her death - Recovery of 'Daranti' and a 'blood stained pyjama' was duly established - Recoveries having been proved and case of prosecution being duly supported by witnesses, proved the guilt of appellant beyond any reasonable doubt - Conviction of appellant sustained.

Gajoo v. State of Uttarakhand 1033

(8) (i) ss.302/34 and 201/34 - Accused alongwith two co-accused stated to have committed the murder of his younger brother by setting him on fire - One of co-accused turned approver - Trial court convicting the accused and co-accused - Appeal by co-accused only - Conviction and sentence of life imprisonment affirmed by High Court - Held: Except the evidence of approver, there is nothing on record to inculcate the appellant - Even if evidence of approver is accepted, role attributed to appellant does not lead to his conviction - Prosecution failed to establish the guilt insofar as appellant is concerned - Both the courts below committed an error in convicting him u/ss 302 and 201 read with s.34 and sentencing him to imprisonment for life - Accordingly, both the orders are set aside, and appellant is acquitted.

(ii) s. 34 - Common intention - Explained.

Suresh Sakharam Nangare v. The State of Maharashtra 1186

(9) s.302 r/w s.34, and s. 201 - Murder - Circumstantial evidence - Appreciation of - Three accused - Conviction of accused-appellant by courts below - Held: Justified - Deceased was

last seen with accused persons - Appellant made extra-judicial confession admitting his guilt - Weapon used in the crime, was recovered on the basis of disclosure statement made by appellant - Medical evidence supporting prosecution case - Though incriminating circumstances pointing to guilt of appellant had been put to him, yet he could not give any explanation u/s.313 CrPC - All the circumstances completed the chain and singularly pointed to guilt of accused persons.

Jagroop Singh v. State of Punjab 91

(10) ss. 302/34, 304-B/34 and 498-A/34 - Murder of a married woman in matrimonial home, for dowry - Circumstantial evidence - Conviction and sentence of life imprisonment awarded by trial court to husband of deceased and his parents, affirmed by High Court - SLP of husband already dismissed - Appeal by his parents - Held: Medical evidence supported prosecution case - Ill-treatment meted out to deceased by all the three accused established - Recoveries proved - The circumstances constitute a chain even stronger than an eye-witness account and, therefore, conviction of appellants is fully justified - Evidence Act, 1872 - ss. 106 and 114.

Tulshiram Sahadu Suryawanshi & Anr. v. State of Maharashtra 1083

(11) s.302/149.

(See under: Juvenile Justice (Care and Protection of Children) Act 2000) 477

(12) ss. 302 and 201 - Murder - Circumstantial evidence - Conviction and sentence of imprisonment for life awarded by courts below - Held: Statements of prosecution witnesses,

medical evidence, serological report, conduct of accused remaining absconding, and recoveries made pursuant to disclosure statement of accused on his arrest, make the chain of circumstances complete leading to the guilt of accused - There is no reason to interfere with concurrent findings recorded by two courts below - Evidence - Circumstantial evidence - Code of Criminal Procedure, 1973 - s. 313.

Dr. Sunil Clifford Daniel v. State of Punjab 1100

(13) ss. 302 and 376 - Rape and murder of an eighteen year old girl - Death sentence - Commuted by High Court to life imprisonment - Held: High Court is correct to the extent that facts of the case did not warrant death sentence.

State of U.P. v. Sanjay Kumar 359

(14) (i) s.304 (Part-I) r/w s.34 - Applicability - Homicidal death - Conviction of one accused u/s 302, and other two u/s.302 r/w s.34 - Held: Evidence on record established that accused did not intend to kill the victim and it all happened in the spur of moment upon a heated exchange of words between parties, after criminal trespass by accused on to the land of victim - Therefore, it does not seem to be a pre-determined or pre-meditated case - Ends of justice would, therefore, be met, if all the three accused are convicted u/ s.304(Part-I) r/w s.34.

(ii) s.302 r/w s.34.

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

Bhimanna v. State of Karnataka 909

(15) (i) s.304 (Part-I) / s.302 - Death of victim due to gunshot injury - Classification of offence - Determination of appropriate penal provision - Conviction of appellant u/s.302 with life imprisonment by courts below - Held: Appellant and deceased were related to each other and there was no previous animosity between them - Entire incident happened within a very short span of time - It was in a state of anger that appellant shot at deceased - Appellant committed the offence without any pre-meditation - However, offence was committed with intent of causing a bodily injury which could result in death of victim - It was thus not a case of knowledge simplicitor but of intention ex facie - Conviction of appellant accordingly altered from that u/s.302 to one u/ s.304 (Part-I) - Appellant sentenced to 10 years rigorous imprisonment along with fine.

(ii) ss.300, 302 and 304 - Culpable homicide - Amounting to murder and not amounting to murder - Legal principles governing the distinction between ss.300, 302 on the one hand and s.304, (Part I) and (Part II) on the other - Discussed.

Rampal Singh v. State of U.P. 160

(16) ss.304-B and 498-A - Suicide by married woman shortly after her marriage - Held: Ingredients of s.304B r/w s.498A were completely satisfied - By a deeming fiction in law, onus was on accused to show that death of victim did not result from any cruelty or demand of dowry by accused persons - Prosecution established the guilt of accused by reliable and cogent evidence - There being no rebuttal thereto, no occasion for interference by Supreme Court - However, keeping

in view the attendant circumstances and in the interest of justice, sentence of life imprisonment reduced to ten years RI.

Pathan Hussain Basha v. State of A.P. 290

(17) (i) ss.304B and 498A r/w s.34 - Dowry death - Cruelty by husband-appellant - Conviction u/ ss.304B and 498A r/w s.34 - Held: Evidence of PWs clearly proved torture, harassment, and demand of dowry, at the hands of accused including appellant - Even 5 days prior to her death, deceased had told about the harassment and torture meted out to her which clearly satisfies the expression "soon before her death" used in s.304B IPC and s.113B of the Evidence Act - Offence u/s.304B established - Prosecution evidence also clearly proved ingredients of cruelty (i.e. 498A) - Conviction of appellant sustained - Evidence Act, 1872 - s.113B - Dowry Prohibition Act, 1961 - s.2.

(ii) s.304B - Dowry death - Presumption - Burden of proof that harassment or cruelty was related to demand for dowry and was caused "soon before her death" - Expression "soon before her death" - Meaning of - "proximity test" - Explained - Evidence Act, 1872 - s.113B.

(iii) s.304B - Conviction under - Prayer of convict for leniency in sentence considering his young age and that he was the only earning member in his family - Held: On facts, not acceptable - These aspects were duly considered by trial court and High Court while awarding punishment - Further s.304B itself mandates that in the case of conviction in terms of sub-s.(1) imprisonment shall

not be less than 7 years but which may extend to imprisonment for life - In view of the fact that prosecution had established its case beyond reasonable doubt by placing acceptable evidence and of the fact that minimum sentence of seven years was awarded by courts below, it is not possible to award sentence less than 7 years - Sentence / Sentencing.

Mustafa Shahadal Shaikh v. the State of Maharashtra 560

(18) ss.306, 498A and 107 - Death of married woman due to burn injuries - Conviction of appellant-husband u/ss.306 and 498A - Held: Justified - Deceased committed suicide within 35 days of her marriage and allegation of cruelty was also fully established - Consistent statements of PWs disclosed that deceased was not happy with marriage and complained about conduct of appellant in demanding money from her father apart from his illicit relationship with his niece - The act of appellant in pledging jewels of deceased was also proved - Consequently, prosecution case that deceased was instigated by appellant to take the extreme decision of committing suicide by pouring kerosene on herself and set herself on fire was fully established and thereby charges of abetment u/s.306 and as well as s.498A stood proved - Evidence Act, 1872 - s.113A.

Rakhal Debnath v. State of West Bengal 513

(19) s.307.

