

CONTENTS

Ajay Dogra; State of J & K & Anr. v.	.....	57
Allahabad High School Society Allahabad & Anr. v. State of U.P. & Ors.	.....	759
Amar Nath Roy and Ors. v. Arun Kumar Kedia and Anr.	.....	820
Amar Singh v. Union of India & Ors.	.....	403
Arun Kumar Kedia and Anr.; Amar Nath Roy and Ors. v.	.....	820
Atma Ram Builders P.Ltd. (M/s.) v. A.K. Tuli & Others	.....	935
Atma Ram Chauhan & Ors.; Mohammad Ahmad & Anr. v.	.....	822
Babulal irla (D) By Lrs. & Others; Ram Prakash Sharma v.	.....	757
Bala Jain & Ors.; Jawahar Singh v.	.....	347
Bhagaloo Lodh and Anr. v. State of U.P.	.....	1037
Bhagwan Dass v. State (NCT) of Delhi	.....	330
Bhavana (Ms.) @ Sahar Wasif; Flg. Officer Rajiv Gakhar v.	.....	372
Birender Poddar v. State of Bihar	.....	873
C.B.I. and Ors. v. Keshub Mahindra etc. etc.	.....	384

(i)

(ii)

Centre for Environment and Food Security v. Union of India and Ors.	.....	744
Custodian, Nariman Bhavan, Mumbai; Rasila S. (Smt.) Mehta etc. v.	.....	234
Deepa Bhatnagar; Hitesh Bhatnagar v.	.....	118
Dharmatma Singh v. Harminder Singh & Ors.	.....	355
Divisional Manager, Oriental Insurance Co. Ltd.; Sri Nagarajappa v.	.....	70
Flg. Officer Rajiv Gakhar v. Ms. Bhavana @ Sahar Wasif	.....	372
Ghurelal and Ors. v. State of Rajasthan	.....	1062
Gopal v. State of Madhya Pradesh	.....	889
Guru Dev Singh v. State of M.P.	.....	941
Harminder Singh & Ors.; Dharmatma Singh v.	.....	355
High Court of Punjab & Haryana; Sharma (O.P.) & Ors. v.	.....	301
Hitesh Bhatnagar v. Deepa Bhatnagar	.....	118
Indian Medical Association v. Union of India & Ors.	.....	599
InterGlobe Aviation Ltd. (M/s) v. N. Satchidanand	.....	1116
Iqram (Mohd.) & Anr.; State of U. P. v.	.....	1017
Islam; State of Rajasthan v.	.....	988

(iii)			(iv)		
Janak Dulari Devi & Anr. v. Kapildeo Rai & Anr.	.....	96	Pepsu Road Transport Corporation, Patiala v. Mangal Singh and Ors.	.....	564
Jawahar Singh v. Bala Jain & Ors.	.....	347	Pradeep Kumar Gupta; M. P. State v.	.....	882
Kalyaneshwari v. U.O.I. & Ors.	.....	774	Prakash Kadam and etc. etc. v. Ramprasad Vishwanath Gupta and Anr.	.....	800
Kanwarjit Singh Kakkar v. State of Punjab and Anr.	.....	895	Purshottam Vishandas Raheja and another v. Shrichand Vishandas Raheja (D) through Lrs. and Ors.	.....	913
Kapildeo Rai & Anr.; Janak Dulari Devi & Anr. v.	.....	96	Rajput Jabbarsingh Malaji v. State of Gujarat	.....	978
Keshub Mahindra etc. etc.; C.B.I. and Ors. v.	.....	384	Ram Prakash Sharma v. Babulal irla (D) By Lrs. & Others	.....	757
Khivraj Motors v. The Guanellian Society	.....	1165	Ramprasad Vishwanath Gupta and Anr.; Prakash Kadam and etc. etc. v.	.....	800
Kothandapani (B.) v. Tamil Nadu State Transport Corporation Ltd.	.....	791	Rangammal v. Kuppuswami & Anr.	.....	835
Kuppuswami & Anr.; Rangammal v.	.....	835	Rao (C.P.); State of Kerala and Anr. v.	.....	864
M. P. State v. Pradeep Kumar Gupta	.....	882	Rasila S. (Smt.) Mehta etc. v. Custodian, Nariman Bhavan, Mumbai	.....	234
Mangal Singh and Ors.; Pepsu Road Transport Corporation, Patiala v.	.....	564	Satchidanand (N.); InterGlobe Aviation Ltd. (M/s) v.	.....	1116
Mohammad Ahmad & Anr. v. Atma Ram Chauhan & Ors.	.....	822	Satyavir Singh Rathi v. State thr. C.B.I.	.....	138
Narcotics Central Bureau v. Sukh Dev Raj Sodhi	.....	974	Secretary, (The) Sh. A. P. D.Jain Pathshala & Ors. v. Shivaji Bhagwat More & Ors.	.....	1173
Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc.	.....	443	Shaji and Ors. v. State of Kerala	.....	210
Noor Ahmed Sheriff & Ors.; Vimalleshwar Nagappa Shet v.	.....	392	Shankar (A.) v. State of Karnataka	.....	999

(v)

Shanta Talwar & Anr. v. Union of India & Ors.	38
Sharma (M.M.); Union of India and Anr. v.	18
Sharma (O.P.) & Ors. v. High Court of Punjab & Haryana	301
Shivaji Bhagwat More & Ors.; Secretary, (The) Sh. A. P. D.Jain Pathshala & Ors.v.	1173
Shrichand Vishandas Raheja (D) through Lrs. and Ors; Purshottam Vishandas Raheja and Anr. v.	913
Sri Nagarajappa v. Divisional Manager, Oriental Insurance Co. Ltd.	70
State (NCT) of Delhi; Bhagwan Dass v.	330
State of Bihar and Anr.; Sunita Kumari Kashyap v.	83
State of Bihar; Birender Poddar v.	873
State of Gujarat; Rajput Jabbarsingh Malaji v.	978
State of Gujarat; Yomeshbhai Pranshankar Bhatt v.	958
State of J & K & Anr. v. Ajay Dogra	57
State of Karnataka; Shankar (A.) v.	999
State of Kerala and Anr. v. C.P. Rao	864
State of Kerala; Shaji and Ors. v.	210
State of M.P.; Guru Dev Singh v.	941

(vi)

State of Madhya Pradesh & Anr. etc. etc.; Narmada Bachao Andolan etc. etc. v.	443
State of Madhya Pradesh; Gopal v.	889
State of Maharashtra; Sudam @ Rahul Kaniram Jadhav v.	1104
State of Maharashtra; Waman & Ors. v.	1072
State of Punjab and Anr.; Kanwarjit Singh Kakkar v.	895
State of Rajasthan v. Islam	988
State of Rajasthan v. Talevar & Anr.	1050
State of Rajasthan; Ghurelal and Ors. v.	1062
State of Tamil Nadu and Ors.; Thilagavathy (S.) v.	225
State of U. P. v. Mohd. Iqram & Anr.	1017
State of U.P. & Ors.; Allahabad High School Society Allahabad & Anr. v.	759
State of U.P.; Bhagaloo Lodh and Anr. v.	1037
State thr. C.B.I.; Satyavir Singh Rathi v.	138
Sudam @ Rahul Kaniram Jadhav v. State of Maharashtra	1104
Sukh Dev Raj Sodhi; Narcotics Central Bureau v.	974
Sunita Kumari Kashyap v. State of Bihar and Anr.	83

(vii)

Talevar & Anr.; State of Rajasthan v.	.....	1050
Tamil Nadu Housing Board v. The Service Society & Anr.	.....	1
Tamil Nadu State Transport Corporation Ltd.; Kothandapani (B.) v.	.....	791
The Guanellian Society; Khivraj Motors v.	.....	1165
The Service Society & Anr.; Tamil Nadu Housing Board v.	.....	1
Thilagavathy (S.) v. State of Tamil Nadu and Ors.	.....	225
Tuli (A.K.) & Others; M/s. Atma Ram Builders P.Ltd. v.	.....	935
U.O.I. & Ors.; Kalyaneshwari v.	.....	774
Union of India & Ors.; Amar Singh v.	.....	403
Union of India & Ors.; Indian Medical Association v.	.....	599
Union of India & Ors.; Shanta Talwar & Anr. v.	.....	38
Union of India and Anr. v. M.M. Sharma	.....	18
Union of India and Ors. v. Vikrambhai Maganbhai Chaudhari	.....	1096
Union of India and Ors.; Centre for Environment and Food Security v.	.....	744
Vikrambhai Maganbhai Chaudhari; Union of India and Ors. v.	.....	1096

(viii)

Vimaleshwar Nagappa Shet v. Noor Ahmed Sheriff & Ors.	.....	392
Waman & Ors. v. State of Maharashtra	.....	1072
Yomeshbhai Pranshankar Bhatt v. State of Gujarat	.....	958

CASES-CITED

ABC Laminart v. A.P. Agencies 1989 (2) SCR 1	
– relied on	... 1122
Abdul Farook (A.) v. Municipal Council, Perambalur, 2009 (11) SCR 727	
– relied on.	... 452
Abdul Sayeed v. State of M.P. 2010 (10) SCC 259	
– relied on.	... 152
Abhinandan Jha and Ors. v. Dinesh Mishra AIR 1968 SC 117	
– relied on	... 359
Abraham Ajith (Y.) and Others v. Inspector of Police, Chennai and Another 2004 (3) Suppl. SCR 604	
– distinguished	... 85
Abrar v. State of U.P. 2010 (13) SCR1217	
– relied on.	... 1004
Abrar v. State of U.P., (2011) 2 SCC 750	... 1023
Achuthanandan (V.S.) v. R. Balakrishna Pillai & Ors., (2011) 3 SCC 317	... 1023
– relied on.	... 1053
Advocate General (The), State of Bihar v. M/s. Madhya Pradesh Khair Industries & Anr., AIR 1980 SC 946	... 471

(x)

Advocate-General, State of Bihar v. M/s. Madhya Pradesh Khair Industries (1980) 3 SCC 311 ...	776
Aftab Ahmad Ansari v. State of Uttaranchal 2010 (1) SCR 1027	
– relied on	... 332 & 336
Afzal & Anr. v. State of Haryana & Ors., (1996) 7 SCC 397	... 471
Ahemdabad St. Xavier's College Society v. State of Gujarat 1975 (1) SCR 173	... 621
Ahmedabad Teachers' Association v. Administrative Officer, AIR 2004 SC 1426	
– relied on.	... 243
Ajay Kumar Pandey, Advocate, 1998 (2) Suppl. SCR 87	... 304
Ali (M.C.) & Anr. v. State of Kerala, AIR 2010 SC 1639	
– relied on.	... 1040
Aligarh Municipal Board v. Ekka Tonga Mazdoor Union (1970) 3 SCC 98	... 776
All India Reserve Bank Retired Officers' Assn. v. Union of India 1992 Supp (1) SCC 664	... 569
Allauddin Mian & Ors. Sharif Mian & Anr. v. State of Bihar 1989 (2) SCR 498	
– relied on	... 215
Amarjit Singh & Ors. v. State of Punjab & Ors. 2010 (12) SCR 163	
– relied on.	... 455

(xi)	(xii)
Anil Kumar Jain v. Maya Jain, 2009 (14) SCR 90	Ashwin S. Mehta v. Custodian & Ors., (2006) 2 SCC 386
– distinguished. ... 123	... 244
Anna Malay v. Na U Ma, 17C 990 ... 841	Associated Cement Companies Ltd. v. P.N. Sharma 1965 (2) SCR 366 ... 1177
Antulay (A.R.) v. R.S. Nayak, 1988 (1) Suppl. SCR 1 ... 460	Atma Ram Properties (P) Ltd. v. Federal Motors Pvt. Ltd. 2004 (6) Suppl. SCR 843
Arumugam Servai v. State of Tamil Nadu 2011 AIR 1859	– relied on. ... 823
– relied on ... 332	Atul Castings Ltd. (M/s) v. Bawa Gurvachan Singh, 2001 (3) SCR 124
Arumugam v. State 2008 (14) SCR 309	– relied on ... 451
– relied on. ... 1003	Babu v. State of Kerala, 2010 (9) SCR 1039 ... 1023
Ashok Baijal v. M.P. Government 1998 Crl. L.J. 3511	Babulal Bhagwan Khandare & Anr. v. State of Maharashtra 2004 (6) Suppl. SCR 633 ... 945
– distinguished. ... 883	Baiju v. State of M.P. 1978 (2) SCR 1978 ... 1052
Ashok Hurra v. Rupa Bipin Zaveri 1997 (2) SCR 875 ... 121	Bajwa (B.S.) and Anr. v. State of Punjab and Ors. (1998) 2 SCC 523
Ashok Kumar Pandey v. State of West Bengal, AIR 2004 SC 280	– relied on. ... 395
– relied on ... 451	Balaji (M.R.) v State of Mysore 1963 Suppl. SCR ... 616
Ashoka Kumar Thakur v. Union of India 2008 (4) SCR 1	Baldeo Singh v. Dwarika Singh AIR 1978 Patna 97 ... 100
– relied on. ... 612 & 617	Balmokand Khatri Educational & Industrial Trust, Amritsar v. State of Punjab & Ors., (1996) 4 SCC 212 ... 466
Ashwin S. Mehta v. Custodian & Ors. 2006 (1) SCR 56	Balraje alias Trimbak v. State of Maharashtra 2010 (6) SCR 764 ... 1075
– relied on ... 239	

(xiii)

Balwant Narayan Bhagde v. M.D. Bhagwat & Ors., AIR 1975 SC 1767	...	466
Barium Chemicals Limited and Anr. v. Company Law Board and Ors., 1966 SCR 311	...	407
– relied on	...	407
Bhagat (V.) v. Mrs. D. Bhagat 1993 (3) Suppl. SCR 796	...	123
– relied on.	...	123
Bhagat Ram v. State of Punjab AIR 1954 SC 621	...	874
– relied on.	...	874
Bhagirathsinh s/o Mahipat Singh Judeja v. State of Gujarat (1984) 1 SCR 839	...	803
– relied on.	...	803
Bhanuprasad Hariprasad Dave & Anr. v. The State of Gujarat 1969 SCR 22	...	155
– relied on	...	155
Bharat Singh & Ors. v. State of Haryana & Ors., 1988(2) Suppl. SCR 1050	...	451
– relied on	...	451
Bhatnagar (S.P.) & Anr. v. The State of Maharashtra AIR 1979 SC 826	...	157
– relied on	...	157
Bhudeo Mandal & Ors. v. State of Bihar 1981 (3) SCR 291	...	215
– relied on	...	215

(xiv)

Bhura Ram and Others v. State of Rajasthan and Another (2008) 11 SCC 103	...	85
– distinguished.	...	85
Bihar State Council of Ayurvedic and Unani Medicine v. State of Bihar, 2007 (11) SCR 824	...	462
Bimla Devi & Anr. v. State of J & K 2009 (7) SCR 486	...	153
– held per incurium	...	153
Bishamber Dayal Chandra Mohan v. State of U.P.1982 (1) SCC 39	...	1177
Bishundeo Narain Rai v. Anmol Devi and Ors. 1998 (1) Suppl. SCR 66	...	98 & 100
Bomma (S.R.) v. Union of India 1994 (2) SCR 644	...	615
Brahm Swaroop & Anr. v. State of U.P., 2010 (15) SCR 1	...	1023
– relied on.	...	1004
Brahm Swaroop & Anr. v. State of U.P., AIR 2011 SC 280	...	1053
– relied on.	...	1053
Brij Mohan & Ors. v. Haryana Urban Development Authority & Anr., (2011) 2 SCC 29	...	454
– relied on.	...	454
CBI v. Kishore Singh 2010 (14) SCR 95	...	806
– relied on.	...	806

(xv)

Chameli Singh & Ors. v. State of U.P. & Anr., 1995 (6) Suppl. SCR 827		
– relied on.	...	454
Chanchala (D.N.) v. State of Mysore (1971) 2 SCC 293	...	621
Chandra Kishore Jha v. Mahavir Prasad & Ors., 1999 (2) Suppl. SCR 754	...	456
Chengalvaraya Naidu (S.P.) (Dead) by LRs. v. Jagannath (Dead) by LRs. and others 1993 (3) Suppl. SCR 422		
– relied on	...	412
Chetak Construction Ltd. v. Om Prakash & Ors., 1998 (2) SCR 1016	...	304
Childline India Foundation & Anr. v. Allan John Waters & Ors., JT 2011(3) SC 750		
– relied on	...	241
Cholan Roadways Corporation Ltd. v. Ahmed Thambi and Others, 2006 (4) CTC 433		
– cited.	...	793
Coelho (I.R.) v. State of Tamil Nadu 2007 (1) SCR 706	...	615 & 621
Commissioner of Income Tax, Kerala v. Tara Agencies, (2007) 6 SCC 429		
– relied on	...	461
Committee for Protection of Rights of ONGC Employees v. O.N.G.C., (1990) 2 SCC 472	...	569

(xvi)

Consumer Education and Research Center v. Union of India 1995 (1) SCR 626	...	777
Corporation Bank v. Saraswati Abharansala & Anr. 2008 916) SCR 340	...	462
Corporation of City of Bangalore v. Zulekha Bi, 2008 (5) SCR 325		
– relied on.	...	841
Dakshin Haryana Bijli Vitran Nigam v. Bachan Singh (2009) 14 SCC 793		
– distinguished.	...	570
Dalbir Singh v. State of U.P. 2004 (5) SCC 334		
– relied on	...	153
Dalip Singh v. State of U.P. and others 2009 (16) SCR 111		
– relied on	...	412 & 415
Daroga Singh and Others v. B.K. Pandey, 2004 (1) Suppl. SCR 113	...	303
Darshan (S.S.) v. State of Karnataka and Ors. 1995 (5) Suppl. SCR 221	...	43
Deokinandan Prasad v. State of Bihar 1971 Suppl. SCR 634	...	569
Devadasan v. Union of India 1964 SCR 680	...	616 & 621
Dharma v. Nirmal Singh alias Bittu & Anr. 1996 (7) SCC 471		
– relied on.	...	991

(xvii)

Dinesh Seth v. State of NCT of Delhi 2008 (12) SCR 113		
– cited	...	157
Directorate of Enforcement v. Deepak Mahajan, AIR 1994 SC 1775	...	462
Dolat Ram and others v. State of Haryana (1994) 6 Suppl SCR 69		
– relied on.	...	803
Dorab Cawasji Warden v. Coomi Warden 1990 (1) SCR 332		
– relied on.	...	915
Durga Shankar Mehta v. Thakur Raghuraj Singh 1955 (1) SCR 267	...	1177
Dutt (S.B.) v. University of Delhi AIR 1958 SC 1050		
– relied on.	...	1180
Earabhadrapa v. State of Karnataka 1983 (2) SCR 552	...	1052
Eradu and others v. State of Hyderabad IR 1956 SC 316		
– relied on	...	874
Eskayef Ltd. v. Collector of Central Excise, 1990(1) Suppl. SCR 442	...	461
Executive Committee of Vaish Degree College, Shamli v. Lakshmi Narain 1976 (2) SCR 1006		
– relied on	...	1180

(xviii)

Ezra v. Secretary of State for India, (1905) 32 Ind App 93	...	457
Films Rover International Ltd. v. Cannon Film Sales Ltd. (1986) 3 All ER 87	...	915
Ganesan (S.) v. Rama Raghuraman & Ors., (2011) 2 SCC 83	...	1023
Garg (R.K.) Advocate v. State of Himachal Pradesh, 1981 (3) SCR		
– relied on	...	305
Gaurishanker Sharma v. State of UP AIR 1990 SC 709		
– relied on.	...	991
Geejaganda Somaiah v. State of Karnataka, 2007 (3) SCR 899	...	1052
Girish Babu (C.M.) v. CBI, Cochin, High Court of Kerala 2009 (3) SCC 779		
– relied on.	...	866
Golaknath (I.C.) v. State of Punjab (1967) 2 SCR 762	...	615 & 621
Gopalan (A.K.) v State of Madras 1950 SCR 88	...	615
Gorige Pentaiah Pentaiah v. State of A.P. & Ors., (2008) 12 SCC 531		
– relied on.	...	1039
Gramin Sewa Sanstha v. State of M.P. & Ors., 1986 Supp SCC 578	...	457

(xix)

Grid Corpn. of Orissa v. Rasananda Das (2003) 10 SCC 297		
– relied on.	...	569
Gulab Chand v. State of M.P., 1995 (3) SCR 27	...	1052
Gullipilli Sowria Raj v. Bandaru Pavani @ Gullipili Pavani 2008 (17) SCR 35		
– held inapplicable.	...	376
Gupta (S.P.) & Ors. v. Union of India & Ors., AIR 1982 SC 149		
– relied on.	...	461
Gurbachan Singh v. Satpal Singh and Ors. 1989 (1) Suppl. SCR 292	...	1076
Gurbax Singh v. State of Punjab & Ors., AIR 1967 SC 502,		
– relied on.	...	465
Guruvayoor Devaswom Managing Committee and Anr. v. C.K. Rajan and Ors. (2003) 7 SCC 546		
– relied on	...	395
GVK Industries Ltd. v. ITO (2011) 4 SCC 36	...	615
Hamsaveni (A.) & Ors. v. State of Tamil Nadu & Anr., 1994 (2) Suppl. SCR 404		
– relied on	...	451
Hanumant Govind Nargundkar and another v. State of Madhya Pradesh 1952 SCR 1091		
– relied on.	...	874

(xx)

Hari Narain v. Badri Das 1964 SCR 203		
– relied on	...	412
Harshad Shantilal Mehta v. Custodian and Ors. (1998) 3 SCR 389		
– relied on	...	238
Haryana Urban Development Authority & Anr. v. Dr. Babeswar Kanhar & Anr., 2004 (6) Suppl. SCR 282	...	456
Hate Singh Bhagat Singh v. State of Madhya Bharat AIR 1953 SC 468	...	154
High Court of Judicature for Rajasthan v. Veena Verma & Anr., 2009 (1) SCR 795	...	456
Himanshu @ Chintu v. State (NCT of Delhi), (2011) 2 SCC 36		
– relied on.	...	334 & 1040
Hira Tikkoo v. Union Territory, Chandigarh & Ors., 2004(1) Suppl. SCR 65	...	456
Hitesh S. Mehta v. Union of India & Anr., 1992 (3) Bomb. C.R. 716		
– relied on	...	238
Holicow Pictures Pvt. Ltd. (M/s) v. Prem Chandra Mishra & Ors., AIR 2008 SC 913	...	468
Hotel Balaji & Ors. etc. etc. v. State of A.P. & Ors. etc. etc., 1992(2) Suppl. SCR 182	...	460
Inamdar (P.A.) v. State of Maharashtra 2005 (2) Suppl. SCR 603	...	611
– followed.	...	614

(xxi)

India Cement Ltd. etc. etc. v. State of Tamil Nadu etc. etc., 1989 (1) Suppl. SCR 692	...	460
Indira Nehru Gandhi v. Raj Narain, 1976 SCR 347	...	621
Indra Sawhney v. Union of India 1992 (2) Suppl. SCR 454	...	616
– relied on.	...	617
Iridium India Telecom Ltd. v. Motorola Inc., 2005 (1) SCR 73	...	456
Ishwar Chandra v. Oriental Insurance Co. Ltd. (2007) 3 AD (SC) 753	...	349
Islamic Academy of Education v State of Karnataka 2003 (2) Suppl. SCR 474	...	614
– followed	...	614
Israr v. State of U.P. 2004 (6) Suppl. SCR 695	...	1075
Jagjit Cotton Textile Mills v. Chief Commercial Superintendent, N.R. & Ors., (1998)	...	465
– relied on	...	465
Jaiswal (L.D.) v. State of U.P. 1984 (3) SCR 833	...	776
– relied on	...	305
James Martin v. State of Kerala 2004 (2) SCC 203	...	149
– held inapplicable.	...	149
Jamuna Singh & Ors. v. Bhadai Shah 1964 SCR 37	...	155
– relied on.	...	155

(xxii)

Janata Dal (The) v. H.S. Chowdhary & Ors., AIR 1993 SC 892	...	469
– relied on.	...	469
Javed Masood & Anr. v. State of Rajasthan 2010 (3) SCR 236	...	144
– relied on.	...	144
– held inapplicable.	...	149
Jayal (N.D.) & Anr. v. Union of India & Ors., 2003 (3) Suppl. SCR 152	...	457
Jayashree (G.) and others v. Bhagwandas S. Patel and others 2008 (17) SCR 1454	...	412
– relied on	...	412
Jilubhai Nanbhai Khachar & Ors. v. State of Gujarat & Anr., 1994(1) Suppl. SCR 807	...	455
Jyoti H Mehta & Ors. v. Custodian & Ors., (2009) 10 SCC 564	...	244
Jyoti Harshad Mehta & Ors. v. Custodian & Ors. 2009 (12) SCR 1229	...	239
– relied on	...	239
Kalburqui (P.K.) v. State of Karnataka, (2005) 12 SCC 489	...	467
Kaliaperumal v. Rajagopal and Anr. 2009 (2) SCR 814.	...	98
Kalyan Singh Chouhan v. C.P. Joshi, AIR 2011 SC 1127	...	451
– relied on	...	451

(xxiii)

Kapila Hingorani v. State of Bihar, (2003) 6 SCC 1 – relied on.	...	469
Kapur (R. P.) v. State of Punjab AIR 1960 SC 866	...	358
Kathi Raning Rawat v. State of Saurashtra, 1952 SCR 435	...	461
Keshavananda Bharati v. State of Kerala. 1973 Suppl. SCR 1	...	615
Keshub Mahindra v. State of M.P. (1996) 6 SCC 129	...	385
Khujji alias Surendra Tiwari v. State of Madhya Pradesh AIR 1991 SC 1853.	...	961
Kihoto Hollohan v. Zachillhu 1992 Supp (2) SCC 651	...	1177
Kishan Singh v. Emperor AIR 1928 P.C. 254	...	153
Kishan Singh (dead) thr. Lrs. v. Gurpal Singh & Ors., AIR 2010 SC 3624 – relied on.	...	1039
Kishore Kumar Khaitan and another v. Praveen Kumar Singh 2006 (2) SCR 176 – relied on.	...	915
Koppula Koteswara Rao v. Koppula Hemant Rao, 2002 AIHC 4950 (AP) – relied on.	...	841
Krishena Kumar v. Union of India, (1990) 4 SCC 207	...	569

(xxiv)

Krishna (K.) Reddy & Ors. v. Spl. Dy. Collector, Land Acqn. Unit II, LMD Karimnagar, 1988 (2) Suppl. SCR 853	...	457
Kuldip Yadav & Ors. v. State of Bihar JT 2011 (4) SC 436 – relied on.	...	215
Kulesh Mondal v. The State of West Bengal 2007 (9) SCR 799	...	945
Kulvinder Singh & Anr. v. State of Haryana 2011 AIR 1777 – relied on.	...	334
Kusum Lata v. Union of India & Ors., (2006) 6 SCC 180 – relied on.	...	469
L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd. & Anr. 2004 (4) Suppl. SCR 109 – relied on.	...	238
Lachhman Dass v. Jagat Ram & Ors., 2007 (2) SCR 980 – relied on.	...	454
Lachhman Singh & Ors. v. The State 1952 SCR 839 – relied on.	...	153
Lakhan Mahto v. State of Bihar 1966 (3) SCR 643 – held inapplicable.	...	153

(xxv)

Lakhjit Singh & Anr. v. State of Punjab 1994 Suppl. (1) SCC 173		
– cited	...	157
Lalit Mohan Das v. Advocate General, Orissa & Another, 1957 SCR 167		
– relied on.	...	305
Larsen & Toubro Ltd. & Ors. v. State of Gujarat & Ors., 1988 (2) SCR 339		
– relied on	...	451
Lata Singh v. State of U.P. & Anr. 2006 (3) Suppl. SCR 350		
– relied on.	...	332
Laxmidas Morarji v. Behrose Darab Madan, 2009 (14) SCR 777		
– relied on.	...	123
LIC of India v. Suresh Kumar 2011 (4) SCALE 137	...	1123
Lokendra Singh v. State of M.P. 1999 SCC (CrI) 371		
– stood overruled.	...	153
M.B. & Sanghi, Advocate v. High Court of Punjab & Haryana, 1991 (3) SCR 312		
– relied on	...	305
M. Trust v. Koramangla Residents Vigilance Group & Ors. AIR 2005 SC 894	...	468
Madan Mohan Singh v. Rajni Kant AIR 2010 SC 2933		
– relied on	...	1021

(xxvi)

Madhu Kishwar & Ors. v. State of Bihar & Ors., 1996 (1) Suppl. SCR 442	...	461
Madhukar Bhaskarrao Joshi v. State of Maharashtra (2000) 8 SCC 571	...	899
Mahabir Prasad Singh v. Jacks Aviation Pvt. Ltd., 1998 (2) Suppl. SCR 675	...	304
Mahanadi Coal Fields Ltd. & Anr. v. Mathias Oram & Ors., 2010 (8) SCR 750		
– relied on.	...	454
Mahendra Pratap Singh v. State of Uttar Pradesh 2009 (2) SCR 1033		
– relied on.	...	1003
Mahmadhusen Abdulrahim Kalota Shaikh v. Union of India, 2008 (14) SCR 889	...	462
Majotra (V.K.) v. Union of India & Ors. 2003 (3) Suppl. SCR 483		
– relied on.	...	60
Malhotra (M. M.) v. Union of India & Ors. 2005 (3) Suppl. SCR 1026		
– held inapplicable	...	376
Mamleshwar Prasad & Anr. v. Kanhaiya Lal (D) by Lrs., 1975 (3) SCR 834	...	460
Manish Goel v. Rohini Goel 2010 (2) SCR 414		
– relied on.	...	123
Manu Sharma v. State 2010 (4) SCR 103		
– relied on	...	336

(xxvii)

Mayuram Subramanian Srinivasan v. CBI, 2006(3) Suppl. SCR 48	...	460
Meenakshi (M.) and Ors. v. Metadin Agarwal (2006) 7 SCC 470	...	395
– relied on	...	395
Metro Marins and another v. Bonus Watch Co. (P) Ltd. and Others (2004) 7 SCC 478	...	915
– relied on.	...	915
Minerva Mills Ltd. v. Union of India 1981 (1) SCR 206	...	621
Mohan Singh & Anr. v. State of Punjab 1962 Suppl. SCR 848	...	144
– relied on.	...	144
– held inapplicable	...	149
– followed.	...	213
Motilal Sahu v. Ugrah Narain Sahu AIR 1950 Patna 288	...	100
Mount Carmel School Society v. DDA, 2007 (13) SCR 876.	...	453
Mukund @ Kundu Mishra v. State Of M.P. 1997 AIR 2622	...	1052
Municipal Committee, Patiala v. Model Town Residents Association & Ors., AIR 2007 SC 2844	...	465
– relied on.	...	465
Municipal Corporation of Delhi v. Gurnam Kaur, 1988 (2) Suppl. SCR 929	...	459
– relied on.	...	459

(xxviii)

Municipal Council, Palai v. T.J. Joseph (1964) 2 SCR 87	...	605
– relied on.	...	605
Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde & Anr. 1995(2) SCR 260	...	457
Murtaza Hussain (Md.) v. Abdul Rahman AIR 1949 Pat. 364	...	100
Myladimmal Surendran & Ors. v. State of Kerala, AIR 2010 SC 3281	...	1040
– relied on.	...	1040
Nagaraj (M.) v. Union of India (2006) 8 SCC 202	...	615
– relied on.	...	616 & 617
Nagpur Improvement Trust v. Vithal Rao and Ors., 1973 (3) SCR 39	...	43
Nakara (D.S.) v. Union of India (1983) 1 SCC 305	...	569
Nambiar (A. K. K.) v. Union of India and another, 1970 (3) SCR 121	...	407
– relied on	...	407
Namdeo v. State of Maharashtra 2007 (3) SCR 939	...	876
Nanavati (K. M.) v. State of Maharashtra 1962 Suppl. SCR 567	...	945
Naraindas v. Government of Madhya Pradesh & Ors., AIR 1974 SC 1252	...	471
Narashimaha Murthy v. Susheelabai, 1996(1) Suppl. SCR 414	...	462

(xxix)

Narayanaswamy (G.) Reddy (Dead) by LRs. and another v. Government of Karnatka and another 1991 (2) SCR 563		
– relied on	...	412
Narmada Bachao Andolan v. Union of India & Ors., (1998) 5 SCC 586	...	468
Narmada Bachao Andolan v. Union of India & Ors., 2000(4) Suppl. SCR 94	...	453
– held per incuriam	...	464
Narmada Bachao Andolan v. Union of India & Ors., 2005 (2) SCR 840	...	453
– held per incuriam	...	464
Narpat Singh etc. etc. v. Jaipur Development Authority & Anr., 2002 (3) SCR 365		
– relied on	...	454
Narsinga (M.) Rao v. State of A.P (2001) 1 SCC 691	...	899
National Insurance Co. Ltd. v. Candingeddawa and Ors. 2005 ACJ 40	...	349
National Insurance Co. Ltd. v. G. Mohd. Vani and Ors. 2004 ACJ 1424	...	349
National Thermal Power Corporation v. Mahesh Datta & Ors., (2009) 8 SCC 339	...	467
Nedunuri Kameswaramma v. Sampati Subba Rao and Anr. (1963) 2 SCR 208, 225		
– relied on	...	395
Nirmal Jeet Kaur v. State of M.P. & Anr., 2004(3) Suppl. SCR 1006	...	460

(xxx)

Nirmala Anand v. Advent Corporation (P) Ltd. and Ors. (2002) 5 SCC 481		
– relied on	...	395
Nisar Alli v. The State of Uttar Pradesh AIR 1957 SC 366: 1957 SCR 657		
– relied on.	...	335
Noha (B.) v. State of Kerala (2008) 11 SCC 681	...	899
Noorduddin v. Dr. K.L. Anand, (1995) 1 SCC 242		
– relied on.	...	470
Padmabati Dasi v. Rasik Lal Dhar [(1910) Indian Law Reporter 37 Calcutta 259	...	407
Panalal Damodar Rathi v. State of Maharashtra 1979(4) SCC 526		
– relied on.	...	866
Panchoo Sahu v. Janki Mandar AIR 1952 Pat. 263	...	100
Papayya Sastry (A.V.) and others v. Government of A.P. and others 2007 (3) SCR 603		
– relied on	...	412
Parakunnan Veetill Joseph's Son Mathrew v. Nedumbar Karuvila's Son and Ors. (1987) Suppl. SCC 340		
– relied on	...	395
Paramjeet Singh @ Pamma v. State of Uttarakhand, 2010 (11) SCR 1064		
– relied on	...	1021

(xxxi)

People's Union for Civil Liberties (PUCL) v. Union of India and Another 1996 (10) Suppl. SCR 321		
– cited.	...	415
Poonamal v. Union of India, (1985) 3 SCC 345	...	569
Prabhu Narain v. State of U.P (2004) 13 SCC 662	...	569
Prabir Kumar Das v. State of Orissa & Ors., 2003 (5) Suppl. SCR 716		
– relied on	...	452
Pradesh v. Thadi Narayana 1962 (2) SCR 904		
– distinguished.	...	153
Prahalad Patel v. State of Madhya Pradesh (2011) 4 SCC 262	...	1075
Preeta Singh v. Haryana Urban Development Authority 1996 (8) SCC 756	...	2
Prem Chand Garg and another v. Excise Commissioner, U.P. and others, 1963 Suppl. SCR 885		
– cited.	...	962
Prem Surana v. Additional Munsif and Judicial Magistrate 2002 (1) Suppl. SCR 524	...	775
Prestige Lights Limited v. SBI 2007 (9) SCR 112		
– relied on	...	412
Prithi v. State of Haryana, (2010) 8 SCC 536		
– relied on.	...	1040

(xxxii)

R. and M. Trust v. Koramangla Residents Vigilance Group & Ors., AIR 2005 SC 894)	...	468
Radha Mohan Lal v. Rajasthan High Court, 2003 (1) SCR 1011	...	304
Raghavendra Acharya (U.P.) v. State of Karnataka (2006) 9 SCC 630	...	569
Raj Kumar v. Ajay Kumar & Anr. 2010(13) SCR 179		
– relied on.	...	74
Raj Rajendra Singh Seth alias R.R.S. Seth v. State of Jharkhand And Anr. (2008) 11 SCC 681	...	899
Rajasthan Pradesh V.S. Sardarshahar & Anr. v. Union of India & Ors., 2010 (7) SCR 252		
– relied on	...	451
Rajasthan SRTC v. Bal Mukund Bairwa (2009) 4 SCC 299	...	567
Rajendra and Another v. State of Uttar Pradesh 2009 (5) SCR 589		
– held inapplicable.	...	876
Rajendra Shantaram Todankar v. State of Maharashtra & Ors. 2003 (1) SCR 10		
– relied on	...	215
Rajesh Kumar v. Dharamvir 1997(4) SCC 496		
– relied on.	...	991
Rajinder Kishan Gupta and Anr. v. Union of India and Ors. 2010 (10) SCR 172	...	43

(xxxiii)