(See under: Juvenile Justice (Care and Protection of Children) Act, 2000) 434

- (20) ss.363, 366, 328 and 504.
(See under: Constitution of India, 1950) 905
- (21) ss. 364 and 506.
(See under: Bail) 584
- (22) ss.395, 396 and 397 - Ingredients of - Explained - Appellant along with four others (two juveniles and two remained absconding) committing robbery resulting in death of one victim and grievous injuries to the other - Held: Injured witness clearly stated that number of assailants was five - She identified appellant in court as one of the assailants - Factum of death of one and grievous injuries to witness has been supported by medical evidence - Evidence shows that accused had taken away cash as also ornaments worn by injured witness - Therefore, conviction of appellant for his involvement in crime with four others falling u/ss 395, 396 and 397, as recorded by trial court and confirmed by High Court, does not call for any interference - Evidence - Identification of accused.
(Also see under: Evidence)
- Deepak @ Wireless v. State of Maharashtra* 484
- (23) ss.420, 465, 468 and 471 r/w s.34.
(See under: Code of Criminal Procedure, 1973) 979
- (24) ss. 421/424.
(See under: Essential Commodities Act, 1955) 117

PRACTICE AND PROCEDURE:

Affidavits in criminal proceedings - Held: It would be risky for courts to encourage practice of filing

- affidavits by witnesses at the stage of investigation or during court proceedings in serious offences such as offences under PC Act because it is easy for an influential accused to procure such affidavits and use them for quashing FIRs - Prevention of Corruption Act, 1988.
(Also see under: Code of Criminal Procedure, 1973)
- State of Rajasthan v. Dr. Rajkumar Agarwal & Anr.* 319
- PRECEDENT:
(See under: Criminal Trial) 329
- PREVENTION OF CORRUPTION ACT, 1947:
(1) ss.5(1) and 5(2).
(See under: Prevention of Corruption Act, 1988) 455
- (2) ss.5(2) r/w 5(1)(e) of 1947 Act and ss.120-B and 409 IPC - Conviction and sentence - Held: Guilt of accused is clearly established and, therefore, no interference with order of conviction is necessary - However, keeping in view old age and ailments the accused is suffering from, his sentence of 2 years' RI u/s 409 IPC is reduced to one year's RI - Rest of the sentences awarded to him and the other accused are maintained - Sentence/sentencing.
(Also see under: Prevention of Corruption Act, 1988)
- M.C. Gupta v. Central Bureau of Investigation, Dehradun* 455
- PREVENTION OF CORRUPTION ACT, 1988:
(1) ss.7 and 13(1)(d) r/w s.13(2) - Appellant, a police official, demanding and accepting illegal

gratification for inquiring into a complaint - Acquittal by trial court - Reversed by High Court with three months RI - Held: There was sufficient evidence of appellant demanding and accepting illegal gratification - Case proved beyond any doubt - High Court justified in convicting the appellant - However, it erred in awarding a sentence of only three months RI inasmuch as s.13(2) of prescribes a minimum sentence of one year imprisonment - Nevertheless, since State did not appeal against quantum of sentence and incident occurred about 19 years back, sentence imposed by High Court not interfered with.

Syed Ahmed v. State of Karnataka 887

(2) s.13(2) r/w s.13(1)(e) - FIR - Quashing of - Writ petition for - Irregularities in Taj Heritage Corridor project under Taj Trapezium Zone (TTZ) Area at Agra - Huge amount released for the project without proper sanction - Directions issued by Supreme Court by order dated 18-9-2003 - CBI directed to conduct inquiry - FIR lodged by CBI against writ petitioner (who was the State Chief Minister on the date of filing of writ petition) u/s.13(2) r/w s.13(1)(e) - Held: Directions issued in the order dated 18-9-2003 have to be read in the light of the previous and subsequent orders, clearly show the direction to lodge FIR was issued only with respect to Taj Corridor matter, more particularly, irregularities therein - Supreme Court did not issue any direction to CBI to conduct a roving inquiry against assets of petitioner commencing from 1995 to 2003 - Since order dated 18-9-2003 did not contain any specific direction regarding lodging of FIR in matter of disproportionate assets against petitioner, CBI

was not justified in proceeding with the FIR - Impugned FIR was without jurisdiction and any investigation pursuant thereto being illegal, quashed.

Ms. Mayawati v. Union of India & Ors. 33

(3) s. 30(2) of 1988 Act r/w s.6 of General Clauses Act - Saving of investigation under repealed Act - Offence committed while 1947 Act was in force - FIR registered for offences punishable under 1947 Act, after coming into force of 1988 Act - Conviction and sentence upheld by High Court - Held: By virtue of s.30(2) of 1988 Act, read with ss.6(c) and 6(e) of General Clauses Act, 1897, right of C.B.I. to investigate the crime, institute proceedings and prosecute the accused is saved and not affected by repeal of 1947 Act. - Thus, right to investigate and corresponding liability incurred are saved - Prevention of Corruption Act, 1947 - ss.5(1) and 5(2) - Penal Code, 1860 - ss.120-B and 409 - Constitution of India, 1950 - Art.20 - General Clauses Act, 1897 - s.6.

(Also see under: Prevention of Corruption Act, 1947)

M.C. Gupta v. Central Bureau of Investigation, Dehradun 455

(4) (See under: Practice and Procedure) 319

PREVENTIVE DETENTION:

(1) (i) Detention order - Right of a detenu to be provided with grounds of detention prior to his arrest - Enactment of RTI Act - Effect - Held: Notwithstanding provisions of RTI Act, State is not under any obligation to provide grounds of detention to a detenu prior to his arrest and

detention - Provisions of the Constitution prevail over any enactment of legislature, which itself is a creature of the Constitution - Since clause (5) of Art. 22 of the Constitution provides that grounds for detention are to be served on a detenu after his detention, provisions of s.3 of RTI Act, cannot be applied to cases relating to preventive detention at pre-execution stage - Constitution of India, 1950 - Art.22(5) - Right to Information Act, 2005 - s.3.

(ii) Preventive Detention - Detention order - Challenge to, at the pre-execution stage - Scope - Held: The five examples indicated in *Alka Subhash Gadia's* case were intended to be exemplar and not exhaustive - In various pronouncements of law by Supreme Court, detention orders have been struck down, even without apprehending of detenu, on the ground of absence of any live link between the incident for which detenu was being sought to be detained and detention order, and also on grounds of staleness - These issues were not before the Court deciding *Alka Subhash Gadia's* case - Issue relating to right of a detenu to challenge his detention at pre-execution stage on grounds other than those set out in paragraph 30 of judgment in *Alka Subhash Gadia's* case, requires further examination - Constitution of India, 1950 - Arts. 32 and 226.

Subhash Popatlal Dave v. Union of India and Anr. 61

(2) (See under Constitution of India, 1950) 235

PRISONERS:

Employment of - Payment of wages - Conviction of appellant u/ss.323, 342, 307 read with s.34,

IPC and sentence of rigorous imprisonment - Claim made by appellant for payment of wages for the work done during her custody in prison - Held: It was definite case of jail authorities that for the work done, appellant-convict was paid wages as per the circulars/orders applicable to her and in this regard ledger containing her signatures was produced - Contra stand of appellant-convict that she did not put her signatures as shown in ledger - Appellant is permitted to make a fresh representation to visiting Judge - If it is found that appellant is entitled to any amount in addition to the amount already settled as wages, the same shall be paid.

(Also see under: Delhi Prisons Act, 2000)

Phool Kumari v. Office of the Superintendent Central Jail, Tihar, New Delhi and Anr. 951

PUBLIC DISTRIBUTION SYSTEM (CONTROL)

ORDER, 2001:

Clause 6(a).

(See under: Essential Commodities Act, 1955) 117

RAJASTHAN TENANCY ACT, 1955:

(i) s.42(b) - Beneficial legislation to protect the interest of the members of Scheduled Castes and Scheduled Tribes - General restrictions on sale, gift and bequest of the interest of Scheduled Castes and Scheduled Tribes, in the whole or part of their holding - Object and effect of - Held: At times, s.42(b) may go against the interest of members of Scheduled Castes / Scheduled Tribes as well - There may be several situations where they intend to sell property for genuine needs but may not get a better competitive price, if sale is made only among members of

Scheduled Castes / Scheduled Tribes - Provisions have been made in certain legislations enabling members of Scheduled Caste and Scheduled Tribe to sell their lands to members of non-Scheduled Castes /Scheduled Tribes, on getting permission from prescribed authority - It is for legislature to incorporate appropriate provision in Rajasthan Tenancy Act.