Ram Jawaya Kapur v. State of Punjab 1955 (2) SCR 225	...	1176
– relied on.	...	608
Ram Nath Madhoprasad & Ors. v. State of M.P. AIR 1953 SC 420		
– cited	...	157
Ram Sarup Gupta (dead) by L.Rs. v. Bishun Narain Inter-College & Ors., 1987 (2) SCR 805		
– relied on	...	451
Ram Singh Vijay Pal Singh & Ors. v. State of U.P. & Ors., 2007(5) SCR 1960		
– relied on.	...	455
Ramcharan v. State of M.P. (2004) 13 SCC 617		
– relied on.	...	803
Ramesh Chandra v. Randhir Singh & Ors. 1990 (3) SCR 1		
– relied on.	...	792
Ramjas Foundation & Ors. (The) v. Union of India & Ors., AIR 1993 SC 85		
– relied on.	...	470
Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors., AIR 1997 SC 1236		
– relied on.	...	470
Ranbir Yadav v. State of Bihar 1995 (2) SCR 826		
– relied on	...	215
Ranvir Yadav v. State of Bihar 2009 (7) SCR 653	...	154

(xxxiv)

Ravennet Singh Bagga v. KLM Royal Duth Airlines 1999 (4) Suppl. SCR 320	...	1126
Rodemadan India Ltd., v. International Trade Expo Centre Ltd., (2006) 11 SCC 651		
– cited	...	962
Ronny Alias Ronald James Alwaris & Ors. v. State of Maharashtra, AIR 1998 SC 1251	...	1052
Roop Kumar v. Mohan Thedani (2003) 6 SCC 595		
– relied on	...	395
Roop Narain v. Gangadhar, 9WR 297	...	841
Rukia Begum & Ors. v. State of Karnataka, (2011) 4 SCC 779	...	1023
– relied on.	...	1004 & 1053
Rupa Ashok Hurra v. Ashok Hurra (2002) 4 SCC 388		
– relied on.	...	385
Rupan Deol Bajaj (Mrs.) and Anr. v. Kanwar Pal Singh Gill and Anr. AIR 1996 SC 309		
– relied on.	...	359
Rural Litigation and Entitlement Kendera v. State of U.P., 1988 Suppl. SCR 690		
– relied on	...	451
S.J.S. Business Enterprises (P) Ltd. v. State of Bihar & Ors., (2004) 7 SCC 166		
– relied on.	...	471

(xxxv)

Sabia Khan & Ors. v. State of U.P. & Ors., (1999) 1 SCC 271		
– relied on.	...	470
Saha (S.B.) & Ors. v. M.S.Kochar 1980 (1) SCR 111	...	156
Sahib Singh v. State of Haryana, AIR 1997 SC 3247		
– relied on.	...	1039
Samar Ghosh v. Jaya Ghosh 2007 (4) SCR 428		
– relied on.	...	123
Samatha v. State of A.P. & Ors., 1997 (2) Suppl. SCR 305		
– relied on.	...	454
Sangaraboina Sreenu v. State of A.P. 1997 (3) SCR 957		
– stood overruled	...	153
Sanghi (M.B.) Advocate v. High Court of Punjab and Haryana 1991 (3) SCR 312		
– relied on.	...	305, 776
Sanjay @ Kaka etc. etc. v. The State (NCT of Delhi) AIR 2001 SC 979	...	1052
Sanjay Kumar & Ors. v. Narinder Verma and Ors. 2006 (2) Suppl. SCR 59		
– relied on.	...	60
Sanjiv Datta, Dy. Secy., Ministry of Information & Broadcasting, 1995 (3) SCR 450	...	460

(xxxvi)

Santosh Kumar Singh v. State thr. CBI 2010 (9) SCC 747		
– relied on	...	154
Santosh Kumar v. Central Warehousing Corporation & Anr., 1986 (1) SCR 603	...	457
Sanwat Khan v. State of Rajasthan, AIR 1956 SC 54	...	1052
Sanwat Singh & others v. State of Rajasthan 1961(3) SCR 120		
– relied on.	...	867
Sarjug Saran Singh v. Ramcharitar Singh 1968 BLJR 74	...	100
Sarwan Singh and Ors. v. State of Punjab (1976) 4 SCC 369	...	1075
Savitramma (Smt.) v. Cicil Naronha and another, 1988 Suppl. SCR 561		
– relied on	...	408
Savitri Pandey v. Prem Chandra Pandey 2002 (1) SCR 50		
– relied on.	...	123
Sawarni (Smt.) v. Inder Kaur & Ors., AIR 1996 SC 2823	...	467
Saxena (D.C.) v. The Hon'ble Chief Justice of India, 1996 (3) Suppl. SCR 677		
– relied on	...	305
Saxena (R.D.) v. Balram Prasad Sharma 2000 (2) Suppl. SCR 598	...	303

(xxxvii)

Secretary to Government and Anr. v. M. Senthil Kumar 2005 (2) SCR 436		
– relied on.	...	60
Shamsher Singh Bedi v. High Court of Punjab & Haryana, (1996) 7 SCC 99		
– relied on.	...	305
Shankar K. Mandal and Ors. v. State of Bihar and Ors. (2003) 9 SCC 519		
– relied on.	...	395
Sharad Birdhichand Sarda v. State of Maharashtra, 1985 (1) SCR 88		
– relied on.	...	1021
Shareef (M.Y.) v. The Hon'ble Judges of the High Court of Nagpur 1955 SCR 757	...	776
– relied on.	...	305
Sharma (B.K.) v. Union of India AIR 2005 Guj 203	...	777
Sharma (K.D.) v. SAIL and others 2008 (10) SCR 454		
– relied on.	...	412
Sharma (K.D.) v. Steel Authority of India Limited & Ors., (2008) 12 SCC 481	...	471
Sheela Barse v. Union of India & Ors., AIR 1988 SC 2211	...	468
Sheikh Gulfan v. Sanat Kumar Ganguli, 1965 SCR 364	...	462

(xxxviii)

Sheikh Zakir v. State of Bihar AIR 1983 1983 (2) SCR 312		
– relied on.	...	334
Shiva Narayan Sah v. Baidya Nath Prasad Tiwary AIR 1973 Patna 386	...	100
Shivaji Sahebrao Bobde v. State of Maharashtra AIR 1973 SC 2622		
– relied on.	...	154
Shobhit Chamar & Anr. v. State of Bihar 1998 (2) SCR 117		
– relied on.	...	154
Shyam v. State of Madhya Pradesh, (2009) 16 SCC 531		
– relied on.	...	1040
Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors., 2010 (15) SCR 201	...	460
Sidhajibhai Sabhai (Rev.) v. State of Gujarat (1963) 3 SCR 837	...	621
Smruti Pahariya v. Sanjay Pahariya 2009 (8) SCR 631		
– relied on.	...	121
Sohrab s/o Beli Nayata and Anr. v. The State of Madhya Pradesh 1973 (1) SCR 472	...	1076
Sonic Surgical v. National Insurance Co. Ltd., 2009(15) SCR 265	...	462
Special Land Acquisition Officer, U.K. Project v. Mahaboob & Anr., 2009 (2) SCR 881		
– relied on.	...	454

Srivastava (A.P.) v. Union of India (1995) 6 SCC 227		
– relied on.	...	569
State Delhi Administration v. Laxman Kumar 1985 (4) SCC 476		
– relied on.	...	991
State of A.P. v. Lavu (1971) 1 SCC 607		
– relied on.	...	608
State of Andhra Pradesh (The) v. N.Venugopal & Ors. AIR 1964 SC 33		
– relied on	...	155
State of Bihar and Ors. v. Radha Krishna Singh & Ors., 1983 (2) SCR 808		
– relied on.	...	1021
State of Bombay v. Purushottam Jog Naik, 1952 SCR 674		
– relied on.	...	407
State of Gujarat v. Maheshkumar Dheerajlal Thakkar AIR 1980 SC 1167		
	...	899
State of Haryana & Anr. v. Dharam Singh & Ors. 2009 (1) SCR 979		
– relied on.	...	459
State of J & K v. Hindustan Forest Company, 2006 (12) SCC 198		
– relied on.	...	841
State of Karnataka v. Ameerjan 2008 (1) SCC (Cri) 130		
	...	156

State of Karnataka v. Vishwabharathi House Building Co-op., Society 2003 (2) SCC 412 ...		1177
State of Karnataka v. Ranganatha Reddy (1977) 4 SCC 471		... 616 & 621
State of Karnataka & Ors. v. Gowramma & Ors., 1988 (2) Suppl. SCR 929		
– relied on.	...	459
State of Kerala & Anr. v. Peoples Union for Civil Liberties, Kerala State Unit & Ors., (2009) 8 SCC 46		
– relied on.	...	455
State of Kerala v. N.M. Thomas 1976 (1) SCR 906		... 616 & 621
State of M.P. v. Suresh Kaushal and Another (2003) 11 SCC 126		
– relied on.	...	85
State of M.P. v. Ramesh & Anr., (2011) 4 SCC 786		... 1023
State of Maharashtra v. Atma Ram AIR 1966 SC 1786,		
– relied on.	...	155
State of Maharashtra v. Narhar Rao AIR 1966 SC 1783,		
– relied on.	...	155
State of Maharashtra v. Pimple AIR 1984 SC 63		
– relied on.	...	991

(xli)

State of Maharashtra v. Ramdas Shrinivas Nayak and Anr. (1982) 2 SCC 463	...	395
– relied on.	...	
State of Maharashtra & Ors. v. Jalgaon Municipal Council & Ors. 2003 (1) SCR 1112	...	60
– relied on.	...	
State of Maharashtra v. Ahmed Shaikh Babajan and Others 2008 (14) SCR 1184	...	876
State of Maharashtra v. Digambar, 1995 (1) Suppl. SCR 492	...	453
State of Maharashtra v. Ramdas Shrinivas Nayak & Anr., 1983(1) SCR 8	...	453
State of Maharashtra v. Sukhdeo Singh & Anr., 1992 (3) SCR 480	...	1021
– relied on.	...	
State of M.P. v. Bachhudas (2007) 9 SCC 135	...	991
– relied on.	...	
State of M.P. v. Paltan Mallah 2005(3) SCC 169	...	991
– relied on.	...	
State of Punjab v. Parveen Kumar (2005) 9 SCC 769	...	991
– relied on.	...	
State of Punjab v. Sanjiv Kumar @ Sanju & Ors. 2007 (7) SCR 1025	...	215
– relied on.	...	

(xlii)

State of Punjab & Ors. v. Ram Lubhaya Bagga etc. etc. AIR 1998 SC 1703	...	455
– relied on.	...	
State of Rajasthan v. Raja Ram (2003) 8 SCC 180	...	334
– relied on.	...	
State of Rajasthan v. Teja Ram and Ors. AIR 1999 (2) SCR 29	...	336
– relied on.	...	
State of Rajasthan v. Rajendra Singh (2009) 11 SCC 106	...	1004
– relied on.	...	
State of T.N. & Anr. v. Mahalakshmi Ammal & Ors., (1996) 7 SCC 269	...	466
State of Tamil Nadu v. T. Thulasingham and Ors. AIR 1975 Supreme Court 1314	...	883
State of TN v. Suresh 1998(2) SCC 372	...	991
– relied on.	...	
State of U.P. v. Chetram and others, AIR 1989 SC 1543	...	961
State of U.P. v. Naresh and Ors. (2011) 4 SCC 324	...	1075
– relied on.	...	
State of U.P. v. Sahai AIR 1981 SC 1442	...	991
– relied on.	...	
State of U.P. & Anr. v. Synthetics and Chemicals Ltd. & Anr., 1991 (3) SCR 64	...	460

(xliii)

State of U.P. v. Naresh & Ors. (2011) 4 SCC 324	
– relied on.	... 1003
State of U.P. v. Smt. Pista Devi & Ors., AIR 1986 SC 2025	... 454
State of UP v. Abdul 1997(10) SCC 135	
– relied on.	... 991
State of UP v. Premi 2003(9) SCC 12	
– relied on.	... 991
State of Uttaranchal v. Alok Sharma and others 2009 (7) SCR 1	
– relied on.	... 960
State of Uttaranchal v. Balwant Singh Chauhal and Ors., (2010) 3 SCC 402	
– relied on.	... 469
State of West Bengal v. Kesoram Industries Ltd. & Ors., 2004(1) SCR 564	... 460
State Represented by Inspector of Police v. Saravanan & Anr. 2008 (14) SCR 405	
– relied on.	... 1003
Subair (A.) v. State of Kerala 2009(6) SCC 587	
– relied on.	... 866
Subhra Mukherjee v. Bharat Coaking Coal Ltd, AIR 2000 SC 1203	
– relied on.	... 840
Subrata Sen v. Union of India (2001) 8 SCC 71	
– relied on.	... 569

(xliv)

Sudershan (S.) Reddy v. State of A.P. (2006) 10 SCC 163	... 1075
Sujata Mukherjee (Smt) v. Prashant Kumar Mukherjee 1997 (3) SCR 1127	
– relied on.	... 85
Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi (1975) 3 SCR 619	... 567
Sukhwinder Pal Bipan Kumar (M/s) and others v. State of Punjab and others, 1982 (2) SCR 31	
– relied on.	... 408
Suman Verma v. Union of India & Ors., (2004) 12 SCC 57	... 467
Sumer Chand (Prof.) v. Union of India & Ors. 1993 (2) Suppl. SCR 123	
– relied on.	... 155
Sunil Kumar Sambhudayal Gupta (Dr.) & Ors. v. State of Maharashtra 2010 (15) SCR 452	
– relied on.	... 1003
Sunil Kumar Sambhudayal Gupta (Dr.) & Ors. v. State of Maharashtra, (2010) 13 SCC 657	... 1023
Sunil Poddar and others v. Union Bank of India 2008 (1) SCR 261	
– relied on.	... 412
Supreme Court Bar Association v. Union of India & Anr., (1998) 4 SCC 409	... 305
Suraj Mal v. State (Delhi Admn.) 1979(4) SCC 725	... 866

(xlv)

Surendra Pal & Ors. v. State of U.P. & Anr., (2010) 9 SCC 399		
– relied on.	...	1040
Sureshta Devi (Smt.) v. Om Prakash 1991 (1) SCR 274		
– relied on.	...	121
Swadeshi Cotton Mills v. Union of India, 1981 (2) SCR 533		
– relied on.	...	240
Thakur Nirman Singh & Ors. v. Thakur Lal Rudra Pratap Narain Singh, AIR 1926 PC 100	...	467
TMA Pai Foundation v. State of Karnataka 2002 (3) Suppl. SCR 587		
– followed.	...	614
Transmission Corporation of A.P. Ltd & Ors. v. P. Surya Bhagavan, AIR 2003 SC 2182	...	453
Trimukh Maroti Kirkan v. State of Maharashtra (2006)1 SCC 681		
– relied on.	...	336
Tulsiram Kanu v. State, AIR 1954 SC 1	...	1052
Umesh (B.A.) v. Registrar General, High Court of Karnataka 2011 (2) SCR 367		
– relied on.	...	334
Union of India & Ors. v. Shantiranjan Sarkar, (2009) 3 SCC 90		
– relied on.	...	471

(xlvii)

Union of India v. Brig. P. K. Dutta (Retd.) 1994 (6) Suppl SCR 358		
– relied on.	...	566
Union of India v. M.K. Sarkar (2009) 16 SCR 249	...	567
Union of India v. M.K. Sarkar (2010) 2 SCC 59		
– relied on.	...	570
Union of India v. Madras Bar Association 2010 (11) SCC 1	...	1177
Union of India v. P.D. Yadav (2002) 1 SCC 405		
– relied on.	...	569
Union of India v. Ranbaxy Laboratories Ltd., 2008 (8) SCR 315	...	462
Unni (P.K.) v. Nirmala Industries & Ors., AIR 1990 SC 933		
– relied on.	...	461
Unnikrishnan J.P. v. State of A.P. 1993 (1) SCR 594	...	621
Vasant Gangaramsa Chandan v. State of Maharashtra (1996) 10 SCC148		
– relied on.	...	569
Venkata Chala Gounder (R.V.E.) v. Arulmign Ciswesaraswamy & V. Temple & Anr., AIR 2003 SC 4548	...	467
Video Electronics Pvt. Ltd. (M/s.) & Anr. v. State of Punjab & Anr., 1989 (2) Suppl. SCR 731	...	461

(xlvii)

Vidya Dhar Pande v. Vidyut Grih Siksha Samiti, (1988) 3 Suppl. SCR 442	...	567
Vijay @ Chinee v. State of M.P. 2010 (8) SCR 1150		
– relied on.	...	1003
Vijay Kumar Arora v. State (NCT of Delhi) 2010 (1) SCR 1069		
– relied on	...	332
Vijaysinh Chandubha Jadeja v. State of Gujarat (2011) 1 SCC 609		
– followed.	...	975
Vijendrajit Ayodhya Prasad Goel v. State of Bombay AIR 1953 SC 247		
– relied on	...	157
Vikramjit Singh v. State of Punjab 2006 (9) Suppl. SCR 375	...	154
Villianur Iyarkkai Padukappu Maiyam v. Union of India & Ors., 2009 (9) SCR 225		
– relied on.	...	456
Vinay Chandra Mishra (the alleged contemner), (1995) 2 SCC 534	...	305
Virendra Kumar Saklecha v. Jagjiwan and others, 1972 (3) SCR 955		
– relied on.	...	408
Vishundas Hundumal & Ors. v. State of Madhya Pradesh & Ors., 1981 (3) SCR 234	...	461

(xlviii)

Wakkar and Anr. v. State of Uttar Pradesh (2011) 3 SCC 306		
– relied on.	...	332
Waman Rao v. Union of India, 1981 (2) SCR	...	615
Wander Ltd. and another v. Antox India P.Ltd. 1990 (Supp) SCC 727		
– relied on.	...	915
Welcome Hotel and others v. State of A.P. and others 1983 (3) SCR 674		
– relied on.	...	412
Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate, 1958 SCR 1156	...	462
Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav and Another 1988 (2) SCR 809	...	375

SUBJECT-INDEX

ADMINISTRATION OF JUSTICE:

(1) Abuse of process of court.
(See under: Public Interest Litigation) 443

(2) Conduct of litigant.
(See under: Constitution of India, 1950) 403

(3) Professional conduct – Integrity and sanctity of an institution which bestowed upon itself the responsibility of dispensing justice has to be maintained – All the functionaries, be it advocates, judges and rest of the staff ought to act in accordance with morals and ethics.

O.P. Sharma & Ors. v. High Court of Punjab & Haryana 301

(4) (See under: Contempt of Courts Act, 1971) 774

(5) Criminal Justice – Possibility of two views – One pointing to the guilt of the accused and the other his innocence – Courts to adopt the view in favour of accused.

(Also see under: Penal Code, 1860)

State of Rajasthan v. Islam 988

ADMINISTRATIVE LAW:

(1) Government policy – Judicial review of, through public interest litigation – Held: A public policy cannot be challenged through PIL where the State Government is competent to frame the policy – The wisdom and advisability of the policies are ordinarily not amenable to judicial review unless the policies are contrary to statutory or constitutional provisions or arbitrary or irrational

or an abuse of power – In the instant case, it was not desirable for the High Court to make any comment on the competence of the State of amend the policy.

(Also see under: Public Interest Litigation)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

(2) Natural justice.