(ii) s.42(b) - Transfer of land from a member of Scheduled Caste to a juristic person - Property purchased by respondent-private company from members of Scheduled Caste - Validity - Expression 'person' used in s.42(b) - Meaning of -Held: Expression 'person' can only be a natural person and not a juristic person, otherwise, entire purpose of the provision will be defeated - Legislature clearly wanted to avoid a situation where respondent-company can purchase land from Scheduled Caste / Scheduled Tribe and then sell it to a non-Scheduled Caste and Scheduled Tribe - Property purchased by respondent from members of Scheduled Caste was void being hit by s.42(b) and was thus rightly denied mutation in Revenue records - State can, therefore, re-possess the lands and return it to original owners who are members of Scheduled Caste - General Clauses Act, 1897 - s.3(42) - Constitution of India, 1950 - Arts. 341 and 342.

State of Rajasthan and Ors. v. Aanjaney Organic Herbal Pvt. Ltd. 1148

RIGHT TO INFORMATION ACT, 2005:

s.3.
(See under: Preventive Detention) 61

SENTENCE / SENTENCING:

(1) (See under: Penal Code, 1860) 560

(2) (See under: Prevention of Corruption Act, 1947) 455

(3) Sentencing policy - Principle of proportionality - Aggravating and mitigating circumstances - Commutation of death sentence to imprisonment for life or imprisonment for a specified term - Clemency power of Sovereign - Expression "life imprisonment" - Connotation of - Discussed - Constitution of India, 1950 - Arts. 142, 72 and 161 - Separation of powers - Code of Criminal Procedure, 1973 - s.433, 433-A.

State of U. P. v. Sanjay Kumar 359

(4) Types of Imprisonment - Held: s.53 of the IPC defines 5 kinds of punishments which include punishment for life and two other kinds of imprisonments i.e., rigorous and simple imprisonment - Rigorous imprisonment is one which is required by law to be completed with hard labour - A person sentenced to simple imprisonment cannot be required to work unless he volunteers himself to do the work - But Jail officer who requires a prisoner sentenced to rigorous imprisonment to do hard labour would be doing so as enjoined by law and mandated by court - Undertrials are not required to work in Jail - Delhi Prisons Act, 2000 - s.36 - Penal Code, 1860 - s.53.

(Also see under: Delhi Prisons Act, 2003' and Prisoners)

Phool Kumari v. Office of the Superintendent Central Jail, Tihar, New Delhi and Anr. 951

SERVICE LAW:

(1) Appointment / Recruitment / Selection:

(i) Appointment in Scheduled Tribe category - Protection of continuance in service - Entitlement to - Appointment of appellant in an aided school in Maharashtra against a reserved post of teacher meant for Scheduled Tribe candidates as she claimed to be a member of 'Halba' Scheduled Tribe - 10 years later, caste credentials of appellant verified by Scheduled Tribe Certificate Scrutiny Committee declaring her as a 'Koshti' and not a 'Halba' - Consequent termination of appellant from service by school authority - Held: Supreme Court had in Milind's case noticed the fact that appointments and admissions were made for a long time treating 'Koshti' as a Scheduled Tribe and directed that such admissions and appointments wherever the same had attained finality will not be affected - 'Halba-Koshti' was treated as 'Halba' even before appellant joined service as a teacher - Benefit of protection against ouster from service be extended to appellant subject to usual condition that she shall be reinstated if already ousted but without back wages - Constitution (Scheduled Tribes) Order, 1950 - Constitution of India, 1950 - Arts. 341 and 342.

Kavita Solunke v. State of Maharashtra and Ors. 251

(ii) Appointment on compassionate ground - Eligibility - Relaxation - Held: Compassionate appointment cannot be claimed as a matter of right - A claim to be appointed on such a ground has to be considered in accordance with rules,

regulations or administrative instructions governing the subject, taking into consideration financial condition of family of deceased - Eligibility criteria for a class IV post being 10th standard, and applicant being 8th fail, was not eligible to apply for the post - Income of family was also above financial limit - In view of settled position, it is neither desirable, nor permissible in law, for the Court to issue direction to relax eligibility criteria and appoint applicant merely on humanitarian grounds.

State of Gujarat & Ors. v. Arvindkumar T. Tiwari & Anr. 1072

(2) 'Eligibility' - Connotation of - Explained - Held: Fixing eligibility for a particular post falls within exclusive domain of legislature/executive and cannot be the subject matter of judicial review, unless found to be arbitrary, unreasonable or has been fixed without keeping in mind the nature of service - Courts and tribunals do not have the power to issue direction to make appointment by way of granting relaxation of eligibility or in contravention thereof.

State of Gujarat & Ors. v. Arvindkumar T. Tiwari & Anr. 1072

(3) Pay scale - Fixation of pay scale based on 5th Pay Commission Report - Excess payment made due to wrong/irregular pay fixation - Recovery of - Held: Any amount paid/received without authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right - In such situations law implies an obligation on payee to repay the money, otherwise

it would amount to unjust enrichment - Appellants did not fall in any of exceptional categories - Excess payment made accordingly ordered to be recovered from appellant's salary in twelve equal monthly installments.

Chandi Prasad Uniyal and Ors. v. State of Uttarakhand and Ors. 307

(4) Retirement - Judicial Service - Compulsory retirement - Of appellant-judicial officer after 25 years in judicial service - Challenge to - Scope of judicial review - Held: Recommendation made by High Court to Government for compulsory retirement of appellant and order of compulsory retirement issued by Government did not suffer from any legal flaw - In assessing potential for continued useful service of a judicial officer, High Court is required to take into account the entire service record - Those of doubtful integrity, questionable reputation and wanting in utility are not entitled to benefit of service after attaining requisite length of service or age - Fundamental Rules, as applicable in State of Madhya Pradesh - Rule 56(2)(a) as amended - Madhya Pradesh Higher Judicial Service (Recruitment and Service Conditions) Rules, 1994 - r. 14 - Madhya Pradesh Civil Services (Pension) Rules, 1976 - r. 42(1)(b) - Madhya Pradesh District and Sessions Judges (Death-cum-Retirement Benefits) Rules, 1964 - r. 1-A - Constitution of India, 1950 - Art. 235.

R.C. Chandel v. High Court of M.P. & Anr. 205

(5) Termination / Removal / Dismissal:

Termination of service of respondent-teacher on the ground that he did not possess requisite qualification - High Court set aside termination

order holding that it was in utter disregard of statutory provisions of s.40B of the Act - In appeal before Supreme Court, appellant-employer conceded that s.40B had been violated, but pleaded that order of High Court had revived illegal appointment of respondent and such illegality cannot be permitted to perpetuate - Held: Court should not set aside the order which appears to be illegal, if its effect is to revive another illegal order - However, in the instant case, some teachers appointed alongwith respondent in pursuance of the same advertisement and possessing the same qualification as respondent still, working with management - Evidence on record showed that appellant acted with malice - If a party has committed a wrong, he cannot be permitted to take benefit of his own wrong - It was not merely a case of discrimination rather it was a clear case of victimisation of respondent by school Management for raising his voice against exploitation - Order of High Court, therefore, not interfered with - Bombay Primary Education (Gujarat Amendment) Act, 1986 - s.40B and Schedule F, Clause 6.

Bhartiya Seva Samaj Trust Tr. Pres. & Anr. v. Yogeshbhai Ambalal Patel & Anr. 1054

SOCIAL STATUS CERTIFICATE:
(See under: Service Law) 251

SUBSEQUENT EVENTS:
(See under: Hindu Marriage Act, 1955) 607

TRANSFER OF PROPERTY ACT, 1882:
s.106.
(See under: Code of Civil Procedure, 1908) 1160

UNJUST ENRICHMENT:

(See under: Service Law) 307

UTTAR PRADESH ZAMINDARI ABOLITION AND
LAND REFORMS ACT, 1950:

ss. 154(1), 166 and 167 - Notice u/ss 166 and 167 to transferee-Educational Trust in respect of a portion of land transferred to it by Bhumidhar - Held: Keeping in view the definition of 'family' in Explanation, the term 'any person' in sub-s.(1) of s.154, refers to a natural person and not a 'charitable institution' and, as such, notice u/ss 166 and 167 issued to Educational Trust was not justified.

State of Uttarakhand & Ors. v. Guru Ram Das Educational Trust Society 1133

WEST BENGAL PREMISES TENANCY ACT, 1956.

(See under: Companies Act, 1956) 279

WITNESSES:

(1) Interested / related witnesses.

(See under: Hindu Marriage Act, 1955) 607

(2) Related witness.