(See under: Special Court (Trial of Offences Relating to Transactions in Securities Act, 1992) 234

(3) (See under: Rule of Law) 800

(4) (See under: Shikshan Sevak Scheme 2000 (State of Maharashtra); and Committees) 1173

ADVOCATES:

Professional ethics.

(See under: Contempt of Courts Act, 1971 and Bar Council of India Rules, 1975) 301

APPEAL:

(1) Appeal against acquittal:

(i) Scope of interference – Discussed.

(Also see under: Prevention of Corruption Act, 1988)

State of Kerala v. C. P. Rao... 864

(ii) Acquittal by trial court – Scope of interference by the appellate court – Held: The appellate court while reversing the judgment of acquittal must bear in mind the presumption of innocence of the accused.

(Also see under: Penal Code, 1860)

A Shankar v. State of Karnataka 999

(iii) Appeal against acquittal – Held: In exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse leading to miscarriage of justice, the appellate court should interfere with the order of acquittal – In the instant case, the circumstantial evidence is so strong that it points unmistakably to the guilt of the accused and is incapable of explanation of any other hypothesis than that of their guilt – Therefore, findings recorded by the High Court are perverse, being based on irrelevant considerations and inadmissible material.

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

State of U.P. v. Mohd. Iqram & Anr. 1017

(iv) (See under: Code of Criminal Procedure, 1973). 1050

(2) Appeal against consent order – Maintainability of.
(See under: Code of Civil Procedure, 1908) 392

(3) Appeal against consent order/non-speaking order – Maintainability of – Appellant working as Instructor in grade-I in respondent-Board – The Board passed order transferring the appellant – Appellant not reporting for duty – Order of discharge – Appellant reinstated on grade-II instead of grade-I – Writ petitions seeking reinstatement on grade-I and challenging the order of transfer – Single judge of High Court dismissing writ petitions by combined order – Writ appeal dismissed by Division Bench on the ground that since the appellant had agreed to join at the place of transfer and given an assurance to that effect to the Single Judge, the appeal was not maintainable – Held: No reason to interfere with

that part of the order of the Single Judge – However, Division Bench did not deal with the issue concerning reinstatement on grade-II post – It is left open to the appellant to approach Division Bench by way of review seeking reinstatement on grade-I, as the issue was not dealt with at all by the Division Bench.

S. Thilagavathy v. State of Tamil Nadu and Ors. 225

ARBITRATION AND CONCILIATION ACT, 1996:

s.11 – Application under, for appointment of arbitrator – Joint Development Agreement (JDA) in respect of land/property in question between appellant (as developer) and President of respondent Society (as owner of the property) – Power of Attorney executed by the President of the Society in favour of the appellant – Resolution by respondent Society that President was not authorized to deal with property, thus, JDA and Power of Attorney were null and void – Application filed by respondent Society u/s. 11 for appointment of arbitrator to resolve the dispute – Allowed by High Court – Maintainability of the application filed by respondent society u/s. 11 – Held: The application was maintainable – President did not execute JDA or the power of attorney in his individual capacity – Respondent Society is the first party under the JDA and not the President.

Khivraj Motors v. The Guanellian Society 1165

BAR COUNCIL OF INDIA RULES, 1975:

Section I, Chapter II, Part IV – Standards of Professional Conduct and Etiquette – Advocates – Duty to the court – Advocates hurling abuses in filthy language and threatening Judicial Magistrate

with dire consequences – Held: Advocacy touches and asserts the primary value of freedom of expression – But the advocates and the party appearing in person equally owe countervailing duty to maintain dignity, decorum and order in court proceedings – A deliberate attempt to scandalize the court which would shake the confidence of the litigating public in the system, would cause a very serious damage to the name of the judiciary – Advocates – Professional ethics. (Also see under: Contempt of Courts Act, 1971)

O. P. Sharma & Ors. v. High Court of Punjab & Haryana 301

CARRIAGE BY AIR ACT, 1972:

(i) Second Schedule – Clause 19 – Low cost carrier – Flight delayed – Application by passenger before Permanent Lok Adalat claiming damages for deficiency in service – Held: Permanent Lok Adalat recorded a finding of fact that delay was due to dense fog/bad weather and want of ATC clearance due to air traffic congestion, which were beyond the control of the air carrier, and as a consequence, rightly held that the air carrier was not liable for payment of any compensation for the delay as such.

(ii) Liability of carrier to provide facilitation during delay – Held: The airline will be made liable to pay compensation if it fails to offer the minimum facilitation in the form of refreshment/water/beverages, as also toilet facilities to the passengers who have boarded the plane, in the event of delay in departure, as such failure would amount to deficiency in service – In the instant case, the facilities offered by the carrier were

reasonable and met the minimum facilitation as per DGCA guidelines applicable at the relevant point of time – Thus the airline was not liable to pay any damages – The order of the Permanent Lok Adalat affirmed by the High Court awarding damages and costs to the respondent is set aside and the application of respondent for compensation is rejected – Compensation – Cause of action.

(iii) Low cost carrier – Exclusion clause stipulating that in the event of flight delay, carrier would not provide any ‘meals’ – Held: Such exclusion clause can apply to passengers who have not boarded the flight and who have the freedom to purchase food in the airport or the freedom to leave – It will not apply to passengers who are on board and the delay in the flight taking off, denies them access to food and water – Suggestion given to Airports and ATC authorities to allow passengers, who had boarded the aircraft, to get back to the airport lounge when there is delay in flight for a period beyond three hours.

(Also see under: Contract and Legal Services Authorities Act, 1987)

Inter Globe Aviation Ltd. v. N. Satchidanand 1116

CAUSE OF ACTION:

(1) (See under: Carriage by Air Act, 1972) 1116

(2) (See under: Delay/Laches) 835

CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965: r.29.

(See under: Service Law) 1096

CIRCULARS/GOVERNMENT ORDERS/
NOTIFICATION:

(1) NREGA Operational Guidelines.
(See under: Mahatma Gandhi National Rural
Employment Guarantee Act, 2005) 744

(2) Department of Posts Circular dated
29.5.2001
(See under: Service Law) 1096

CIVIL AVIATION:

(See under: Carriage by Air Act, 1972;
Contract; and Legal Services Authorities
Act, 1987) 1116

CODE OF CIVIL PROCEDURE, 1908:

(1) s.9.
(See under: Committees) 1173

(2) s. 96(3) – Co-sharers-sons and daughters entering into an agreement to sell the entire property with appellant-buyer – Non-execution of sale deed – Suit for specific performance – Decreed by trial court – Appeal before High Court – Defendant No. 3-minor grandson, who was not party to the agreement, proposing to purchase the share of the co-sharers by paying the value to the appellant – Counsel for the appellant on instructions agreeing to the said proposal – High Court directing co-sharers to execute the sale deed to the extent of their share in the suit property – Held: Order of the High Court shows that it is a consent order – No appeal lies from a decree passed by the court with the consent of the parties – Defendant No. 3 has right to purchase, to exclude the outsider and holds an equitable right of purchase of the shares of other defendants – He was not bound by the agreement executed by

other defendants to the extent of his share – Since defendant No. 3 did not join the other co-sharers, no agreement of sale could be entered with the appellant for the entire property including the minor's share – Thus, the agreement of sale covering the entire property was void and ineffective – Also, before the High Court, both parties including the appellant agreed for a reasonable market valuation – Statement made by the counsel before the High Court, cannot be challenged before Supreme Court – Partition Act, 1893 – s. 4.

*Vimaleshwar Nagappa Shet v. Noor
Ahmed Sheriff & Ors.* 392

(3) O. 19, r. 3 CPC and O. 11 of Supreme Court Rules – Affidavits in support of petitions – Affirming of contents of the petition in the affidavits – Disclosure of source of information in an affidavit – Significance of – Explained – Held: In the instant writ petition, the petitioner approached the Court in a casual manner – The affidavit filed by him in support of the petition, relying on which the Court issued notice, was not at all modelled either on O. 19 r. 3 CPC or O. 11 of Supreme Court Rules – Perfunctory and slipshod affidavits which are not consistent either with O.19, r. 3 CPC or with O. 11, rr. 5 and 13 of Supreme Court Rules, should not be entertained by the Court – Registry of the Court directed to scrutinize affidavits in all petitions/applications strictly – Supreme Court Rules, 1966 – O. 11 – Constitution of India, 1950 – Article 32.

(Also see under: Constitution of India, 1950,
Pleadings; and Telegraph Act, 1885)

Amar Singh v. Union of India & Ors. 403

CODE OF CRIMINAL PROCEDURE, 1973:

(1) ss. 173(2), (8) and 482 – Report of police officer on completion of investigation – Cognizance of offence by the Magistrate – Scope of – After investigation, police filed two challans before the Judicial Magistrate, one against the appellant and others for commission of offences u/ss. 452, 323, 326, 506 r/w s. 34 IPC and the other challan against respondent Nos.1 and 2 and others for commission of offences u/ss. 342, 323, 324, 148 IPC – After further investigation, further report made by Superintendent of Police stating that respondent No.1 caused injuries to the appellant and others in self-defence, thus, the cross-case against respondent No.1 to be cancelled – Respondents No. 1 and 2 filed an application u/s. 482 in the High Court praying for quashing of the criminal proceedings initiated against them – Application allowed by High Court – Held: It was for the Magistrate to apply judicial mind to the facts stated in the reports submitted under sub-sections (2) and (8) of s.173, and to form an opinion whether to take or not to take cognizance against respondent No.1 after considering the objections, if any, of the appellant – Exercise of power by High Court u/s. 482 was at an interlocutory stage and was not warranted – Order passed by High Court set aside.

Dharmatma Singh v. Harminder Singh & Ors.

355

(2) s.178(c) – Criminal proceedings – Territorial jurisdiction – Allegation made by wife that husband and in-laws subjected her to ill-treatment and cruelty at her matrimonial home at Ranchi and that she was sent back to her parental home at Gaya by her husband with threat of dire

consequences for not fulfilling their demand of dowry – Criminal proceedings initiated by appellant-wife at Gaya against husband and in-laws – Held: The Judicial Magistrate, Gaya had the jurisdiction to entertain the criminal case – The alleged offence was a continuing one having been committed in a number of local areas and one of the local areas being Gaya, the Magistrate at Gaya had the jurisdiction to proceed with the criminal case – Clause(c) of s.178 was clearly attracted – Penal Code, 1860 – ss. 498A and 406 r/w. s. 34 – Dowry Prohibition Act, 1961 – ss. 3 and 4.

Sunita Kumari Kashyap v. State of Bihar and Anr.

83

(3) s.313 – Affording of opportunity to accused to explain incriminating material against him – Conviction of two accused and acquittal of third one by trial court – High Court in the appeal filed by convicts making observations that greater possibility was that the acquitted accused committed the murder after he had forcible sexual intercourse with the victim, and acquitted both the accused – Held: Court cannot place reliance on incriminating material against accused, unless it is put to him during his examination u/s.313 – This prohibition is mandatory in nature – Besides, the trial court did not frame any charge u/s 376 – Observations in post-mortem report cannot be termed to be substantive piece of evidence when the doctor did not say anything about the same in his statement in court which only is the substantive piece of evidence in law – Evidence – Proving of contents of post-mortem report.

State of U. P. v. Mohd. Iqram & Anr. 1017

(4) (i) ss. 313 and 315.

(ii) s.386(b)(ii) r/w s.220 – Power of appellate court to alter the finding of trial court while maintaining the sentence – Charge framed by trial court u/ ss. 302/120-B and 307/120-B and alternative charge u/ss. 302/34 and 307/34 – Conviction by trial court u/s. 302/120-B, 307/120-B, 193/120-B, altered by High Court to s.302/34, 307/34, 193/34, while maintaining the sentence – Held: Justified – Charges had been framed in the alternative and for cognate offences having similar ingredients as to the main allegation of murder – In the instant case, the relevant provision is s.38(b)(ii), which empowers the High Court to alter the finding while maintaining the sentence – Besides, accused were aware of all the circumstances against them – Penal Code, 1860 – ss.302/34, 307/34, 193/34.

(iii) s.313 – Examination of accused – Held: Prejudice must be shown by an accused before it can be said that he was entitled to acquittal over a defective and perfunctory statement u/s 313 – In the instant case, all the accused police officials filed their written statements but no objection had been raised as to defective s. 313 statements in the trial court – Penal Code, 1860 – ss.302/34, 307/34, 193/34.

(iv) s.197 – Sanction for prosecution of police personnel involved in shoot out – Held: It has come in evidence that request of CBI for according sanction for prosecution of accused, alongwith the documents, was referred to Law Department, then to Home Department, to Chief Secretary and finally to Lt. Governor, who granted the sanction – Adequate material for sanction had been made

available to the sanctioning authority.

(Also see under: Penal Code, 1860 and Delhi Police Act, 1978)

Satyavir Singh Rathi v. State thr. C.B.I. 138

(5) ss.323, 216, 386, 397, 399, 401 – Jurisdiction of court to exercise power conferred under the Code – Scope of – The Supreme Court passed judgment on 13.9.1996 quashing the charges framed by the Court of Session and directing that on the material led by prosecution the charge u/ s.304A, IPC be framed against accused – Curative petitions filed after 14 years of 1996 judgment on the ground that the said judgment barred the Magistrate from exercising his judicial power u/s.323 – Held: No decision by any court can be read in a manner as to nullify the express provisions of an Act or the Code – The 1996 judgment was rendered at the stage of ss.209/228/240 and the judgment cannot be read to say that it denuded a competent court of the powers under ss.323, 216, 386, 397, 399, 401 etc. – The 1996 judgment cannot be said to be a fetter against the proper exercise of powers by a court of competent jurisdiction under the relevant provisions of the Code – No grounds falling within the parameters of *Rupa Ashok Hurra* case made out in the instant curative petitions – Moreover, no satisfactory explanation is given to file such curative petitions after about 14 years from 1996 judgment of the Supreme Court – Curative petitions dismissed – Curative Petition.

C.B.I. and Ors. v. Keshub Mahindra etc. etc. 384

(6) (i) s.439 – Bail – Allegation against accused-policemen that they functioned as contract killers

and killed the victim-deceased in fake encounter – Bail granted by Session Court – Cancellation of bail by High Court – Held: The material collected during investigation *prima facie* indicated that the deceased was abducted by accused during the day time and was taken to the police station and from there he was taken to some unknown place where he was shot dead – This was a very serious case wherein *prima facie* some police officers and staff were engaged by some private persons to kill their opponent – There may be very strong apprehension in the mind of the witnesses about their own safety – This aspect was completely ignored by the Sessions Judge while granting bail to accused – High Court was perfectly justified in canceling the bail to the accused.

(ii) s.439 – Bail – Grant and cancellation – Considerations for – Held: In considering whether to cancel the bail, the court has to consider various factors such as the gravity and nature of the offence, *prima facie* case against the accused, the position and standing of the accused etc. – If there are very serious allegations against the accused his bail may be cancelled even if he has not misused the bail granted to him – The said principle applies when the same court which granted bail is approached for canceling the bail – It will not apply when the order granting bail is appealed against before an appellate/revisional court.

Prakash Kadam and etc. etc. v. Ramprasad Vishwanath Gupta and Anr. 800

(7) s.482 – Quashing of proceedings – Government doctors indulging in private practice – FIR lodged under the Prevention of Corruption

Act and under IPC – High Court declined to quash the FIR – Held: The demand/receipt of fee by a medical professional for extending medical help by itself cannot be held to be an illegal gratification as the amount so charged is towards professional remuneration – In the instant case, no presumption could be drawn that the alleged fee was accepted as motive or reward for doing or forbearing to do any official act so as to treat the receipt of professional fee as gratification much less illegal gratification – Also, offence u/s.168, IPC cannot be said to have been made out as the treatment of patients by a doctor cannot by itself be held to be engagement in a trade – However, the said act may fall within the ambit of misconduct to be dealt with under the Service Rules – Thus, no *prima facie* case either u/s.168, IPC or s.13(1)(d) r/w s.13(2) of the Prevention of Corruption Act was made out in the facts and circumstances of the case – FIR quashed – Prevention of Corruption Act, 1988 – s.13(1)(d) r/w s.13(2), s.7 – Penal Code, 1860 – s.168 – Punjab Civil Medical (State Service Class I) Rules, 1972 – r.15.

Kanwarjit Singh Kakkar v. State of Punjab and Anr. 895

(8) Appeal against acquittal – Held: Only in exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal – In the instant case, there is no reason to interfere with the well reasoned judgment and order of the High Court acquitting the respondents – Penal Code, 1860 – ss. 395.396 and 397 – Constitution of India, 1950 – Article 136.

(Also see under: Evidence Act, 1872)

State of Rajasthan v. Talevar & Anr. 1050

COMMITTEES:

Grievance Redressal Committee – Constitution of – High Court in writ petitions directing, inter alia, that the Committee should be headed by a retired District Judge – Held: The changes by the High Court converted what was originally conceived by the State Government to be an administrative grievance redressal mechanism, into a quasi judicial adjudicatory Tribunal – Neither the Constitution nor any statute empowers a High Court to create or constitute quasi judicial Tribunals for adjudicating disputes – It has no legislative powers – Nor can it direct the executive branch of the State Government to create or constitute quasi judicial Tribunals, otherwise than by legislative Statutes – The High Court in exercise of the power of judicial review, cannot issue a direction that the civil courts shall not entertain any suit or application in regard to a particular type of disputes (in the instant case, disputes relating to Shikshan Sevaks) nor can it create exclusive jurisdiction in a quasi-judicial forum like the Grievance Committee – The High Court, cannot, by a judicial order, nullify, supersede or render ineffectual the express provisions of an enactment – Constitution of India, 1950 – Articles 162; 226, 233, 234 and 247; 323-A and 323-B – Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977- Code of Civil Procedure, 1908 – s.9.

(Also see under: Shikshan Sevak Scheme 2000

(In State of Maharashtra))

The Secretary, Sh. A.P.D.Jain Pathshala & Ors. v. Shivaji Bhagwat More & Ors. 1173

COMPENSATION:

(1) (See under: Carriage by Air Act, 1972) 1116

(2) (See under: Motor Vehicles Act, 1988) 70
and 791

CONCESSION:

Concession made by counsel, on a question of fact – Held: Is binding on the client – However, concession on a question of law, is not binding. (Also see under: Code of Civil Procedure, 1908)

Vimaleshwar Nagappa Shet v. Noor Ahmed Sheriff & Ors. 392

CONSTITUTION OF INDIA, 1950:

(1) (i) Article 12 – ‘State’ – Army Welfare Education Society (AWES) and Army College of Medical Sciences (ACMS) – Held: High Court has held that AWES and ACMS were neither instrumentalities of State nor could ACMS be held to be an aided educational institution – Such determinations always present issues of fact and of law – The Court is disinclined to over-rule the findings of the High Court in this regard.

(ii) Article 15(5) r/w Article 162 – Admission to MBBS course – Reservation for Scheduled Castes, Scheduled Tribes and socially and educationally backward classes of citizens – Exemption granted to ACMS by Delhi Government – Held: The Notification dated 14-08-2008 issued by the Government of National Capital Territory of Delhi permitting the ACMS to allocate hundred

percent seats in the said college for admission to the wards of Army personnel is ultra vires the provisions of Delhi Act 80 of 2007 and also unconstitutional and, as such, is set aside – The power under Article 162 can not be claimed to set at nought a declared, specified and mandated policy enacted by the legislature – Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007 – s.12 – Doctrine of occupied field.

(iii) Article 15(5) and 19(6) – Unaided non-minority educational institution – Held: In view of Clause (5) of Article 15, the unaided non-minority educational institutions would have to comply with the State mandated reservations, selecting students within the specified reservation categories on the basis of inter-se merit – With respect to the remaining seats, the state insist that non-minority private unaided institutions select the most meritorious students, as determined by the marks secured in the qualifying test – Non-minority private unaided professional colleges do not have the right to choose their own “source” from within the general pool.

(iv) Article 15(5), 14 and 38 r/w Articles 32 and 226 – Reservation policy of State – Judicial review of – Held: provisions of new clause (5) of Article 15 do not purport to take away the power of judicial review, or even access to courts through Articles 32 or 226.

(v) Article 15(5) – Held: Clause (5) of Article 15 does not violate the basic structure of the Constitution – Given the absolute necessity of achieving the egalitarian and social justice goals

that are implied by provisions of clause (5) of Article 15, and the urgency of such a requirement, Article 15(5) is not a violation of the basic structure, but in fact strengthens the basic structure of our constitution – Constitutional law – Theory of basic structure.

(Also see under: Education/Educational Institutions)

Indian Medical Association v. Union of India & Ors.

599

(2) (i) Articles 21 and 14 – Hydro Electric Projects – Omkareshwar Dam in the basin of river Narmada – Land acquisition and rehabilitation of oustees – Rehabilitation and Resettlement Policy framed by state of Madhya Pradesh – Policy amended on 30.7.2003 providing that agricultural land would be offered to oustees ‘as far as possible’ – Expressions ‘as far as possible’ and ‘rehabilitation’ – Connotation of – Held: The R & R Policy or amendment thereto in 2003, has not been under challenge – Relief not sought by the party cannot be granted by the Court – However, in terms of the amendment dated 3.7.2003, it is desirable for the authority concerned to ensure that as far as practicable persons who had been living and carrying on business or other activity on the land acquired, if they so desire, and are willing to purchase and comply with the requirements be given a piece of land on the terms settled with due regard to the price at which land has been acquired from them – Rehabilitation is meant only for those persons who have been rendered destitute because of a loss of residence or livelihood as a consequence of land acquisition – The definition of “displaced family” cannot be read in isolation, rather it requires to be considered

taking into account the eligibility criteria for allotment of land in Clause (5) of the R & R Policy – To that extent, the judgment of the High Court is liable to be set aside – Further direction given – Maxims – “lex non cogit ad impossibilia” , “impossibilium nulla obligatio est”, “impotentia excusat legem” and “nemo tenetur ad impossibilia”.

(ii) Articles 300-A and 21 – Compensation for property acquired and rehabilitation – Concepts of – Explained.

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

(3) (i) Articles 32 and 21 – Writ petition alleging infringement of right of privacy of the petitioner stating that his telephone conversations were being intercepted at the behest of the Government – Held: The petitioner invoked the extraordinary writ jurisdiction of the Court without filing a proper affidavit – The nature of challenge in the petition is very serious as he is alleging an attempt by the government of intercepting his phone for extraneous considerations – It is, therefore, imperative that before making such an allegation the petitioner should be careful, circumspect and should file a proper affidavit in support of the averments in the petition – This is the primary duty of a petitioner, who invokes the extra-ordinary jurisdiction of the Court under Article 32 – Code of Civil Procedure, 1908 – Supreme Court Rules, 1966.

(ii) Article 32 – Writ petition – Conduct of petitioner – Writ petition filed alleging interception of his telephone conversations by the Government agencies at the behest of the political party in

power – Allegations directly and indirectly made in the writ petition against the said political party impleading it as one of the respondents – Interim injunction passed by Court – Later, it was brought before the Court that the order intercepting the phone calls were fabricated and a criminal case had already been registered against accused persons – Affidavit filed by the petitioner seeking to withdraw the allegations against the said political party – Held: The main case of the petitioner is based on his allegations against the said political party – Petitioner has been shifting his stand to suit his convenience – The instant writ petition is an attempt by the petitioner to mislead the Court on the basis of frivolous allegations and by suppressing material facts – The so-called legal questions on tapping of telephone cannot be gone into on the basis of a petition which is so weak in its foundation – No case of tapping of telephone has been made out against the statutory authorities – Besides, the petitioner in filing the writ petition largely relied upon the information received from an accused in the criminal case.

(iii) Article 32 – Writ petition – Suppression of material fact – Effect of – Writ petition alleging tapping of telephone of writ petitioner – The communications on the basis of which the interception was alleged and which were received from the accused and were made annexures in the writ petition, found to be forged and criminal case initiated in which petitioner’s statement u/s 161 CrPC was recorded – This fact not stated in the writ petition – Held: A statement u/s. 161 is certainly material fact in a police investigation in connection with an FIR – The investigation is to

find out the genuineness of those very documents on the basis of which the writ petition was moved – In that factual context, total suppression in the writ petition of the fact that the petitioner gave a s. 161 statement in that investigation is suppression of a very material fact – A litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final – The instant writ petition is an attempt by the petitioner to mislead the Court on the basis of frivolous allegations and by suppression of material facts – Administration of justice – Conduct of litigant – Relief.

(See under: Code of Civil Procedure, 1908 and Telegraph Act, 1885)

Amar Singh v. Union of India & Ors. 403

(4) Article 136 – Order of acquittal passed by the High Court – Interference with – Held: Is permissible, when consideration by the High Court is misconceived and perverse.

State of Rajasthan v. Islam 988

(5) Article 136.

(See under: Code of Criminal Procedure, 1973 and Evidence)

.... 1050

(6) Article 136.

(See under: U. P. Societies Registration Act, 1860)

.... 759

(7) Articles 136 and 142 – Limited notice issued in special leave petition – Power of Court to consider all issues while hearing the matter finally – Held: In view of the inherent powers of the Court under the Rules and having regard to Article 142, the Supreme Court at the time of final hearing is

not precluded from considering the controversy in its entire perspective and in doing so, the Court is not inhibited by any observation in an order made at the time of issuing the notice – Supreme Court Rules, 1966 – O.47, rr. 1 and 6 – Inherent powers of Supreme Court.

(Also see under: Penal Code, 1860)

Yomeshbhai Pranshankar Bhatt v.

State of Gujara

958

(8) Article 142 – Power under – Exercise of – Prayer of appellant-husband before Supreme Court that his marriage with respondent-wife had irretrievably broken down and the Court should dissolve the marriage by exercising its jurisdiction under Article 142 – Held: The power under Article 142 is to be used only when it is impossible to save the marriage and all efforts made in that regard would, to the mind of the Court, be counterproductive – Even if the chances are infinitesimal for the marriage to survive, the power under Article 142 would not be used – In the instant case, it would be travesty of justice to dissolve the marriage as having broken down – Though there is bitterness amongst the parties and they have not even lived as husband and wife for the past about 11 years, it is hoped that they will give this union another chance, if not for themselves, for the future of their daughter.

(Also see under: Hindu Marriage Act, 1955)

Hitesh Bhatnagar v. Deepa Bhatnagar 118

(9) Articles 162, 226, 233, 234 and 247; 323-A and 323-B.

(See under: Committees)

.... 1173

(10) Articles 226, 132 and 142.

(See under: Rent Control and Eviction) 822

(11) Article 311 – Exercise of power under – Ambit and scope of – Discussed. (Also see under: Service Law)

Union of India and Anr. v. M.M. Sharma 18

CONSTITUTIONAL LAW:

(i) Theory of basic structure.

(ii) Doctrine of occupied field.

(See under: Constitution of India, 1950) 599

CONTEMPT OF COURT:

(1) Eviction decree upheld by High Court – Supreme Court dismissed SLP, however, granted time to the tenant to vacate the premises on furnishing usual undertaking – Tenant neither furnished undertaking nor vacated the premises – Alleged sub-tenant raised frivolous objections in the execution proceedings which was rejected – In an appeal filed thereagainst, Additional District Judge by a detailed order stayed the warrant of possession – Contempt petitions filed by the landlord – Held: Additional District Judge-Contemnor by staying the warrants of possession, practically superseded and overruled the order passed by Supreme Court – The order of Supreme Court directing the tenant to vacate premises was totally flouted – Order passed by the Additional District Judge quashed – Chief Justice of the High Court directed to take disciplinary action against the Additional District Judge.

M/s. Atma Ram Builders P.Ltd. v. A.K. Tuli & Others 935

(2) (See under: Contempt of Courts Act, 1971) 774

(3) (See under: Rent Control and Eviction) 820

CONTEMPT OF COURTS ACT, 1971:

(1) ss. 2(c) and 12(1) proviso, Explanation – Criminal contempt – Advocates abusing the Judicial Magistrate in filthy language and threatening him with dire consequences – Matter referred to High Court – Newspaper publishing the incident – *Suo motu* contempt proceedings initiated by High Court against the advocates and the owner, publisher and Editor of newspaper – Unconditional apology tendered by contemnors – Conviction by High Court of all the contemnors and sentence of six months/three months with fine – Held: The material on record shows that the advocates hurled abuses in filthy language and threatened the Judicial Magistrate with dire consequences – The contemnors have tendered unconditional apology before the Judicial Magistrate, the High Court and this Court as well – They have given undertaking that they would maintain good behaviour in future – In this view of the matter, the unconditional apology tendered in the form of affidavits in terms of s.12(1) is accepted and all contemnors are discharged – However, acceptance of an apology from a contemnor should only be a matter of exception and not that of a rule – Bar Council of India Rules, 1975 – Advocates – Professional ethics.

(Also see under: Bar Council of India Rules, 1975)

O.P. Sharma & Ors. v. High Court of Punjab & Haryana 301

(2) (i) Contempt petition against public interest litigant-NGO and its official – On the ground that they had abused the process of law by filing petitions under the guise of public interest, against one business rival at the behest of another – Issuance of show cause notice – Contemnors tendered an unconditional apology – Held: Though unconditional apology was tendered but the bonafide and intent of the contemnors tendering such an apology is not certain – Contemnors are liable to be punished for their offensive and contemptuous behaviour which undermined the dignity of the courts of law and justice administration system and also prejudicially affected the rights of parties who were not even impleaded as parties in the public interest litigation – Certain directions issued – Administration of Justice.

(ii) Contempt of Court – Power of Court to punish for contempt – Explained.

(iii) Contempt of Court – Circumstances where court can reject an apology that has been tendered – Explained.

Kalyaneshwari v. U.O.I. & Ors. 774

CONTRACT:

Airlines – e-ticketing – Conditions of carriage by reference – Held: Placing the conditions of carriage on the web-site and referring to the same in the e-ticket and making copies of conditions of carriage available at the airport counters for inspection is sufficient notice in regard to the terms of conditions of the carriage and will bind the parties – The mere fact that a passenger may not read or may not demand a copy does not mean

that he will not be bound by the terms of contract of carriage – Notice.

(Also see under: Legal Services Authorities Act, 1987 and Carriage by Air Act, 1972)

M/s InterGlobe Aviation Ltd. v. N. Satchidanand 1116

COSTS:

Suit for partition – Property of third party (who later got herself impleaded as defendant no. 2) included in schedule to the plaint – Held: Defendant no. 2 was unnecessarily dragged into this litigation at the instance of the plaintiff, who filed a partition suit which was apparently collusive in nature and was filed clearly with an oblique motive and evil design – It was a compulsion on the part of defendant no. 2 to contest the suit for decades wasting time, energy and expenses – Therefore, a token cost of Rs.25,000/- would be paid to her by plaintiff.

(Also see under: Evidence Act, 1872; and Partition)

Rangammal v. Kuppuswami & Anr. 835

CRIMES AGAINST WOMEN:

(See under: Penal Code, 1860). 83, 330 and 873

CRIMINAL LAW:

(1) Common intention.
(See under: Penal Code, 1860) 138

(2) Common object.
(See under: Penal Code, 1860) 210

CRIMINAL TRIAL:

Non-explanation of injuries sustained by deceased

or injury on accused – Effect of, on prosecution case – Held: Ordinarily, the prosecution is not obliged to explain each minor injury on an accused even though caused in the course of occurrence – However, if the prosecution fails to explain a grievous injury on one of the accused persons, established to have been caused in the course of the same occurrence then the prosecution case is looked at with a little suspicion – If the evidence is clear, cogent and creditworthy then non-explanation of certain injuries sustained by the deceased or injury on the accused ipso facto cannot be the basis to discard the entire prosecution case.

(Also see under: Penal Code, 1860)

Waman & Ors. v. State of Maharashtra 1072

CURATIVE PETITION:

(See under: Code of Criminal Procedure, 1973) 384

DELAY/LACHES:

(1) Suit for partition – Property of a third person (who subsequently got herself impleaded as defendant no. 2) included in the plaint scheduled property on the basis of a sale deed executed 31 years back by the alleged guardian of defendant no. 2 while she was a minor – High Court holding that delay in challenging the sale deed should have been explained by defendant no. 2 – Held: It is the plaintiff who based his case on execution of the sale deed of the property of defendant no. 2, and when there was a dispute about the genuineness of the sale deed and defendant no. 2 was in occupation of the property, it is the plaintiff who should have filed the suit claiming title on the basis of the sale deed, before the said property

could be included in the suit for partition – Cause of action.

(Also see under: Evidence Act, 1872 and Partition)

Rangammal v. Kuppuswami & Anr. 835

(2) (See under: FIR) 999,
941 and 1037

(3) (See under: Pleadings) 443

DELHI POLICE ACT, 1978:

s.140 – Prosecution of police officials for causing death of two persons in a police shoot out – Limitation for – Held: The date of cognizance taken by the Magistrate would be the date for the institution of the criminal proceedings – However, a case of murder would not fall within the expression ‘colour of duty’ – s.140 would, therefore, have no relevance to the case.

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

Satyavir Singh Rathi v. State thr. C.B.I. 138

DELHI PROFESSIONAL COLLEGES OR INSTITUTIONS (PROHIBITION OF CAPITATION FEE, REGULATION OF ADMISSION, FIXATION OF NON-EXPLOITATIVE FEE AND OTHER MEASURES TO ENSURE EQUITY AND EXCELLENCE) ACT, 2007:

s.12 – Interpretation of – Held: The provisions of the Act do not suffer from any constitutional infirmities, and constitutional validity of the same is upheld.

(Also see under: Constitution of India, 1950 and Interpretation of Statutes)

Indian Medical Association v. Union of India & Ors. 599

DOCTRINES/PRINCIPLES:

(1) (i) Doctrine of occupied field.

(ii) Theory of basic structure.

(See under: Constitution of India, 1950) 599

(2) Doctrine of 'pleasure' – Recognition of, under the Indian Constitution by way of Article 310 – Held: Under Article 310, all civil posts under the Government are held at the pleasure of the Government and are terminable at its will – But the same is subject to other provisions of the Constitution which include the restrictions imposed by Articles 310(2), 311(1) and 311(2).

(Also see under: Service Law)

Union of India and Anr. v. M.M. Sharma 18

DOWRY PROHIBITION ACT, 1961:

ss. 3 and 4.

(See under: Code of Criminal Procedure, 1973) 83

EDUCATION/EDUCATIONAL INSTITUTIONS:

(1) Higher education – Participation of private sector – Held: Participation of the private sector to function in the field of higher education, could only have existed if the State had the power to devise policies based on circumstances to promote general welfare of the country, and the larger public interest – The same cannot be taken to mean that a constitutional amendment has occurred, in a manner that fundamental alteration has occurred in the basic structure itself, whereby the State is denuded of its obligations to pursue social justice and egalitarian ideals, inscribed as an essential part of our constitutional identity, in those areas which the State feels that even

resources in the private sector would need to be used to achieve those goals – Clause (5) of Article 15 strengthens the social fabric in which the Constitutional vision, goals and values could be better achieved and served.

(Also see under: Constitution of India, 1950)

Indian Medical Association v. Union of India & Ors. 599

(2) (See under: Shikshan Sevak Scheme 2000 (State of Maharashtra)) 1173

EQUITY:

(See under: Pleadings) 403

ETHICS:

Professional ethics.

(See under: Contempt of Courts Act, 1971 and Bar Council of India Rules, 1975) 301

EVIDENCE:

(1) (i) Burden of proof – Held: Once presence of accused at the scene of crime where they were apprehended is established, onus stood shifted on the defence to have brought forth suggestions for their presence there at the dead of night – They were under an obligation to rebut the burden discharged by prosecution – High Court erred in concluding that prosecution had failed to discharge its burden – Penal Code, 1860 – s.302/34.

(ii) Circumstantial evidence.

(iii) Proving of post-mortem report.

(Also see under: Penal Code, 1860)

State of U. P. v. Mohd. Iqram & Anr. 1017

(2) Circumstantial evidence:

(i) Circumstantial evidence – Held: A person can

be convicted on circumstantial evidence provided the links in the chain of circumstances connect the accused with the crime beyond reasonable doubt – Penal Code, 1860 – s.302.

(Also see under: Penal Code, 1860)

Bhagwan Dass v. State (NCT) of Delhi 330

(ii) Circumstantial evidence – Held: To bring home the guilt on the basis of the circumstantial evidence, the prosecution has to establish that the circumstances proved lead to one and the only conclusion towards the guilt of the accused – In order to sustain conviction, circumstantial evidence must be complete and must point towards the guilt of the accused – Such evidence should not only be consistent with the guilt of the accused but inconsistent with his innocence.

(Also see under: Penal Code, 1860)

Sudam @ Rahul Kaniram Jadhav v. State of Maharashtra 1104

(iii) (See under: Penal Code, 1860) 958

(3) Contradiction/discrepancies in the evidence – Effect of – Held: In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence – Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness, such evidence cannot be safe to rely upon – Penal Code, 1860.

(Also see under: Penal Code, 1860)

A Shankar v. State of Karnataka 999

(4) Evidence of related witnesses:

(i) Held: Just because evidence is given by interested persons, that is no ground for discarding the same – In the instant case, the evidence of the relatives of the deceased is quite cogent and it clearly established the prosecution case – Penal Code, 1860 – ss. 302/34 and 498 A.

(Also see under: Penal Code, 1860)

Birender Poddar v. State of Bihar 873

(ii) Evidence of a close relative – Held: Can be relied upon provided it is trustworthy – Such evidence cannot be disbelieved merely on the ground that the witnesses are inter-related to each other or to the deceased.