(See under: Penal Code, 1860) 1033

WORDS AND PHRASES:

(1) "Cause of action" - Meaning of.

M/s Virgo Industries (Eng.) P. Ltd. v. M/s. Venturetech Solutions P. Ltd. 933

(2) Expression, 'cruelty' - Meaning of - Held: The expression has an inseparable nexus with human conduct or human behaviour - It is always dependent upon social strata or milieu to which

parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.

Vishwanath S/o Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal 607

(3) Expressions 'failure of justice' and 'prejudice' - Meaning of.

Bhimanna v. State of Karnataka 909

(4) "Life imprisonment" - Connotation of.

(See under: Sentence / Sentencing) 359

(ii)

**REFERENCE MADE BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI S.H. KAPADIA
IN THE MEMORY OF
LATE SHRI PRABHA SHANKER MISHRA,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
ON 7TH AUGUST, 2012**

Mr. Attorney General, Law Officers, Shri Pravin H. Parekh, President of the Supreme Court Bar Association, Shri Sushil Kumar Jain, President of AOR Association, Members of the Bar, Ladies and Gentlemen.

We assemble here today to mourn the sad demise of Shri Prabha Shankar Mishra, former Chief Justice of Andhra Pradesh High Court and the Calcutta High Court and Senior Advocate of this Court. Mr. Mishra passed away on July 1, 2012 at Hyderabad at the age of about 76 years.

Mr. Mishra was born on August 6, 1936. He began his career as an advocate and after an interlude of about 16 years when he crossed over to the Bench and served as a Judge and as Chief Justice in different High Courts, he came back to the legal profession and worked as a lawyer till the end of his life.

For Mr. Mishra, law was a legacy that he inherited from his father who was a reputed advocate of the District Court at Chapra. Mr. Mishra did his schooling from Chapra and passed the M.Sc. and B.L. examinations from the Patna University. He joined the Bar at the Patna High Court on December 17, 1960, and was soon able to pick up a very good practice and establish himself as a reputed constitutional lawyer. During his time at the Bar of the Patna High Court, Mr. Mishra was one of the most sought after lawyers and he was commanding perhaps the largest number of briefs, conducting all kinds of cases with equal felicity. His forte, however, was the constitutional law.

(i)

He represented the Government as Special Public Prosecutor in some very important cases and was a senior advocate for the Railway Ministry.

One of his contributions to the profession of law needs special mention. Before his appointment as a Judge, his office at Patna produced the largest crop of juniors who, in due course, developed into well-known lawyers in different branches of the law, greatly enriching the Patna High Court Bar.

In spite of having a lucrative practice, when Mr. Mishra was offered the judgeship, he accepted it without hesitation, in order to serve the judiciary in the capacity of a Judge. He was appointed as a Judge of the Patna High Court on November 18, 1982, and on June 20, 1990, he was transferred to the Madras High Court. He was appointed as the Chief Justice of the Andhra Pradesh High Court on May 15, 1995. From the Andhra Pradesh High Court, Mr. Mishra was transferred as Chief Justice to the Calcutta High Court on October 28, 1997. A few weeks before retirement, he submitted resignation on July 5, 1998. After retirement, Mr. Mishra started his practice in this Court.

Mr. Mishra has made a significant contribution, both as a lawyer and as a Judge, to the development of law.

Apart from being a lawyer and a Judge, he was associated with a number of social and cultural activities. The University career of Justice Mishra was marked by his involvement in the world of literature. He was the editor of a well-known magazine "Aparampara" and he wrote regular columns for the daily "The Indian Nation". He had a ready wit and a hearty word for all in his social life. As a Judge of the Patna High Court, Madras High Court, Chief Justice of Andhra Pradesh High Court and Chief Justice of Calcutta High Court, Justice Mishra delivered large number of judgments in which he was required to interpret laws such as Section 6 of the Delhi Special Police Establishment Act, 1946, Sections 25-F, 25-FF of the Industrial Disputes Act, 1947,

(iii)

the provisions of the Minimum Wages Act, Rule 6 of the Andhra Pradesh Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, provisions of Land Acquisition Act, Calcutta Police Act, FERA provisions read with Section 340 of the Criminal procedure Code, 1973, provisions under the Contempt of Courts Act, 1971 as well as inter-play of Articles 21, 43-A and Entry 39 of List I of the Seventh Schedule to the Constitution. These judgments reflect his belief in **Justice tempered with Mercy**. They also indicate the sincerity of the man in his work. I would like, therefore, to honour the deceased by reading the following quotation:

There are three great things in this world:

Himalayas in its height

Ocean in its depth

A sincere man in his work

Justice Mishra fully satisfies the criterion of greatness.

On behalf of my brethren, sisters and on behalf of myself, we place on record our deep sense of sorrow and grief on the sad demise of Shri Mishra and we hereby convey to his family members our profound sense of sorrow and our deepest condolences and sympathies. May they have the courage and strength to bear the loss.

May the Almighty grant eternal peace to the departed soul!

**REFERENCE MADE BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI S.H. KAPADIA
IN THE MEMORY OF
LATE SHRI P. RAM REDDY,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
ON 7TH AUGUST, 2012**

My Brother and Sister Judges and I learnt with deep regret of the passing away of Shri Ram Reddy on 5th July, 2012. It is that sad event which has made us assemble here today to pay our respects to the departed soul.

After the eloquent and admirable remarks of Attorney General and the President of SCBA, there is little room for me to add but I trust I must, while sharing your sentiments, add my voice to pay, on behalf of my brethren, sister Judges and myself, our humble tribute to Shri Ram Reddy.

Shri Reddy had a distinguished academic career. He took his Master's degree in Economics from Loyola College, Madras and Bachelor of Laws degree from the Law College, Madras. Shri Reddy was a member of International Law Association on Water. He was invited by the Water Resources Branch, Centre for Natural Resources, Energy and Transport, United Nations, to participate and comment on the Indian experience at a seminar on "Constitutional and Administrative aspects of Water Resources Development and Management in a multi-jurisdictional context" in June, 1975. He was one of the five experts invited to attend the seminar. Shri Reddy was retained by the Andhra Pradesh Government in the Krishna-Godavari River Water Disputes. He was also retained by the Kerala Government in the Cauvery River Water Disputes.

(iv)

(v)

Shri Reddy was also a legal adviser to the Indian Oil Refineries Corporation.

At the invitation of the Parliamentary Joint Committee on the Constitution (Thirty-second Amendment) Bill, 1973, relating to defection, Shri Reddy gave evidence before the Committee. He was also invited to give evidence before the Joint Committee on the Presidential and Vice-Presidential Elections (Amendment) Bill, 1972.

Shri Reddy was not a mere lawyer, he was a man of great culture which was reflected in his life as a lawyer and as a gentleman. Do not let us forget that every Indian, who, in his own sphere of life, rises to the highest pinnacle to which he can rise or be permitted to rise, whether he is a lawyer, a doctor, an engineer, or an administrator, enriches our life, makes us feel proud of our present, and entitles us to claim a fuller and richer future. That, Shri Reddy was a great advocate is beyond question. That, he was a greater gentleman we must acknowledge with pride, reverence and affection.

May the departed soul rest in peace!

**REFERENCE MADE BY
ATTORNEY GENERAL FOR INDIA
SHRI G.E. VAHANVATI
IN THE MEMORY OF
LATE SHRI PRABHA SHANKER MISHRA,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
AND
LATE SHRI P. RAM REDDY,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
ON 7TH AUGUST 2012**

The Supreme Court Bar suffered a double shock in July 2012 with the loss of two leading members within a span of a few days. We have assembled here today to pay tributes to them.

I first appeared before Justice P.S. Mishra when he was a puisne Judge of the Madras High Court, to which he had been transferred on 20th June, 1990. This was in connection with the family fight for the control of the Indian Express after the demise of Ramnath Goenka. I was appearing for one section of the family. We had succeeded before the learned Single Judge. The other side had filed an appeal which came up before the Division Bench presided over by Justice P.S. Mishra. From the very commencement of the hearing he made it more than clear that the matter should be amicably settled. He made certain observations in Court which, to my mind, had the effect of bringing sobering reality to parties to the legal proceedings. Ultimately, the matter was settled. The empire was divided.