(Also see under: Penal Code, 1860)

Bhagaloo Lodh and Anr. v. State of U.P 1037

(5) (See under: Penal Code, 1860) 1072

EVIDENCE ACT, 1872:

(1) s.6 – Res gestae witnesses – Name of assailant not mentioned in FIR – Subsequently, the wife of deceased disclosed to two witnesses the name of the assailant with full description of the incident – Witnesses in turn disclosing the name of the assailant in their statements u/s 161 CrPC – Held: The two witnesses would be res gestae witnesses – The evidence of the wife of the deceased and other witnesses stands fully corroborated with each other's version – Their evidence is of sterling quality and deserves to be accepted – Penal Code, 1860 – s.302.

(Also see under: Penal Code, 1860)

Rajput Jabbarsingh Malaji v. State of Gujarat 978

(2) s.101 – Burden of proof – Suit for partition – Property of third person (who later got herself impleaded as defendant no. 2), included in plaint-schedule property on the basis of a sale deed stated to have been executed by the alleged guardian of defendant no. 2 when she was a minor, on the ground of legal necessity to pay the debts of her deceased mother – Defendant no. 2 disputing genuineness of the sale deed – Held: When the plaintiff pleaded that the disputed property fell into his share by virtue of the sale deed, then it was clearly for him to prove that it was executed for legal necessity of defendant no. 2 while she was a minor – Since the High Court has misplaced the burden of proof on defendant no. 2, the judgment of High Court as also the judgments of the courts below are clearly vitiated. (Also see under: Partition; Pleadings; and Delay/Laches)

Rangammal v. Kuppuswami & Anr. 835

(3) s.105.
(See under: Penal Code, 1860) 138

(4) s.114, Illustration (a) – Presumption on the basis of articles recovered in a case of dacoity with murders – Out of 8 accused two accused-respondents acquitted by High Court – Appeal by State – Held: Admittedly, there is no evidence of identification of the accused – Recovery on disclosure statements was not in close proximity of time from date of incident – More so, recovery is either of cash, small things or scooter, which can change hands without any difficulty – Therefore, no presumption can be drawn against the accused u/s 114, Illustration (a) – No adverse

inference can be drawn on the basis of the recoveries made on their disclosure statements to connect them with the crime – Penal Code, 1860 – ss. 395, 396 and 397.

State of Rajasthan v. Talevar & Anr. 1050

FIR:

(1) Delay in filing of FIR – Held: Prompt and early reporting of the occurrence by the informant with all its vivid details gives an assurance regarding truth of its version – However, delay in lodging the FIR does not make the complainant's case improbable when such delay is properly explained. (Also see under: Penal Code, 1860)

Bhagaloo Lodh and Anr. v. State of U.P. 1037

(2) Delay in lodging FIR – Held: In the instant case, the alleged occurrence took place at 2.00 p.m. and the police station was hardly at a distance of 1 km from the place of the occurrence and complainant had never deposed that he had become unconscious – The delay was, therefore, not explained and was fatal to the prosecution case – Penal Code, 1860.

(Also see under: Penal Code, 1860)

A Shankar v. State of Karnataka 999

(3) Delay in lodging FIR – Held: There is proper and reasonable explanation that as the victim was not found at the place of incident, he was searched throughout the night and only after tracing him in the 'nala' on the following morning and finding him dead, FIR was lodged immediately thereafter.

(Also see under: Penal Code, 1860)

Guru Dev Singh v. State of M.P. 941

GUIDELINES:

(See under: Rent Control and Eviction) 822

HINDU MARRIAGE ACT, 1955:

(1) ss.5 and 12 – Divorce petition filed by appellant-husband u/s.5 for declaring his marriage nullity on the ground of cheating and misrepresentation by the respondent-wife – Allegation in the petition against wife was that she did not disclose to the appellant prior to their marriage the fact of her conversion to Islam and previous marriage with a muslim, about the birth of two children out of said wedlock and her divorce from him – Trial court granted divorce – High Court set aside the decree – Held: The analysis of the assertion of the wife and witnesses clearly showed that before marriage, the respondent had become a Hindu by performing Shudhikaran ceremonies in the manner followed by Hindu custom and all the material facts were known to the appellant at the time of the marriage – Order of High Court upheld.

Flg. Officer Rajiv Gakhar v. Ms. Bhavana @ Sahar Wasif 372

(2) s.13B – Petition for divorce by mutual consent – Withdrawal of consent – Held: If the second motion is not made within the period of 18 months, then the court is not bound to pass a decree of divorce by mutual consent – Either of the parties may withdraw consent at any time before the passing of the decree – The eighteen months period is specified only to ensure quick disposal of cases of divorce by mutual consent, and not to specify the time period for withdrawal of consent – Non-withdrawal of consent before expiry of the said eighteen months has no bearing – In the

instant case, the second motion was never made by both the parties as mandatorily required under the law, and no court can pass a decree of divorce in the absence of that.

(Also see under: Constitution of India, 1950)

Hitesh Bhatnagar v. Deepa Bhatnagar 118

HONOUR KILLINGS:

Sentence/punishment for honour killing – Held: Honour killings come within the category of rarest of rare cases deserving death punishment – Such barbaric, feudal practices are a slur on our nation and should be stamped out – This is necessary as a deterrent for such outrageous, uncivilized behaviour – Copy of the judgment directed to be sent to the Registrar Generals/Registrars of all the High Courts and to all the Chief Secretaries/Home Secretaries/Director Generals of Police of all States/Union Territories in the country.

(Also see under: Penal Code, 1860)

Bhagwan Dass v. State(NCT) of Delhi 330

HOUSING:

LIG housing scheme – Acquisition of land by State Government – Formulation of Scheme by Housing Board for development of the land and construction of houses and flats – Allotment of houses in the year 1976 – Fixation of tentative allotment price made up of cost of plot, cost of development and cost of house – Final cost increased considerably on account of enhancement of compensation to land owners – Issuance of demand letters to allottees to pay difference in cost by the specified date, failing which interest @ 14%/13% p.a. would be charged – Challenge to, by the Society-allottees of the LIG

houses – Held: The price indicated at the time of allotment was purely tentative – Thus, the Board not barred from fixing the final price on the expiry of three years from the date of allotment – Compensation in regard to the land was pending as also development work could not be completed on account of encroachment of the acquired land – Therefore, demand for increase in price on account of final cost made by the Board upheld – Interest payable on the increase should be only 9% p.a., as directed by the High Court.

Tamil Nadu Housing Board v. The Service Society & Anr. 1

INJUNCTION:

(See under: Interim Orders) 913

INTERIM ORDERS:

(1) Suit for mandatory injunction – Interim relief – Extent of – Suit property being developed and flats for sale being constructed on it – Dispute between brothers as regards the suit property – Single Judge of High Court granting limited interim orders so that the construction can go on and flats can be purchased – Division Bench making the notice of motion absolute and granting full interim relief – Held: The Single Judge had passed a reasoned order, and it could not be said that he had exercised discretion in an arbitrary, capricious or perverse manner – There was no reason for the appellate Bench to interfere and set aside that order – The order passed by the Division Bench of the High Court is set aside and that of the single Judge restored.

Purshottam Vishandas Raheja and Anr. v. Shrichand Vishandas Raheja (D) Thr. Lrs. and Ors. 913

(2) (See under: Rent Control and Eviction) 822

INTERPRETATION OF STATUTES:

(1) (i) Purposive construction – Object and reasons of a statute – Significance of – Held: It is incumbent on courts to strive and interpret the statute as to protect and advance its object and purpose and to keep the legislative policy in mind while applying the provisions of the Act to the facts of the case – When rule of purposive construction is gaining momentum, courts should be very reluctant to ignore the legislative intent when the language is tolerably plain what it seeks to achieve.

(ii) Purposive construction – Rule of construction, ‘noscitur a sociis’ – Applicability of.

(iii) Harmonious construction – Held: In the event of any conflict, a harmonious construction should be given.

(Also see under: Special Court (Trial of Offences Relating To Transactions In Securities) Act, 1992)

Smt. Rasila S. Mehta etc. v. Custodian, Nariman Bhavan, Mumbai 234

(2) Rehabilitation and Resettlement policy framed by Government – Interpretation of – Held: The Court while interpreting the provisions of a Statute, can neither add nor subtract a word – The Court has to interpret a provision giving it a construction agreeable to reason and justice to all parties concerned, avoiding injustice, irrationality and mischievous consequences – In the instant case, the directions of the High Court regarding land-for-land would lead to grave inequity, and thereby likely to cause undue enrichment of some categories of oustees – The High Court, therefore,

fell into an error by proceeding to assume that a major son would be treated to be a separate family for the purpose of allotment of land also – Thus, the policy must be interpreted to the effect that the major sons of oustees will be entitled to all the benefits under the R & R Policy, except allocation of agricultural land – Maxim: “a verbis legis non est recedendum”.

(Also see under: Constitution of India, 1950 and Public Interest Litigation)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

(3) Unrepealed sections of a previous statute – If in conflict with the provisions of the later statute – Relevance and interpretation of – Held: In the instant case, the High Court was right in holding that Ordinance 30 of GGSIU would be inapplicable in the case on account of enactment of Delhi Act 80 of 2007 – However, the expression used by the High Court that Ordinance 30 has “lost its relevance” to the extent that it may suggest a loss of general relevance, is not correct – Reservation Policy for Self-Financing Private Institutions Affiliated with the Guru Govind Singh Indraprastha University, 2006 (Ordinance 30) – Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007 – s.12.

(Also see under: Constitution of India, 1950)

Indian Medical Association v. Union of India & Ors. 599

JAMMU AND KASHMIR POLICE RULES, 1960:
r. 176.

(See under: Service Law) 57

JUDGMENTS/ORDERS:

(1) (i) Consent order/non-speaking order.
(See under: Appeal) 225

(ii) Consent order.
(See under: Code of Civil Procedure, 1908) 392

(3) Observations by High Court against acquitted person – Trial court convicted two accused and acquitted the third one – Convicts filed appeal – High Court acquitting the two accused made observation that it was possible that the accused acquitted by trial court committed the crime – Held: It was not permissible for the High Court to castigate the person who had been acquitted by the trial court and whose acquittal had not been challenged before it.

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

State of U. P. v. Mohd. Iqram & Anr. 1017

JUDICIARY:

(i) Subordinate judiciary – Certain section of the subordinate judiciary passing orders on extraneous considerations – Held: Such kind of malpractices have to be totally weeded out.

(ii) Judicial Officer – Direction given to initiate disciplinary proceedings against him.

M/s. Atma Ram Builders P.Ltd. v. A.K. Tuli & Others 935

JURISDICTION:

Territorial jurisdiction.
(See under: Code of Criminal Procedure, 1973) 83

LAND ACQUISITION ACT, 1894:

(1) ss.4, 5A, 6, 17(1) and 17(4) – Acquisition of land for purposes of Metro Railways in Delhi – Applicability of the LA Act – Whether in view of the provisions of the Metro Railways Act, which was applicable to the city of Delhi, the land for the purpose of construction of Metro Railway could and should only be acquired under the provisions of the said Act and not under the provisions of the LA Act – Held: There is no express provision in the Metro Railways Act repealing applicability of the provisions of the LA Act – It is left to the discretion of the competent authority to take recourse to provisions of any of the two Acts making it clear that if resort is taken to the provisions of LA Act, the said provisions could only be made applicable and no provision of the Metro Railways Act would then be resorted to and vice versa – Metro Railways (Construction of Works) Act, 1978 – ss. 17, 40 and 45.

Shanta Talwar & Anr. v. Union of India & Ors.

38

(2) (i) Hydroelectric Project – Omkareshwar Dam – Rehabilitation of oustees – Landless labourers – Held: As the landless labourers never had any land, they are not entitled to any compensation under the Act, thus, the question of allotment of land to them would not arise – The R & R Policy itself provides that such persons are entitled to get the specified amount of Rs.49,300/- to buy productive employment creating assets etc., and such money can also be used for acquiring land.
(ii) s.48 – Denotification of acquisition – Land in respect of which acquisition proceedings initiated not likely to submerge – Government abandoning

the acquisition proceedings – The stand of the NBA was that tenure-holders were not in possession – On the direction of Supreme Court, the District Judge reported that tenure holders were in actual possession of the land – Expression ‘taking possession of the land’ – Explained – Law on the issue summarised – Held: The State is entitled to abandon the land acquisition proceedings in exercise of its power u/s 48 of the Act – However, it shall not apply to 167 dwelling units on the said land – Such persons whose dwelling units are acquired shall be entitled to the benefit of R & R Policy to the extent provided therein.

(Also see under: Constitution of India, 1950 and Public Interest Litigation)

Narmada Bachao Andolan etc. etc. v.

State of Madhya Pradesh & Anr. etc. etc. 443

LEGAL SERVICES AUTHORITIES ACT, 1987:

(i) s.22-B – Permanent Lok Adalat for public utility services – Jurisdiction of – Air passenger – Plane boarded at Delhi for Hyderabad – After flight landed at Hyderabad, passenger detained for inquiry – Claim for damages by passenger for deficiency in service and alleged illegal detention – Held: Permanent Lok Adalat, Hyderabad had jurisdiction to entertain the application of the passenger.

(ii) Jurisdiction of Permanent Lok Adalat – Exclusion clause in contract – Scope and interpretation of – Held: Parties cannot, by agreement, confer jurisdiction on a court which does not have jurisdiction – Ouster of jurisdiction of some courts is permissible so long as the court

on which exclusive jurisdiction is conferred had jurisdiction – In the instant case, as the clause provides that irrespective of the place of cause of action, only courts at Delhi would have jurisdiction, the said clause is invalid in law – Further, a clause ousting the jurisdiction of a court has to be construed strictly – Permanent Lok Adalat is a Special Tribunal and not a court – Interpretation of statutes.

(iii) ss.19 and 22-B – Lok Adalat constituted u/s 19 and Permanent Lok Adalat constituted u/s 22-B – Distinction between – Explained – Confusion in nomenclature clarified – Held: Lok Adalats constituted u/s 19 on a regular or permanent basis, may be referred to as ‘Continuous Lok Adalats’. (Also see under: Carriage by Air Act, 1972; and Contract)

M/s InterGlobe Aviation Ltd. v. N. Satchidanand 1116

LEGISLATION:

Need to frame guidelines to prevent interception of telephone conversations.
(See under: Telegraph Act, 1885, Constitution of India, 1950 and Code of Civil Procedure, 1908) 403

LOK ADALATS:

Permanent Lok Adalat – Held: Is a special tribunal and not a court.
(See under: Legal Services Authorities Act, 1987) 1116

MADHYA PRADESH MUNICIPAL SERVICE (EXECUTIVE) RULES, 1973:
rr. 17 and 32.

(See under: Madhya Pradesh Municipality Act, 1961) 882

MADHYA PRADESH MUNICIPALITY ACT, 1961:

s.86 – Sanction for prosecution of a public servant – Respondent-employee, an engineer in Municipal Corporation – Punishment imposed on him in the form of withdrawal of two increments – Sanction for prosecution of respondent granted by the State Government – Validity of – Held: Respondent was appointed by the State Government and remained under the control of the State Government throughout his service – State Government besides being the Appointing Authority was also the Authority to impose punishment and remove the respondent – Consequently, in terms of s. 19 of the PC Act, 1988, the State Government was competent to grant sanction to prosecute the respondent – Madhya Pradesh Municipal Service (Executive) Rules, 1973 – rr. 17 and 32 – Prevention of Corruption Act, 1988 – s. 19.

M. P. State v. Pradeep Kumar Gupta 882

MAHARASHTRA EMPLOYEES OF PRIVATE SCHOOLS (CONDITIONS OF SERVICE) REGULATION ACT, 1977:

(See under: Committees) 1173

MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005:

(i) Object of the enactment – Discussed.
(ii) Discrepancies detected in the implementation of the provisions of the Act – PIL for investigation to prevent diversion of funds specifically allocated for implementation of the schemes – Supreme Court directed CBI to conduct complete and comprehensive investigation in the matter – It

further directed State Government of Orissa, all the State Departments and concerned authorities of Central and State Governments to fully cooperate with the CBI so as to facilitate expeditious completion of investigation – Directions issued – NREGA Operational Guidelines.

Centre for Environment and Food Security v. Union of India and Ors. 744

MAXIMS:

- (1) (i) “lex non cogit ad impossibilia.”
 (ii) “impossibilium nulla obligatio est.”
 (iii) “impotentia excusat legem.”
 (iv) “nemo tenetur ad impossibilia”.
 (v) ‘Jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiolem’.
 (vi) ‘juri ex injuria non oritur’.
 (vii) ‘suppressio veri and suggestio falsi’.
 (viii) “a verbis legis non est recedendum”.
 (See under: Constitution of India, 1950, Pleadings, Public Interest Litigation and Interpretation of Statutes) 443
- (2) ‘*ut res magis valeat quam pereat*’.
 (See under: Special Court (Trial Of Offences Relating To Transactions In Securities) Act, 1992) 234

METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978:

ss. 17, 40 and 45.
 (See under: Land Acquisition Act, 1894) 38

MOTOR VEHICLES ACT, 1988:

(1) s.166 – Compensation – Adequacy of – Due to motor accident, claimant, a coolie, suffered from gross deformity of his left upper limb – Doctor assessed permanent residual physical disability of the appellant’s upper limb at 68% and his whole body at 22-23% – Held: Appellant is a manual labourer, for which he requires the use of both his hands but the accident left him with one useless hand – Therefore, while computing loss of future income, disability should be taken to be 68% and not 20%, as was done by the Tribunal and the High Court – Amount towards loss of future income enhanced to Rs.3,18,240/- – Total compensation raised to Rs.4,77,000/- with interest @ 6% from the date of claim petition till realization.

Sri Nagarajappa v. Divisional Manager, Oriental Insurance Co. Ltd. 70

(2) Compensation towards “permanent disability” – In a motor vehicle accident claimant-Foreman suffered partial loss of eye-sight and amputation of right hand finger – Held: Tribunal rightly awarded compensation under the head “permanent disability” besides awarding compensation for loss of earning capacity.

B. Kothandapani v. Tamil Nadu State Transport Corporation Ltd. 791

(3) Contributory negligence – Liability of the owner of the vehicle, when a minor involved in an accident – Motorcycle driven by minor in a very rash and negligent manner struck against the scooter as a result, driver of scooter succumbed to fatal injuries sustained by him – Claim petition – Tribunal awarded Rs. 8 lakhs in favour of

claimants with interest @ 7%, holding insurer liable to satisfy the award and to recover the amount from the owner of the motorcycle – Order upheld by High Court – Held: Responsibility in causing the accident was found to be solely of the minor – However, it was the responsibility of the owner to ensure that his motorcycle was not misused and that too by a minor who did not have a licence to drive the same – Thus, Tribunal rightly held the owner of the motorcycle liable to pay compensation.

Jawahar Singh v. Bala Jain & Ors. 347

NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985:

s.50 – Requirement under – Compliance of – Held: s.50 is not complied with by merely informing the accused of his option to be searched either in the presence of a Gazetted Officer or before a Magistrate – Requirement continues even after that and it is required that the accused person is actually brought before the Gazetted Officer or the Magistrate and in order to impart authenticity, transparency and creditworthiness to the entire proceedings, an endeavour should be made by the prosecuting agency to produce the suspect before the nearest Magistrate.

Narcotics Central Bureau v. Sukh Dev Raj Sodhi 974

NATURAL JUSTICE:

Principles of natural justice.

(See under: Special Court (Trial of Offences Relating To Transactions In Securities) Act, 1992) 234

NOTICE:

(1) Individual notice – Option to choose retirement benefits – Not exercised – Plea of the respondents that option was not exercised for want of knowledge for non-service of individual notices – Held: It was not necessary for the Corporation to give an individual notice to respondents for exercising of option for pension Scheme and also for asking respondent to refund the employers contribution of C.P.F. at each stage – Even otherwise, when notice or knowledge of the Pension Scheme can be reasonably inferred or gathered from the conduct of the respondents in their ordinary course of business and from surrounding circumstances, then, it will constitute a sufficient notice in the eyes of law. (Also see under: Service Law).

Pepsu Road Transport Corporation, Patiala v. Mangal Singh and Ors. 564

(2) (See under: Contract) 1116

PARTITION:

Suit for partition – Held: In a suit for partition, it is expected of the plaintiff to include only those properties for partition to which the family has clear title and unambiguously belong to the members of the joint family which is sought to be partitioned and if someone else's property i.e. disputed property is included in the schedule to the suit for partition, and the same is contested by a third party, it is the plaintiff who will have to first of all discharge the burden of proof for establishing that the disputed property belongs to the joint family. (Also see under: Evidence Act, 1872)

Rangammal v. Kuppuswami & Anr. 835

PARTITION ACT, 1893:

s. 4.

(See under: Code of Civil Procedure, 1908) 392

PARTY:

Conduct of writ petitioner.

(See under: Constitution of India, 1950 and
Code of Civil Procedure, 1908) 403

PENAL CODE, 1860:

(1) s. 168.

(See under: Code of Criminal Procedure,
1973) 895

(2) s.302 – Murder – Accused causing severe axe blow on the face of victim, resulting in his death – Conviction and sentence of imprisonment for life upheld by High Court – Held: From the evidence of prosecution witnesses, recovery of blood stained scarf of accused and blood stained axe at the instance of the accused, the FSL report and the evidence of the wife of deceased corroborated by the medical evidence, it could not be disputed that the deceased had met the homicidal death on account of severe wounds on his face caused by the accused with the axe – In this view of the matter, there is no scope for any interference with the concurrent findings recorded by the two courts below.

(Also see under: Evidence Act, 1872)

Rajput Jabbarsingh Malaji v. State of Gujarat 978

(3) s.302 – Honour killing of daughter – Daughter found dead in appellant's house where she had come to stay – Death caused by strangulation – Circumstantial evidence -- Conviction by courts below– Held: All circumstances pointed guilt

towards the appellant – Prosecution was able to prove its case beyond reasonable doubt by establishing all links in the chain of circumstances – Statement of appellant's mother that appellant confessed before her that he murdered his daughter, though denied before court, can be taken into consideration in view of the proviso to s.162(1), Cr.PC, and her subsequent denial in court is not believable because she obviously had afterthoughts and wanted to save her son (the accused) from punishment – Conviction upheld. (Also see under: Evidence)

Bhagwan Dass v. State(NCT) of Delhi 330

(4) s.302/34 – Homicidal death due to sharp edged weapon – Conviction u/s.302 r/w s.34 – Challenge to – Held: Prosecution furnished satisfactory explanation for delay of 9 hours in lodging the FIR – PW1 explained that the incident occurred at night and he could not go to the police station, which was at a distance of 18 Kms, out of fear – Both eye-witnesses were closely related to the deceased but their testimonies had been found trustworthy by both the courts below, and thus cannot be discarded – Conviction upheld. (Also see under: Evidence and FIR)

Bhagaloo Lodh and Anr. v. State of U.P. 1037

(5) s.302/34 – Murder – Circumstantial evidence – Conviction by trial court – Acquittal by High Court – Held: Circumstantial evidence is so strong that it points unmistakably to the guilt of accused and incapable of any other hypothesis – Accused were identified as the persons scaling down the wall and apprehended upon immediate chase – High Court erred in holding that the finding of identification was doubtful – Findings recorded

by High Court are perverse being based on irrelevant considerations and inadmissible material – Judgment of High Court set aside and that of trial court restored – Circumstantial evidence – Constitution of India, 1950 – Article 136 – Appeal against acquittal.

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

State of U. P. v. Mohd. Iqram & Anr. 1017

(6) (i) ss. 302/34 and 323/34 – Three accused attacking the victims with deadly weapons – One of the victims found dead in the following morning – One of the accused died pending trial – Conviction of two by trial court u/ss 302/34 and 307/34 – High Court maintaining conviction u/s 302/34, but setting aside conviction u/s 307/34 and instead convicting the accused u/s 323/34 – Appeal by one accused – Held: Medical evidence, the statement of eye-witnesses, the statement of accused leading to recovery of crime weapons, clearly establish that the deceased received serious injuries from the weapons used by the accused, due to which he died – Appellant is guilty of offences punishable u/ss 302/34 and 323/34 IPC and the order of conviction and sentence passed by High Court against him is upheld.

(ii) s.300 – Exceptions I to IV – Three accused attacking two victims with deadly weapons resulting in death of one of the victims – Plea of accused that there was provocation from the side of the victims and the incident happened due to sudden fight – Held: The defence is not corroborated by evidence on record – From the evidence it is found that provocation came from the side of accused and not from the victims – It

was also not a sudden fight as it has been proved that accused were armed with deadly weapons like 'kirpan', 'lohangi' and lathi and they surrounded the victims and gave blows to vital parts of deceased with intention to kill him – Thus, none of Exceptions to s.300 is attracted.

(Also see under: FIR)

Guru Dev Singh v. State of M.P. 941

(7) ss. 302/34 and 498-A – Murder – Circumstantial evidence – Death of a married woman in her matrimonial home – Held: It was a case of homicidal death – There was nothing on record to establish the defence case that deceased died a natural death – There is no reason to interfere with the concurrent finding of guilt recorded by two courts below – Conviction of husband upheld – Circumstantial evidence. (Also see under: Evidence)

Birender Poddar v. State of Bihar 873

(8) (i) s.302 r/w s.149 – Murder – Common object – A-1 inflicted three cut injuries on head of victim with a chopper causing his death – Four accused including A-1 convicted – Two acquitted – Appeal as regards A-1 dismissed as not pressed – Held: Prosecution has not established the case against A-2 to A-4 u/s.302 r/w s.149 – All the eye-witnesses identified and attributed only A-1 for commission of offence and made no reference to the role of the other accused – Courts below erred in convicting A-2 to A-4 u/s.302 with the aid of s.149 – Their conviction and sentence set aside.

(ii) s.149 – Scope of – Unlawful assembly – Six accused prosecuted for murder – Two acquitted – Conviction of the other four u/s.302 with the aid

of s.149 – Held: In order to bring home a charge u/s.149 it is not necessary that five or more persons must be brought before the court and convicted – Constitution Bench decision in *Mohan Singh's* case followed – On facts, prosecution well within its jurisdiction to establish the charge u/ s.149 even after acquittal of two members of the unlawful assembly. (iii) s.149 – Applicability of – Held: In order to attract s.149, it must be shown that the incriminating act was done to accomplish the common object of unlawful assembly and it must be within the knowledge of other members as one likely to be committed in prosecution of the common object.

Shaji and Ors. v. State of Kerala 210

(9) ss. 302/149, 447/149, 147 and 148 – Conviction under – Long standing land and water dispute between parties – Comment passed by A1 on two victims resulting in quarrel between the parties – A2 to A13 armed with weapons rushed to the place of incident and assaulted the victims – Victims later succumbed to their injuries – Accused arrested and weapons recovered at their instance – Conviction of A1 to A6 and A16 u/ss. 302/149, 447/149, 147 and 148 by courts below – Acquittal of the remaining accused – Held: Prosecution has established long standing land and water dispute among the deceased and the accused – Evidence of eye-witnesses PWs.1-4 (family members of victims) is acceptable – Contradictions are trivial in nature and not related to the major overt act attributed to each accused – Medical evidence corroborate the assertion of prosecution witnesses – There is no error or infirmity or valid legal ground for interference in

the order passed by the courts below – Evidence – Witnesses.

(ii) s. 149 – Held: In order to attract s. 149 it must be shown that the incriminating act was done to accomplish the common object of unlawful assembly – It must be within the knowledge of the other members as one likely to be committed in prosecution of common object – If members of the assembly knew or were aware of the likelihood of a particular offence being committed in prosecution of a common object, they would be liable for the same u/s. 149 – Criminal law – Common object.

(iii) Witnesses – Related witnesses – Credibility of – Held: Relationship is not a factor to affect the credibility of a witness – If the evidence of a witness is found to be consistent and true, the fact of being a relative cannot discredit his evidence – Courts have to scrutinize the evidence of a related witness meticulously and carefully. (Also see under: Criminal Trial)

Waman & Ors. v. State of Maharashtra 1072

(10) ss.302 and 201 – Homicidal death – Accused-husband causing death of his wife and her four children – Death due to strangulation – Conviction based on circumstantial evidence – Trial court convicted the accused u/ss.302 and 201 and awarded death sentence – High Court confirmed conviction and death sentence – Held: The evidence of witnesses showed that deceased and four children were last seen alive with the accused two days prior to recovery of dead bodies – Accused had also made extra-judicial confession – The circumstances led to one and

the only conclusion that the accused had committed the murder of all the five persons – Accordingly conviction upheld – As regards sentence, the manner in which the crime was committed clearly showed it to be premeditated and well planned – The crime was committed in a beastly, extremely brutal, barbaric and grotesque manner – The offence resulted into intense and extreme indignation of the community and shocked the collective conscience of the society – The case fell in the category of the rarest of the rare cases and the trial court did not err in awarding the death sentence and the High court in confirming the same – Sentence/Sentencing.

(Also see under: Evidence)

*Sudam @ Rahul Kaniram Jadhav v.
State of Maharashtra*

.... 1104

(11) ss. 302 and 304 (Part-II) – Accused hit the victim on his head with deadly weapon, resulting in his death – Convicted u/s. 302 and sentence of life imprisonment by trial court – High Court converted the sentence from s. 302 to s. 304 (Part-II) – Held: Order of conversion of sentence not justified – In the background of the consistent evidence, it cannot be said that accused had no intention to kill the deceased – There was some pre-meditation on the part of accused when he went to his house after a minor scuffle and came back armed with a deadly weapon and in furtherance of that intention struck the deceased with that weapon repeatedly at a vital part of his body – Also, none of the ingredients to bring the case under exception (4) to s. 300 proved – Thus, order of High Court set aside and that of the trial court restored.

(Also see under: Constitution of India, 1950)

State of Rajasthan v. Islam

.... 988

(12) (i) ss. 302/34, 307/34, 193, 201/34 and 203/34 – Police shoot out – Two innocent citizens killed in mistaken identity of a hardcore criminal, and third one grievously injured – Conviction of ten police officials – Held: It has been established that the police party surrounded the car of the victims and fired indiscriminately at the car due to which two occupants died and the third one grievously injured – The defence that the police party opened fire in self-defence has not been supported by the evidence on record – Though the prosecution is bound to prove its case beyond reasonable doubt, obligation on an accused u/s 105 of Evidence Act is to prove it by preponderance of probabilities – High Court rightly convicted the accused u/ss. 302/34, 307/34 – Evidence Act, 1872 – s.105 – Code of Criminal Procedure, 1973 – ss. 313 and 386(b)(ii).

(ii) s.300 – Exception 3 – Death caused by public servants – Police shoot out – Two innocent citizen killed in mistaken identity of a hardcore criminal – Held: The Exception pre-supposes that a public servant who causes death must do so in good faith and in due discharge of his duty – The accused police officials fired without provocation killing two innocent persons and injuring grievously the third one – Trial court and High Court rightly rejected the defence.

(iii) s.34 – Common intention – Police shoot out – A notorious criminal being tracked by police party – A person resembling the criminal, spotted and he along with his two friends in the car followed

by police personnel – More police force requisitioned – At the place of incident both the police parties joined together in indiscriminate firing resulting in death of two occupants of the car and grievous injuries to the third one – Held: The courts below have rightly observed that keeping in mind the background in which the incident happened it was pursuant to the common intention of all the accused to kill the notorious criminal.

(iv) ss.79 and 34 – Police shoot out – Ten police officials prosecuted for two murders – Plea of some of the accused that they acted on the directions of superior officer – Held: There is absolutely no evidence that the firing had been resorted to by seven accused on the direction of the senior officer, but it was pursuant to the common intention of all the accused that the incident had happened – s.315 CrPC makes an accused a competent witness in his defence – The accused did not choose to come into the witness box to support their plea – Code of Criminal Procedure, 1973 – s.315.

(Also see under: Code of Criminal Procedure, 1973; and Delhi Police Act, 1978)

Satyavir Singh Rathi v. State thr. C.B.I 138

(13) ss.302, 307 and 324 – Murder or attempt to murder – Charge-sheet filed u/ss.302, 307 against appellant-accused – Acquittal by trial court – Conviction by High Court u/ss.302 and 324 – Held: Not justified – Contradiction between the statement of the complainant made in the court as compared to his statement before the police regarding the weapon of crime demolished the prosecution version – Delay in lodging FIR was not explained

– Non-production of the FSL report in the court by the prosecution was fatal – After the incident, the I.O. searched for the brother of the appellant and not the appellant – These factors clearly indicated that investigation was not conducted fairly – Conviction set aside – FIR – Evidence – Investigation.

(Also see under: Evidence, FIR and Appeal)

A Shankar v. State of Karnataka 999

(14) s.304 (part-II) – During an altercation accused pouring kerosene on victim and setting her on fire resulting in her death – Held: There being no eye-witness, the case is based on circumstantial evidence and statements of deceased in the dying declarations – Accused had no pre-mediation to kill the deceased or cause any bodily injury to her – The incident happened on the spur of the moment – The case falls u/s. 304 (part-II) – The sentence of 11 years and 2 months already undergone by the accused is more than sufficient – Circumstantial evidence.

(Also see under: Constitution of India, 1950)

Yomeshbhai Pranshankar Bhatt v. State of Gujarat 958

(15) s.304 (Part-I) and s.324 – Five accused – Appellant-accused inflicted knife blow on the victim resulting in his death – Trial court held appellant guilty for commission of offences u/ss.148, 302, 323/149, IPC, and other accused persons u/ ss.148, 302/149, 323 – High Court found appellant guilty u/s.304 (Part-I) and sentenced him to undergo rigorous imprisonment for 10 years while other accused were found guilty only u/s.324 – Held: Conviction of appellant-accused u/s.304 (Part-I) upheld, however, in order to meet the ends

of justice, his sentence reduced to period already undergone which was more than 6 years – Conviction of the other accused u/s.324 upheld.

Gopal v. State of Madhya Pradesh 889

(16) ss. 395, 396 and 397 – Dacoity with two murders – Conviction of six accused-appellants affirmed by High Court – Held: There are concurrent findings of fact of courts below about involvement and participation of all accused-appellants in the crime – They had been properly identified in test identification parades as well as in court by witnesses – The looted property recovered also correctly identified – Recovery of looted property as also weapons and vehicle used in offence on disclosure statement made by accused, also stood proved – There is no cogent reason to take a view contrary to that taken by courts below.

Ghurelal and Ors. v. State of Rajasthan 1062

(17) ss. 395, 396 and 397.

(See under: Evidence Act, 1872) 1050

(18) ss. 498A and 406 r/w. s. 34.

(See under: Code of Criminal Procedure, 1973) 83

PEPSU ROAD TRANSPORT CORPORATION
EMPLOYEES PENSION/GRATUITY AND
GENERAL PROVIDENT FUND REGULATIONS,
1992:

Regs. 3 and 4.

(See under: Service Law) 564

PLEADINGS:

(1) Inconsistent stands by writ petitioner – Held: A litigant who comes to Court and invokes its writ

jurisdiction must come with clean hands – He cannot prevaricate and take inconsistent positions – It is one of the fundamental principles of jurisprudence that litigants must observe total clarity and candour in their pleadings and especially when it contains a prayer for injunction, which is an equitable remedy and must be governed by principles of ‘uberrima fide’ – Equity – Constitution of India, 1950 – Article 32.

Amar Singh v. Union of India & Ors. 403

(2) Pleadings – Writ petition by *Narmada Bachao Andolan*, as public interest litigation – Held: A party has to plead its case and produce/adduce sufficient evidence to substantiate the averments made in the petition and in case the pleadings are not complete, the Court is under no obligation to entertain the pleas – It cannot be said that the rules of procedural law do not apply in PIL – Besides, there was no explanation as to under what circumstances the High Court had been approached at such belated stage – In fact for redressal of any grievance regarding implementation of the Rehabilitation & Resettlement Policy, the oustees ought to have approached the Grievance Redressal Authority – High Court ought not to have examined any issue other than relating to rehabilitation i.e. implementation of the R & R Policy – Constitution of India, 1950 – Article 226 – Writ petition – Delay/Laches – Remedy – Alternate remedy – Public Interest Litigation.

(Also see under: Constitution of India, 1950, Precedent and Public Interest Litigation)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

(3) Pleadings in suit – Held: A suit has to be tried on the basis of the pleadings of the contesting parties filed in the suit before the trial court in the form of plaint and written statement and the nucleus of the case of the plaintiff and the contesting case of the defendant in the form of issues emerges out of that – In the instant case, the plaintiff has miserably failed to prove his case as per his pleadings in the plaint and the burden to prove that the sale deed on which he based his claim, in fact was valid has not even been cast on him.

(Also see under: Evidence Act, 1872)

Rangammal v. Kuppuswami & Anr. 835

(4) (See under: Service Law) 57

POLICE FIRING:

(1) (See under: Penal Code, 1860) 138

(2) Fake encounter – Fake ‘encounters’ are nothing but cold blooded, brutal murders by persons who are supposed to uphold the law – In cases where a fake encounter is proved against policemen in a trial, they must be given harsh punishment – Sentence/Sentencing.

Prakash Kadam and etc. etc. v. Ramprasad Vishwanath Gupta and Anr. 800

PRECEDENT:

Reliance upon a judgment– Rehabilitation and Resettlement Policy for oustees of Omkareshwar Dam – Term ‘family’– Connotation of – Held: Court should not place reliance upon a judgment without discussing how the factual situation fits in with a fact-situation of the decision on which reliance is placed, as it has to be ascertained by analysing all the material facts and the issues involved in

the case and argued on both sides – A judgment may not be followed in a given case if it has some distinguishing features – The NWDT Award did not provide for allotment of agricultural land to the major sons of such oustees – The *Narmada Bachao Andolan-I* has been decided with presumption that such a right had been conferred upon major sons by the NWDT Award and *Narmada Bachao Andolan-II* has been decided following the said judgment and interpreting the definition of “family” contained in the R & R Policy – Direction given by the High Court to allot agricultural land to major sons of the oustees set aside – Principle of ‘per inquiriam’– Constitution of India, 1950 – Article 14.