By the time I next met Justice P.S. Mishra he was practising in the Supreme Court. In the meantime, he had traveled extensively from the South upwards. From Chennai High Court, he was elevated as Chief of the Andhra Pradesh High Court on 15th May, 1995 where he continued till October 1997. Thereafter he was posted as Chief Justice of the Calcutta High Court where he functioned up till he resigned in 1998. Thus ended one phase

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of his life and his career, which started on 17th December, 1960 when he was enrolled as an advocate of the Patna High Court, where he was designated as a Sr. Advocate in 1974. He appeared as Special Public Prosecutor in several important cases for the Government and was Standing Counsel for the Department of Railway. Justice Mishra's father Mr. Vasudev Narain Mishra was a leading lawyer in Bihar.

Justice P.S. Mishra was born on 6th August, 1936. He did his Masters in Science from Patna University and became a Bachelor of Law from the same University.

He was appointed as Judge of the Patna High Court on 18th November 1982. He had a distinguished judicial career. I got to know him well only when he was practising at the Bar in the Supreme Court. In later years he had some difficulty in locomotion but you had to admire his tenacity, grit and determination. I used to make it a point to open the door for him in Court as well as to hold the lift door for him. He always used to always thank me with a twinkle in his eye. I used to tell him that I was only discharging my duty as a mark of respect for his seniority and learning.

He appeared in a wide variety of cases in the Supreme Court, including many relating to the Indian Penal Code. Apart from these, he appeared in a landmark case relating to the Negotiable Instruments Act, 1881 [S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla, (2007) 4 SCC 70, which dealt with the offences by companies under sections 138 and 141]; right to personal liberty, and the scope of bail to undertrials after a long period of incarceration [Rajesh Ranjan Yadav v. CBI, (2007) 1 SCC 70]; Article 243-D and reservation policy for Scheduled Tribes [Union of India v. Rakesh Kumar, (2010) 4 SCC 50]

Justice Mishra was a founder member of NALSAR, Hyderabad, and must have been proud of NALSAR's progress. He also took keen interest in setting up a Law University and Judicial Academy in Bihar which bloomed in the form of Chanakya National Law University, Patna.

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It is a matter of great tribute to Justice Mishra that when news of his demise in Hyderabad spread, tributes poured in from all over the country. There were special references to him in the Andhra Pradesh High Court which not only paid glowing tributes to him but the Court also suspended work in the post lunch session. There were tributes paid in Jharkhand High Court, Calcutta High Court and various District Bar Associations including a meeting of Judicial Officers and the District Bar, Gopalganj. The tributes paid by the President of the Jharkhand Bar Association highlighted his sharp memory, intellect, versatility and his philanthropic nature.

Justice Mishra died at a relatively young age of 76 after suffering from a chronic kidney ailment. He leaves behind his wife, a son and a daughter to whom all his well wishers and admirers have reached out in grief, offering their heartfelt condolences.

On behalf of the Bar of India, I add and send my sincere condolences to the family.

May his soul rest in peace.

Mr. P. Ram Reddy, Sr. Advocate, who practised in this Hon'ble Court for many decades died on 5th July, 2012 at the ripe age of 92 years. Mr. P. Ram Reddy was born on 1st November, 1919. He got his MA (Economics) from Loyola College, Madras and Bachelor of Law from Law College, Madras. He started his practice in Madras High Court in 1946, having joined the Chambers of the legendary K. Subba Rao, who became the Chief Justice of India. One of his partners P.V. Rajamanar later became Chief Justice of Madras High Court. It was an illustrious chamber and the invaluable experience that Mr. Ram Reddy gained there encouraged him to shift to Delhi to practice in the Supreme Court in 1996. In the sixties he was designated as Senior Advocate by this Hon'ble Court.

Mr. Ram Reddy worked very hard and appeared in several major cases, including the **Bank Nationalization case (R.C.**

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Cooper v. Union of India). In **Keshavananda Bharati v. State of Kerala** though he was appearing for the State of Andhra Pradesh on notice, he prepared the brief as thoroughly as the leading Counsel. Earlier in **V.V. Giri v. Dippalasureidura**, (1960) 1 SCR 426, he was pitted against the well known Senior Lawyer Mr. N.C. Chatterjee (father of Speaker Somnath Chatterjee). The Constitution Bench accepted Mr. Ram Reddy's arguments on behalf of Respondent No.1 and dismissed V.V. Giri's Appeal.

He lived a full, complete and varied life which probably contributed to his long life. He was a leading member of the Secunderabad Club and a regular Tennis player. He played tennis till the age of 90. It is said that he also played at Wimbledon in the Doubles Tournament. We do not know where he reached but for us in this country, participation itself is a matter of great joy and comfort.

Young members of the Bar had a lot to learn from Mr. Ram Reddy. Mr. Ram Reddy was always very respectful to the Court. He was also very fair to the opposite counsel. He was very disturbed about lengthy court proceedings and was totally against unnecessarily long proceedings and what he considered to be a waste of Court time. He strenuously advocated time slots for arguments with insistence on advance preparation, in an effort to adapt the American system to Indian conditions. This, of course, is an idea whose time has yet to come.

Another aspect of his life which must be highlighted was his charitable disposition. He donated a part of his ancestral property and money for establishing a charitable hospital in his native place.

In the demise of Mr. P. Ram Reddy, the Bar has suffered a great loss. On behalf of the Indian Bar I offer and send my sincere condolences to the family.

May his soul rest in eternal peace.

**REFERENCE MADE BY
PRESIDENT, SUPREME COURT BAR ASSOCIATION
SHRI PRAVIN H. PAREKH,
IN THE MEMORY OF
LATE SHRI PRABHA SHANKER MISHRA,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
AND
LATE SHRI P. RAM REDDY,
SENIOR ADVOCATE, SUPREME COURT OF INDIA
ON 7TH AUGUST 2012**

1. Hon'ble Mr. Justice S.H. Kapadia, the Chief Justice of India, My Lords Hon'ble Judges of the Supreme Court, Mr. Goolam E. Vahanvati, Learned Attorney General for India, Mr. Rohinton F. Nariman, the learned Solicitor General of India, the learned Additional Solicitor Generals, Mr. Sushil Kumar Jain, President A.O.R. Association, Mr. Manu Shankar Mishra, son of Hon'ble Mr. Justice Prabha Shankar Mishra and member of SCBA, Mrs. Vineetha Reddy, daughter of the sister of Mr. P. Ram Reddy and her sons Mr. Aditya Reddy and Dr. Uttam Reddy, Office Bearers and Members of the Executive Committee of SCBA, my colleagues at the Bar, Ladies & Gentlemen.

2. Today we are paying homage to two members of SCBA Mr. Justice Prabha Shankar Mishra and Mr. Palnaty Ram Reddy. They both left us from the city of Hyderabad last month within a gap of 4 days one at the age of 76 years and other at the age of 92 years. I had the privilege of getting love, affection and guidance of both of them and it is a personal loss to me.

3. Judges and lawyers come to this court from all over the country. They bring along their own experience and expertise, methods of upholding and improving Administration of Justice and solving problems of litigants. In this regard the contribution of our two eminent members has been significant and

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praiseworthy. They were both helpful to members of the Bar, especially to the junior members as well as needy litigants. Both of them lived full life to their satisfaction and to the satisfaction of the society, bar and bench and their friends and admirers. They were role model for bar and bench.

4. Supreme Court Bar Association held a general body meeting on 24th July, 2012 to condole their sad demise. In that meeting after I paid homage to both of them, Mr. Amarendra Sharan and Mr. S. B. Upadhyay, Senior Advocates paid homage to Justice Mishra and Mr. P. P. Rao, Senior Advocate who had long association with Mr. Ram Reddy paid homage to him. Mr. P. P. Rao was the sole Advocate-on-Record for Government of Andhra Pradesh from 1969 till 1976 and Mr. Ram Reddy was the only Senior Counsel for State of Andhra Pradesh. They both had excellent relations and constituted a good team.

5. Hon'ble Mr. Justice Prabha Shankar Mishra, left for his heavenly abode on July 1, 2012 at his Jubilee Hills residence at Hyderabad due to sudden cardiac arrest during treatment for nephrological problems. He told his wife Smt. Vidhulekha that he was going to sleep for an hour before taking breakfast. Unfortunately that turned out to be eternal sleep.

6. Soon as information about his demise spread in Hyderabad, several friends and admirers both from the Bar and the Bench visited his residence on road no. 25, Jubilee Hills. Judges of Andhra Pradesh High Court and retired judges and large number of members of the bar visited his house and paid homage. Mr. Justice V.V.S Rao, Judge of Andhra Pradesh High Court said "Mr. Justice Mishra took pioneering steps and was the first Chief Justice of Andhra Pradesh High Court to introduce judicial reforms".

7. On hearing the sad news of demise, the members of the Supreme bar were in great pain. Large number of members remembered him and expressed their grief. All this shows his immense popularity in the bar and the bench.

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8. Full Court Reference to Justice Mishra was held by 5 High Courts. Patna and Andhra Pradesh High Court on 2-7-2012. Jharkhand and Calcutta High Court on 3-7-2012 and Madras High Court on 7-7-2012.

9. Justice Mishra was born on 05.08.1936 in Raghopur, in Saran district of Bihar. His father, Mr. Vasudev Narain Mishra was a leading lawyer in Bihar.

10. The academic career of Justice Mishra was marked by his involvement in the world of literature. As a college student he was the editor of a well-known magazine "Aparampara" and he wrote regular columns for the then well-known daily newspaper "The Indian Nation".

11. Justice Mishra was a brilliant lawyer and during the span of 22 years of practice at Patna High Court he exhibited his talent as lawyer in all the spheres of Constitutional, Criminal and Writ matters. He had a roaring practice in the High Court with almost 20 to 25 cases every single day and whenever any junior advocate requested him that his client could not afford the fees, he would take up the case for free. Thereafter for 16 years he was Judge of Patna and Madras High Court and Chief Justice of Andhra Pradesh and Calcutta High Court and then for 13 years he practiced in this Hon'ble Court. He assumed legal practice as a Senior Advocate in this Hon'ble Court and became a member of SCBA on 10.7.1999. His application of membership was proposed by Mr. R. P. Singh and seconded by Mr. R. K. Jain, who was our President.

12. Mishrajee was amongst the most respected members of our bar. He was always surrounded by a large number of advocates and was never seen alone, either sitting in the bar room or walking through the corridors. Many members of the bar, senior as well as junior used to touch his feet spontaneously and out of great love and affection and the respect which he commanded from the members of the Bar. We all have seen

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Justice Mishra in this Hon'ble Court, sitting behind and prompting or sending slips to junior members of the bar who were in difficulty while arguing, suggesting what to argue or giving citations of judgments. If their matters continued beyond lunch hours or stood over to the next day, he used to discuss and guide them what to argue with citations.

13. In 2010 he accomplished the coveted feat of completing 50 years at the Bar. His friends and admirers celebrated his completing Golden Jubilee at the bar in a big way and members of the legal fraternity from different parts of the country joined the celebration.

14. He stressed on the need for legal education and was founder member of NALSAR, Hyderabad. He took keen interest in setting up a Law University which bloomed in the form of Chanakya National Law University, Patna. Large number of students come to intern with me from Chanakya National Law University and I find them very good. Justice Mishra also took keen interest in training Judges, Para-judicial and legal staff. Formation of such institutions of repute in his guidance and refuge would go down in the annals of legal education in the country. It would become the breeding ground of future Justice Mishra even though getting a replacement for him is not possible.

15. He was among those eminent judges who always stood against any kind of violation of Fundamental Rights which can be read in his judgement in *Madhusudan Raj Yadav's* case dated August 14, 1995 in Writ Petition No. 16868 of 1995. The observations of the Chief Justice Shri Prabha Shankar Mishra are worth recalling where he stated that, *"Do we have the law that a group of police personnel will report that they were making arrest of a person who attempted to evade the arrest and since in his attempt to evade the arrest he used force, they returned the force and caused his death and the law would accept the Statement and sanctify the end of life in accordance with the procedure prescribed by law? We have already noticed*

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that the guarantee under Article 21 of the Constitution of India and also the words 'procedure established by law' are not ineffective and lifeless but are expressions of the faith of the people who have sanctioned interfere with the life of a person only by a procedure which is reasonable, fair and just."

16. He also instituted Late Pt. Vasudev Narain Mishra, Memorial Competition Shield in 1976, in memory of his late father, an eminent lawyer and product of Calcutta Law College whose reputation was known much beyond Saran District of Bihar. One of his first recipients' was Shri Ravi Shankar Prasad, Ex-law Minister, Union of India and a leading member of SCBA.

17. He contributed towards Bar as well as Bench and performed the role of a true lawyer and a remarkable judge and reckoned as one of the best legal luminaries of his time. He was known for his impeccable moral character in his profession and valued professional ethics every moment of his life. There is a dearth of such lawyers and judges who put their soul into the profession and takes it to new heights in terms of their professional and moral commitments.

18. After completing his Bachelor's in Law and Masters in Science from Patna University he enrolled in the Patna High Court on 17.12.1960. He was designated as Senior Advocate by Patna High Court in 1973. He worked as Special Public Prosecutor for the State of Bihar in many important cases and had been a Senior Advocate for the Ministry of Railways. He was the lead Counsel in Bihar State Corporations case affecting the lives of more than 10,000 employees in the State of Bihar. He was known for public-spirited nature and had the grains of a fine judge in him right since the early days of practice. He was elected as a member of the Patna State Bar Council for two years.

19. Justice Mishra rendered many important judgments on various aspects of law, as he had handled almost every branch

of law. These reflected his kind and considerate nature towards the weak, poor and the disadvantaged in the society. He always had in mind the interest of the underprivileged who on account of their social disabilities and poverty could not afford luxury of engaging the services of leading members of the Bar.

20. Justice Mishra appeared in various landmark cases as a Senior Advocate and Amicus Curiae in this Hon'ble Court. Some of the important cases that he pleaded were *Pratap Singh v. State of Jharkhand* on the Juvenile Justice Act where it was held the date for the determination of the age of the juvenile is the date of the offence and not the date when he is produced before the authority or in the court; and *Kapila Hingorani v. State of Bihar* was a case in which the liability of state bodies and liability of state in respect of their wage arrears was held. These judgments speak volumes about his sensitivity for the toiling masses and the disadvantaged sections of society as well as the working classes.

21. He will be remembered for his rigorous professionalism and kind heartedness. Justice Mishra was a very soft spoken person, who believed in simple living and high thinking. He was always known as a great philanthropist who always came out to help the ones in need. We have not only lost an eminent judge and lawyer, but also a wonderful person and a thorough gentleman.

22. Mr. P. Ram Reddy was an integral part of this Hon'ble Court since this Court was functioning in the Parliament Building. This Court was born on 28th January, 1950, two days after commencement of the Constitution. The Inaugural proceedings started at 9.45 a.m. with fan fare when the Judges of the Federal Court - Chief Justice Harilal J.Kania and Justices Saiyid Fazl Ali, M. Patanjali Sastri, Mehr Chand Mahajan, Bijan Kumar Mukherjea and S.R.Das - took their seats as Judges of this Court. Mr. M.C. Setalvad attended the inaugural function in his dual capacity, as the first Attorney General for India and first President

of SCBA. The Chief Justices of all the High Courts and Advocate Generals were also present. For the first 8 years this Court functioned from the Parliament House.

23. The Hon'ble Judges of this Hon'ble Court who sat in Parliament building are no more. Since Mr. Reddy was one of the last 2 or 3 members of the bar who practiced in this court in 1950's and although Mr. Reddy came to practice in this court 14 years before I came, I had the privilege of practicing in this court for 26 years when Mr. Reddy was practicing as Senior Advocate. When a historian would write the history of this great institution, probably he would describe the first 10 years i.e. from 1950 to 1960 as the formative period and would call Mr. Ram Reddy as one of the architects of this great institution. He was then enrolled as an Advocate of this Court. As a Junior Advocate Mr. Ram Reddy was in great demand and used to assist stalwarts of the bar those days. He used to appear more on the government side. Mr. Reddy was enrolled as an Advocate of the undivided High Court of Madras in 1944. There, he joined Mr. K. Subba Rao's chamber who later rose to the position of Chief Justice of India. In 1953, on formation of the State of Andhra Pradesh he shifted his practice to Guntur which was the seat of the High Court of Andhra Pradesh. In 1955, he shifted his practice to this Hon'ble Court in Parliament Building. Those days there were two categories of practitioners, Advocates and Agents. The agents were later named as Advocate-on-Record by Supreme Court Rules. Alongwith the Supreme Court Mr. Reddy shifted his practice to present premises on 4th August, 1958 and practiced here till 1994. Thus he practiced in Madras High Court and Andhra Pradesh High Court for 11 years and practiced in this Hon'ble Court for almost 40 years.