(Also see under: Pleadings, Constitution of India, 1950, Public Interest Litigation and Precedent)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

PREVENTION OF CORRUPTION ACT, 1988:

(1) ss.7 and 13(2) r/w s.13(1)(d) – Bribery case – Non-examination of complainant – Effect of – Allegation that respondent demanded illegal gratification from complainant CW1 for allotting pass marks to D-Pharma students in practical examination – Conviction of respondent by trial court – High Court acquitted the respondent on the ground that the complainant was not examined – Held: Justified – In view of the examination system prevailing, the respondent alone was not in a position to allot higher marks – Besides, it is the case of the respondent that when CW 1 met him in a hotel room, the respondent shouted that some currency notes had been thrust into his

pocket by CW 1 – Such shouts were heard by PW-1 and PW 2 – Their evidence could not be, in any way, shaken by manner of cross-examination – Further, PW 3 gave evidence of the previous animosity between the college authorities and the respondent – In the background of these facts, the non-examination of CW 1 was very crucial – The case was not proved beyond reasonable doubt.

State of Kerala and Anr. v. C.P. Rao 864

(2) s.13(1)(d) r/w ss. 13(2) and 7.
(See under: Code of Criminal Procedure, 1973) 895

(3) s.19.
(See under: Madhya Pradesh Municipality Act, 1961) 882

PROPERTY LAWS:

(1) Practice of exchanging equivalents- 'ta khubzul badlain' – Prevalent in the State of Bihar – Explained.

(Also see under: Transfer of Property Act, 1882)

Janak Dulari Devi & Anr. v. Kapildeo Rai & Anr. 96

(2) Right of co-sharer to purchase the share of other co-sharers.
(See under: Code of Civil Procedure, 1908) 392

PUBLIC INTEREST LITIGATION:

(1) Rights and obligations, and locus of public interest litigant – Hydro-electric projects – Omkareshwar Dam in the basin of river Narmada – Held: The 'rights' of the public interest litigant in a PIL are always subordinate to the 'interests' of those for whose benefit the action is brought –

Negligent use or use for oblique motives is extraneous to the PIL process – A person seeking relief in public interest should approach the court of equity, not only with clean hands but also with a clean mind, clean heart and clean objective – A petition containing misleading and inaccurate statement(s), if filed, to achieve an ulterior purpose, amounts to an abuse of the process of the Court – NBA has not acted with a sense of responsibility and so far succeeded in securing favourable orders by misleading the court – Such conduct cannot be approved – However, in a PIL, the Court has to strike a balance between the interests of the parties – The court has to take into consideration the pitiable condition of oustees, their poverty, inarticulateness, illiteracy, extent of backwardness, unawareness also – It is desirable that in future the court must view any presentation by NBA with caution and care, insisting on proper pleadings, disclosure of full facts truly and fairly and in case it has any doubt, refuse to entertain NBA – 'Jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiozem', 'juri ex injuria non oritur' and 'suppressio veri and suggestio falsi'.

(Also see under: Pleadings and Constitution of India, 1950)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

(2) (See under: Mahatma Gandhi National Rural Employment Guarantee Act, 2005) 744

PUNJAB CIVIL MEDICAL (STATE SERVICE CLASS-I) RULES, 1972:

r. 15

	1259	
(See under: Code of Criminal Procedure, 1973)	....	895
RELIEF:		
(See under: Constitution of India, 1950)	....	403
REMEDY:		
Alternate remedy. (See under: Pleadings)	....	443
RENT CONTROL AND EVICTION:		
(1) Eviction matters – Tenant not vacating the premises within the time granted – Held: In such a case, the tenant should be evicted by the police force, if he does not vacate the premises on his own – Tenant can file an application well in advance to seek extension of time to vacate the premises.		
<i>Ram Prakash Sharma v. Babulal irla (D) By Lrs. & Ors.</i>	....	757
(2) Eviction order – Tenant not vacating the premises even after the period granted – Contempt petition – Supreme Court disposed of the contempt petition directing eviction of tenant by police force – Contempt of Court.		
<i>Amar Nath Roy and Ors. v. Arun Kumar Kedia and Anr</i>	....	820
(3) Enhancement of monthly rent by interim order – Writ petition before High Court arising out of order of eviction of tenants – Orders by Single Judge enhancing the monthly rent while granting stay of dispossession of tenants, as an interim measure – Held: Enhancement in rent will not ipso facto be deemed to be unreasonable and exorbitant unless the tenant is able to give cogent reasons for the same – In the instant case, in the		

	1260	
absence of any valuation report, the assessment and the judgment of the Single Judge, after taking into account the yardsticks and the contentions of both the parties, appears to be absolutely correct – In order to minimize landlord-tenant litigation, guidelines and norms enumerated – Constitution of India, 1950 – Articles 226, 132 and 142 – Interim order.		
<i>Mohammad Ahmad & Anr. v. Atma Ram Chauhan & Ors.</i>	....	822
RESERVATION POLICY FOR SELF-FINANCING PRIVATE INSTITUTIONS AFFILIATED WITH THE GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY, 2006:		
(See under: Interpretation of Statutes)	....	599
RULE OF LAW:		
Collapse of – Effect – Held: When rule of law collapses, it is replaced by law of jungle – Idea of Matsyanyaya-state of affairs where the big fish devours the smaller one as dwelt upon in ancient Indian works (such as Mahabharata) and by ancient Indian thinkers (Kautilya) – Discussed.		
<i>Prakash Kadam and etc. etc. v. Ramprasad Vishwanath Gupta and Anr.</i>	....	800
RULES OF THE ALLAHABAD HIGH SCHOOLS SOCIETY, 1952:		
(See under: Uttar Pradesh Societies Registration Act, 1860)	....	759
SECURITIES SCAM:		
[See under: Special Court (Trial of Offences Relating To Transactions In Securities) Act, 1992]	....	234

SENTENCE/SENTENCING:

- (1) (See under: Police Firing) 800
 (2) (See under: Penal Code, 1860) 1104

SERVICE LAW:

(1) Appointment/Recruitment – Direct recruitment of Prosecuting Officers in Jammu & Kashmir Police – Advertisement issued – Essential suitability conditions laid down – One such condition with regard to age/physical qualifications to be possessed by the applicants – Rule 176 of the Jammu & Kashmir Police Rules stated to be applicable to the advertisement – Respondents-applicants disqualified on the ground that they did not possess the necessary physical qualifications – They filed writ petitions seeking for relaxation regarding minimum physical standards – High Court directed that the cases of all the respondents be considered for appointment – Held: The only prayer made in the writ petitions was to grant relaxation to the criteria and standard of physical conditions prescribed for and required to be fulfilled – In the writ petitions, neither the validity of r.176 with regard to physical conditions was challenged nor such conditions prescribed in the advertisement were challenged on the ground of validity – High Court went beyond the pleadings in holding that the physical conditions laid down were bad and arbitrary – It was not appropriate for the High Court to set aside the said physical conditions which were mandatory in nature – Pleadings – Jammu and Kashmir Police Rules, 1960 – Rule 176.

State of J & K & Anr. v. Ajay Dogra 57

(2) Disciplinary proceedings against Postal

Assistant – Punishment imposed – Chief Post Master General by notification dated 29.05.2001 took up the case of the respondent for review u/ r.29(1)(vi) – Review proceedings challenged – Tribunal quashed notification dt. 29.05.2001 on the ground that it did not specify any time limit for review – Held: Justified – Inasmuch as the Notification dated 29.05.2001 did not specify any time limit within which power under r.29(1)(vi) was exercisable by the authority specified, such Notification was not in terms with r.29 and the Tribunal was fully justified in quashing the same – Central Civil Services (Classification, Control and Appeal) Rules, 1965 – r.29.

Union of India and Ors. v. Vikrambhai Maganbhai Chaudhari 1096

(3) Pension – (i) Regulations made under a statute laying down the terms and conditions of service of employees which governed the Pension Scheme – Non-compliance of – Entitlement of employees to claim benefit under the Pension Scheme – Held: Failure on the part of the employees to opt for the Pension Scheme and/or refund the advance taken from the employer's contribution of C.P.F. as envisaged in the Regulations would disentitle them from claiming any benefit under the Pension Scheme – Pepsu Road Transport Corporation Employees Pension/ Gratuity and General Provident Fund Regulations, 1992 – Regulations 3 and 4.

(ii) Regulations made under the statute laying down the terms and conditions of service of employees, including the grant of retirement benefits – Binding effect of – Held: Regulations validly made under statutory powers are binding

and effective as the enactment of the competent legislature – Any action or order in breach of the terms and conditions of the Regulations shall amount to violation of Regulations which are in the nature of statutory provisions and shall render such action or order illegal and invalid.

(iii) Pension and Contributory Provident Fund – Difference between the two concepts – Discussed.

(Also see under: Notice)

*Pepsu Road Transport Corporation,
Patiala v. Mangal Singh and Ors.* 564

(4) (i) Termination/Dismissal -- Misconduct — Respondent, First Secretary in Indian Embassy at China, was allegedly found involved in unauthorized and undesirable liaison with foreign nationals of the host country – Appellant-authority, by exercising powers under clause(c) of the second proviso to Article 311(2) of the Constitution, dispensed with enquiry into the conduct of the respondent and dismissed him from service – Respondent filed application before the Tribunal, which was dismissed – High Court set aside the order of appellant-authority on ground that it was not a reasoned order and directed the appellants to pass fresh order – Held: The power to be exercised under clauses (a), (b) and (c) of the second proviso to Article 311(2), being special, and extraordinary powers conferred by the Constitution, in view of the security interests of State, there was no obligation on the part of the disciplinary authority to communicate the reasons for imposing the penalty of dismissal and not any other penalty – Order passed by High Court set aside and that passed by the Tribunal restored –

Constitution of India, 1950 – Article 311(2), second proviso, sub-clause(c).

Union of India and Anr. v. M. M. Sharma 18

(ii) Termination of service of Shikshan Sevak. (See under: Shikshan Sevak Scheme 2000 (State of Maharashtra)) 1173

SHIKSHAN SEVAK SCHEME 2000 (STATE OF MAHARASHTRA):

Shikshan Sevak – Termination of services of – Jurisdiction of Grievance Redressal Committee – Held: Grievance Committee cannot be a quasi-judicial forum nor can its decisions be made final and binding on parties in disputes relating to Shikshan Sevaks – Any order or opinion of the Grievance Committee on a complaint or grievance submitted by a Shikshan Sevak would be only recommendation to the State Government (Education Department) for taking further action – The direction of the High Court that when the grievance committee holds that the termination is bad, the Shikshan Sevak is deemed to continue on the rolls of the management being erroneous, set aside.

*Secretary, Sh. A. P. D.Jain Pathshala &
Ors. v. Shivaji Bhagwat More & Ors.* 1173

SOCIAL JUSTICE:

Rehabilitation and resettlement – Oustees of Omkarshwar Dam – Held: As regards the issue of land for land, it has to be decided taking into consideration the totality of the circumstances – These cases are to be decided giving strict adherence to the R & R Policy, as amended on 3.7.2003, further considering that special care is

to be taken where persons are oppressed and uprooted so that they are better off – Mere payment of compensation to the oustees may not be enough – In the process of development, the State cannot be permitted to displace tribal people, a vulnerable section of our society, suffering from poverty and ignorance, without taking appropriate remedial measures of rehabilitation – In regard to the amended provisions of the R & R Policy, the phrase “as far as possible” would come into play, in case an attempt is made to acquire/purchase lands and then to make allotment of land to oustees.

(Also see under: Pleadings, Constitution of India, 1950 and Public Interest Litigation)

Narmada Bachao Andolan etc. etc. v. State of Madhya Pradesh & Anr. etc. etc. 443

SOCIETIES:

(1) (See under: Arbitration and Conciliation Act, 1996) 1165

(2) (See under: U. P. Societies Registration Act, 1860) 759

SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992:

(i) ss. 3(2) and 4(2) and 9-A – Notification of persons involved in Securities Scam – Notification dated 4.1.2007 notifying two more family members of the entities initially notified – Held: When the earlier entities were notified, complete details of their transactions were not known and the appellants were not notified because their involvement and diversion of funds to them was not clear – On the complaint of Canbank Financial

Services Ltd., the Custodian rightly notified the appellants and the Special Court was justified in dismissing the petition of appellants for their de-notification u/s 4(2) – Securities Scam.

(ii) ss.3(2), 3(3), 3(4) and 9-A – Proceedings against persons not involved in offences in transactions in securities – Held: With the amendment carried out in the Act on 25.1.1994, by virtue of s.9-A, civil jurisdiction has been conferred on Special Court – The object of the Act is not merely to bring the offender to book but also to recover the public funds – Even if there is a nexus between third party, an offender and/or property of the third party can also be notified – The word “involved” in s.3(2) has to be interpreted in such a manner as to achieve the purpose of the Act – Interpretation of Statutes – Purposive construction – Rule of construction, ‘noscitur a sociis’ – Applicability of – Maxim ‘*ut res magis valeat quam pereat*’

(iii) ss. 3(2), 3(3), 3(4), 9-A and 11 – Notified persons – Attachment of properties – Held: From the date of notification u/s 3(2) all movable/immovable properties whether acquired by tainted fund or otherwise, belonging to notified persons shall stand attached simultaneously with the issue of the Notification and are available for distribution u/s 11.

(iv) ss. 3(2), 3(4) and 11 – Notification u/s 3(2) – Attachment of property – Opportunity of hearing – Held: s.3(2) does not give any right of personal hearing to the person being notified, as a pre-decisional hearing would frustrate the entire purpose of the Act – Attachment of property is natural consequence of notification and not sale

of property – Power to order sale of property lies with Special Court which is presided over by a High Court Judge – Notified person can file a petition u/s 4(2) within 30 days of the issuance of notification – This amounts to post-decisional hearing satisfying the principles of natural justice.

(v) ss. 3(2), 3(3), 3(4), 9-A and 11 – Notified persons – Property attached – Claim for maintenance, repair charges, interest and penalty for belated payment – Held: The attached properties continue to remain with the Custodian – For their upkeep maintenance, repair etc., Custodian is liable to pay to the Housing Societies, and as such his claim as approved by the Special Court is sustained, except that he is not permitted to collect interest and penalty charges on the arrears of maintenance and repair charges.

(Also see under: Special Court (Trial of Offences Relating To Transactions In Securities) Rules, 1992 and Interpretation of Statutes).

Smt. Rasila S. Mehta etc. v. Custodian, Nariman Bhavan, Mumbai 234

SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) RULES, 1992:

r.2(b) r/w s.11(2) – “Financial institution” – Complaint by and claim of Canbank Financial Services Ltd. (Canfina) – Held: For the purpose of the Special Court Act and the Rules, Canfina is a ‘financial institution’ – Its claim falls u/s 11(2)(b) of the Act and complaint falls under r.2(b) – Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 – s.11(2).

(Also see under: Special Court (Trial of Offences

Relating To Transactions In Securities) Act, 1992)

Smt. Rasila S. Mehta etc. v. Custodian, Nariman Bhavan, Mumbai 234

SUPREME COURT RULES, 1966:

O. 11.

(See under: Code of Civil Procedure, 1908) 403

TELEGRAPH ACT, 1885:

s.5 – Interception of telephone conversations – Duty of service provider – Held: Though the service provider is to give assistance, as per request, to the law enforcement agencies and has to act on an urgent basis and in public interest, at the same time, he is equally duty bound to immediately verify the authenticity of such communication if on a reasonable reading of the same, it appears to any person, acting bona fide, that such communication, with innumerable mistakes, falls clearly short of the tenor of a genuine official communication – In the instant case, the service provider has failed in discharging the said duty – Central Government must, therefore, frame certain statutory guidelines in this regard to prevent interception of telephone conversations on unauthorised communications – Constitution of India, 1950 – Article 32
(Also see under: Code of Civil Procedure, 1908 and Constitution of India, 1950)

Amar Singh v. Union of India & Ors. 403

TRANSFER OF PROPERTY ACT, 1882:

ss. 8 and 54 – Sale of immovable property – Passing of title – Suit for specific performance by purchaser seeking decree for a direction to vendor

to deliver the registration receipt in regard to sale deed by receiving the balance consideration – Vendor alleging that the purchaser did not pay any part of the consideration and as such he cancelled the sale deed and sold the property to the subsequent purchaser – Trial court decreed the suit holding that the purchaser had proved payment of part sale price to vendor and on execution of sale deed by the seller, title passed to the purchaser – First appellate court as also the High Court dismissed the suit – Held: Intention of the parties was that title would not pass until the consideration was paid – Thus, the subsequent sale in favour of the subsequent purchaser was valid.

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

96

UTTAR PRADESH SOCIETIES REGISTRATION ACT, 1860:

s.12D(b) – Amendment of Rules, Constitution and Bye-laws of appellant Society, which were registered – Assistant Registrar cancelled registration of the proceedings related to the registered amendments – Direction issued to convene fresh meeting and take a decision as per Rules – Order upheld by the Single Judge and the Division Bench of the High Court – Held: The basic feature of the Society along with its primary object had been altered by way of amendments to the Rules – Meetings in which the amendments were carried out had not been validly convened and were in violation of the statutory provisions – Rules of the Allahabad High Schools

Society, 1952 – Constitution of India, 1950 – Article 136.

Allahabad High School Society Allahabad & Anr. v. State of U.P. & Ors. 759

WITNESSES:

(1) Related witness.
(See under: Penal Code, 1860) 1072

(2) Res gestae witnesses.
(See under: Evidence Act, 1872) 978

WORDS AND PHRASES:

(1) 'Corruption' – Meaning of – In the context of Prevention of Corruption Act, 1988.

Kanwarjit Singh Kakkar v. State of Punjab and Anr. 895

(2) Expressions "involved in the offence" and "accused of the offence" in the context of s.3(2) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 – Connotation of.

(Also see under: Special Court (Trial of Offences Relating To Transactions In Securities) Act, 1992)

Smt. Rasila S. Mehta etc. v. Custodian, Nariman Bhavan, Mumbai 234

JUDGES OF THE SUPREME COURT OF INDIA

(From 05.04.2011 to 04.07.2011)

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

**ERRATA
VOLUME INDEX 6 (2011)**

Page No.	Line No.	Read for	Read as
463	21	the terms of the Award.	the terms of the <u>NWDT</u> Award.
818	20	matsyanyaya <u>begin</u> to operate.	matsyanyaya <u>begins</u> to operate.
1021	19	holding the person <u>as guilty</u> who	holding the person who
1021	20	the trail court.	the trail court <u>as guilty</u> .
1040	19	below <u>accepting while</u>	below <u>while accepting</u>
1063	5	of the accused	of the <u>six</u> accused
1064	18	faced grilling	faced <u>a</u> grilling