24. Mr. Reddy was designated as Sr. Advocate by this Hon'ble Court on 29th July 1966 and was the 4th person to be designated as Senior Advocate by this Court under the Advocates Act, 1961. Justice H.R. Gokhale was designated

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Senior Advocate just before Mr. Ram Reddy and his position was at serial no. 3. Mr. H.R. Gokhale was my senior to whom I owe a lot. He encouraged me to shift from Bombay to Delhi. Mr. Gokhale and Mr. P. Ram Reddy had excellent relations and because of that I got opportunity to interact with him. Mr. Gokhale and Mr. Ram Reddy used to study and prepare their cases at the same table in the Library (now known as Library No. 1) near the research cubicle. In those days Senior Advocates were not eligible for allotment of chambers.

25. Mr. Reddy used to tell me that when he started his practice in this Court, most of the advocates knew each other by name. The Hon'ble Judges knew most of the Advocates by name or, in any case, by face. There was only one post of Registrar. He also told me that in 1950's, Mr. Murti the Registrar of this Court used to ring up the Registrars of High Courts to find out if any Certificate of fitness under Article 133(1)(c) was granted by any High Court. He would convey the good news to the Hon'ble Judges about arrival of some appeals. Those days, if the subject matter of a High Court Judgment was of Rs.20,000/- or above and the judgment was of variance, an appeal would lie to this Hon'ble Court under Article 133 (1)(a) and (b). They were good source of the much required matters in this Hon'ble Court. These appeals were automatically admitted and did not come up for admission. Habeas corpus petitions against detention were entertained under Article 32 as a matter of right and used to be finally disposed of normally within two months. A rule made by this court under Article 145 that any litigant who filed a writ petition under Article 32, had to deposit Rs.2,000/- as security deposit for Costs of Respondents, was struck down by a Constitutional Bench of this Hon'ble Court on the ground that it was an impediment for the Fundamental Right to approach this Hon'ble Court under Article 32.

26. When I shifted to practice in this Hon'ble Court in 1969, Mr. Reddy was already one of the well recognized Senior Advocates. I passed the Advocate-on-Record examination in

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May, 1970. Those days law journals used to refrain from publishing un-reportable judgments. For the convenience, all the un-reported judgment used to be kept in Judges' Library in green ledger paper where any member of the Bar could go and read or get copies of those judgments. Mr. Ram Reddy used to spend a lot of time in the Judges' Library. Whenever any judge wanted to know about any of the latest judgments they used to enquire either from Mr. R. Gopalakrishan or Mr. P. Ram Reddy. For foreign judgments, judges used to depend on Mr. Ashok Sen.

27. I will like to mention my personal experience with Mr. Reddy:

(a) An SLP filed by me in early 70's, came up before a bench presided over Justice J. M. Shelat. I briefed Mr. M. C. Setalvad on behalf of the Petitioner. Those days Law Officers could appear for private parties. Mr. Ram Reddy appeared on behalf of the Caveator. Mr. Setalvad's instruction to all the AORs was that for his absence no pass over should be taken & the AOR should go on. Mr. Setalvad was held up in the Chief Justice's court when the matter was called. I therefore argued on behalf of the Petitioner. The Court granted both leave and stay. Mr. Ram Reddy got up and stated that he was for the Caveator and would like to make his submission. Justice Shelat said *"don't you want this young AoR to have one more Civil Appeal?"* Mr. Ram Reddy said *"My Lords, I have nothing more to say"*.

(b) In Library No.1 sitting on his table with some other Seniors Mr. Reddy once told me, when I was member of the Executive Committee of the SCBA in 1975-1976 and Mr. C.K. Daphtary was the President of SCBA; that next time I should contest for the post of the Treasurer and told me *"you are very good in accounts. All Gujaratis are good in accounts"*. Later I was elected as Treasurer of

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SCBA in 1977-78 when Mr. V. M. Tarkunde was the President of SCBA.

(c) In one of the matters of Remington Rand, Mr. H.R. Gokhale, my senior appeared before Hon'ble Chief Justice Hidayatullah in this court room. Mr. Gokhale had given a written opinion that the employer had a good chance of success. Mr. Reddy was a caveator for labour union. Mr. Gokhale thought that it was a matter which deserved to be admitted. Chief Justice Hidayatullah was always very courteous, pleasant and patient during hearing of the matter, the SLP was dismissed. Mr. Reddy was not called upon. Later Mr. Reddy told me that it was a good matter for the company but probably the Chief Justice did not admit since the profit of the company was huge and it could easily bear the burden. In those days direct SLP used to be filed from the award of the Industrial Tribunal or of the labour court and used to be entertained to put an end to labour disputes as early as possible.

28. Mr. Ram Reddy's surname was Palnaty, Ram was his First name and Reddy was the caste. In Andhra Pradesh he was affectionately called "Rami".

29. I learnt from Hon'ble Mr. Justice K. Jayachandra Reddy, a former judge of this Hon'ble Court, that Mr. Ram Reddy used to go to Secunderabad Club every day regularly for a walk. Till the age of 90 he was fit as a fiddle until he fell down, got operated and recovered fast to start his walk again in the club. Even in the last two years of his life he continued to visit Secunderabad Club almost every day to walk, to watch tennis and catch up with friends. On 27th June, 2012 Justice Reddy met Mr. P. Ram Reddy in the club lawn and they wished each other. On the same day after awhile he started having breathing trouble, was admitted to Oxygen Hospital and was put on ventilator. He breathed his last on 5th July, 2012 at 11.15 pm.

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30. While practicing in Madras High Court Mr. Ram Reddy was the junior of Mr. K. Subba Rao, Senior Advocate, till Mr. K. Subba Rao was elevated as a Judge of Madras High Court in March, 1948. Later he became the Chief Justice of India. He was so fortunate to have worked with Mr. K. Subba Rao, Sr. Advocate. Anyone who got the opportunity to work under Mr. Justice Subba Rao has to be extremely competent. What he learnt and imbibed in the chamber of Mr. K. Subba Rao, naturally helped him throughout his life. Justice Subba Rao was a thinker and his instinct was to decide the matters in favour of the citizen, both in respect of personal liberty as well as in respect of any arbitrary action of state authorities. Chief Justice K. Subba Rao gave large number of dissenting judgments. While unveiling the portrait of Mr. Justice Syed Mahmood on November 27, 1966 Chief Justice Subba Rao said, *"Dissenting for dissention's sake may be bad, for it is only the result of an inferiority complex; but a dissent based on conviction and expressed with humility with the consciousness of the finiteness of the human mind is an appeal to the brooding sense of posterity; they are musings of a man born before the times with a capacity to look into the future. They will contribute to the jurisprudence of our country. They may have the approval of the future generations."* Last month four books authored by Mr. Arun Shourie were released at India Habitat Centre. Mr. Shourie in his speech referred to the above quotation.

31. Mr. Reddy was a down-to-earth person. He remained bachelor throughout his life. Although he was a much successful lawyer he used to live in a sparsely furnished and modest rented place on Jain Mandir Road near Connaught Place. He used to invite and entertain without any trace of self consciousness or feeling the need to improve his space. He was very popular amongst his friends to organize dinners sometimes at his place and sometimes at the Moti Mahal restaurant at Daryaganj. He was an adorable figure amongst the children of his friends like Justice K. Subba Rao, Justice C.A. Vaidialingam for arranging

tea parties at Delhi Gymkhana Club. Though he was a strict vegetarian himself, he used to love kids eat their favourite non-vegetarian food also.

32. Mr. Ram Reddy was a friendly person and his sense of humour and keen interest in details made him a delight to others. My friend Ms. Seita Vaidialingam, daughter of Justice C.A. Vaidialingam who was a close friend of Mr. Ram Reddy fondly recalls that Mr. Ram Reddy used come to their place to drop off his Court bands to be washed by the dhobi who lived in the adjacent quarters. The dhobi surely caught the attention of Mr. Ram Reddy as he did a good job of washing Justice Vaidialingam's bands.

33. Mr. Ram Reddy knew Telugu, English, Hindi and Tamil. He did his M.A in Economics and Bachelor of Law both from Madras.

34. Mr. Ram Reddy had wide ranging knowledge of all systems of medicine. Not only he experimented all of them but also used to recommend to others pranik healing, magnetic therapy, water therapy etc. for chronic problems. I have been using water therapy successfully for many decades.

35. Shri Ram Reddy is a name which invokes in our mind a person who was not just a brilliant legal mind and multi-faceted advocate but also an affable and friendly person as well. His name is perhaps inseparable from cases relating to water disputes in the country whether it be a Krishna- Godavari River Water Dispute or Cauvery River Water Dispute as he knew its far reaching consequences for a country like India where fresh water is increasingly getting scarce and demands on it reaching a meteoric rise. He was a member of the International Law Association on water. He had attended the international seminar on water held under the UN auspices in 1973 New Delhi. He was only one of the five-six experts from abroad invited to Mendoza, South America in an international seminar on

"Constitutional And Administrative Aspects Of Water Resources And Management In A Multi Jurisdictional Context" where he commented on the Indian experience. His public spirited approach in ensuring water security of Indians would go down in golden letters in its history for the time to come and generations of Indians would remember his name with sincere gratitude.

36. Mr. Ram Reddy was never short of briefs. Apart from appearing on behalf of states of Andhra Pradesh, Tamil Nadu and Kerala at this Hon'ble Court he had a sea of private cases coming from the states of Andhra Pradesh, Kerala, Tamil Nadu, Karnataka, Madhya Pradesh and Uttar Pradesh. He was also legal advisor to the Indian Oil Refineries Corporation for a few years. The government of India Appointed him as a Senior counsel in the enquiries before the Commission of Inquiry on large Industrial Houses presided over by the former Chief Justice of India, Shri A.K Sarkar.

37. Mr. Ram Reddy followed the highest traditions of the Bar and was deeply respectful to the Court and was fair to the opposing counsel. He took every brief seriously irrespective of the relative role of his client. *In the Bank Nationalisation Case (R.C. Cooper v. Union of India 1970 AIR 764) and Keshavananda Bharti v. State of Kerela (AIR 1973 SC 1461)* though he was appearing for the State of Andhra Pradesh on notice, he prepared the brief as thoroughly as the leading counsel. *In V.V. Giri v. Dippalasaridura (1960) 1 SCR 426*, he was pitted against the well known Senior Lawyer, Mr. N.C. Chatterjee. At that time Mr. Ram Reddy had not yet been designated as a Senior Advocate. The Constitutional Bench accepted Mr. Ram Reddy's argument on behalf of the respondent no. 1 and dismissed V.V. Giri's Appeal. Chief Minister Dr. M Chinna Reddy offered him a Lok Sabha seat from Andhra Pradesh but he finally did not accept the offer.

38. In the legal fraternity Mr. Ram Reddy was well known for his innovative ideas. Having experienced the hassles of unlimited time taken up by advocates in their arguments before the judges and the backlog of pending cases, he submitted his views in an article suggesting fixed time slots for arguments and insistence on advance preparation, adapting the American Supreme Court model to Indian conditions. He was also a staunch protagonist of gender equality. Many Chief Ministers of Andhra Pradesh reposed their trust and full confidence in him. They counted on him to continue to safeguard the interest of the state. Among his clients was a former President of India, N. Sanjeeva Reddy.

39. He used to take keen interest in reforming the Indian Legal System and stood as a legal sentinel overlooking the Indian Legal Landscape. His article on "Fixing of a time limit and time-table for the hearing of cases in the Supreme Court" was published in the National Herald dated 23rd May, 1972. Mr. Reddy was a well travelled person and had observed the functioning of the courts of USA, Canada and several European Countries from close quarters. His quest for learning never dimmed till the last day of his life. His commitment to India as a nation, where he was born, and from which he drew his sustenance was reflected in his generous contributions during Indo-China conflict and during the Indo- Pak conflicts. His generosity was also extended towards the welfare funds for the members of SCBA. In those days of lower earning and extremely taxation this was a princely sum to give.

40. Apart from being an eminent lawyer Mr. Ram Reddy is equally remembered as the doyen of the tennis court. Mr. Ram Reddy was an excellent tennis player from his childhood which can be drawn out from the awards he received in Tennis. He won the veteran National Doubles Tournament twice. Such was his love for the game that he used to visit Secunderabad Club till the last days of his life to watch the tennis matches.

41. Mr. Ram Reddy had a positive attitude to life's problems and challenges. "Do it with a cheer", were his often repeated words to one and all. He had flair to help anyone and everyone. Even when he went back to Andhra Pradesh in 1994, he always willingly answered a call for help for all people irrespective of their economic strata and age group.

42. On behalf of the members of SCBA and on behalf of myself, I extend our heartfelt condolences to the bereaved members of the family of Mr. Justice Prabha Shanker Mishra and Mr. P. Ram Reddy and pray to the Almighty that may their souls rest in eternal peace.

JUDGES OF THE SUPREME COURT OF INDIA

(From 03.07.2012 to 21.09.2012)

1. Hon'ble Shri S.H. Kapadia, Chief Justice of India
2. Hon'ble Mr. Justice Altamas Kabir
3. Hon'ble Mr. Justice D.K. Jain
4. Hon'ble Mr. Justice P. Sathasivam
5. Hon'ble Mr. Justice G.S. Singhvi
6. Hon'ble Mr. Justice Aftab Alam
7. Hon'ble Mr. Justice R.M. Lodha
8. Hon'ble Mr. Justice H.L. Dattu
9. Hon'ble Mr. Justice Deepak Verma
10. Hon'ble Dr. Justice B.S. Chauhan
11. Hon'ble Mr. Justice A.K. Patnaik
12. Hon'ble Mr. Justice T.S. Thakur
13. Hon'ble Mr. Justice K.S. Radhakrishnan
14. Hon'ble Mr. Justice Surinder Singh Nijjar
15. Hon'ble Mr. Justice Swatanter Kumar
16. Hon'ble Mr. Justice Chandramauli Kr. Prasad
17. Hon'ble Mr. Justice H.L. Gokhale
18. Hon'ble Mrs. Justice Gyan Sudha Misra
19. Hon'ble Mr. Justice Anil R. Dave
20. Hon'ble Mr. Justice S.J. Mukhopadhaya
21. Hon'ble Mrs. Justice Ranjana Prakash Desai
22. Hon'ble Mr. Justice J.S. Khehar
23. Hon'ble Mr. Justice Dipak Misra
24. Hon'ble Mr. Justice J. Chelameswar
25. Hon'ble Mr. Justice Fakkir Mohamed Ibrahim Kalifulla
26. Hon'ble Mr. Justice Ranjan Gogoi
27. Hon'ble Mr. Justice Madan B. Lokur

MEMORANDA
OF
JUDGES OF THE SUPREME COURT OF INDIA
(From 03.07.2012 to 21.09.2012)

Hon'ble Mr. Justice G.S. Singhvi, Judge, Supreme Court of India was on leave for 8 (eight) days w.e.f. 10.08.2012 to 17.08.2012, on full allowances.

Hon'ble Mrs. Justice Gyan Sudha Misra, Judge, Supreme Court of India was on leave for 12 (twelve) days w.e.f. 27.08.2012 to 07.09.2012, on full allowances.

**ERRATA
VOLUME INDEX 7 (2012)**

Page No.	Line No.	Read for	Read as
288	6	<u>[Caveator-in-person] for the appearing parties.</u>	<u>for the appearing parties. [Caveator -in-person]</u>
388	20	Haryana Urban Development Authority, 1977	Haryana Urban Development Authority <u>Act</u> , 1977
427	18	three <u>years'</u>	three <u>years')</u>
682	last line of page	P.P. Nayak (for Paramanand Gaur)	P.P. Nayak (for Paramanand Gaur), <u>S.N. Aneja,</u> <u>Subramonium Prasad, Mumtaz Bhalla, Arijit Mazumdar, Ajay Aggarwal, Rajan Narain, Partha Sil, Anil K. Jha,</u>
900	4	This contention	30. This contention
988	13	<u>'qando</u>	<u>'quando</u>
1088	18-19	the Court of Judicature	the <u>High</u> Court of Judicature