

CHASE YOUR DREAMS

Justice U.C. Dhyani*

Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser-in fees, expenses, and waste of time. As a peace-maker the lawyer has a superior opportunity of being a good man.

.....Abraham Lincoln

The Legal Services Authorities Act was implemented all over India during 1998. It provides for the constitution of Legal Services Authority at various levels. Even after the full swing of these authorities, there is inordinate delay in settling disputes between the parties. However, it is a solace to the justice delivery system that the doctrine of 'no case land' first enunciated in Canada has been statutorily recognized in our country also by Section 89 of the Code of Civil Procedure, 1908, which empowers Courts to formulate the terms of settlement through Lok Adalat, arbitration, mediation, conciliation etc. Though the said provision was enacted with a broad appreciation, we are not in a position to implement it in reality. Moreover, it is suggested that all over efforts should be taken to ensure that the amendments made to the Code of Civil Procedure aimed at minimizing delay in Civil Courts should be given effect to and followed in letter and spirit by all the Courts in the Country.

There is a dream of 'No Arrears Land' behind Section 89 C.P.C. This author is not in favour of 'Docket-Exclusion'. Rather, he is inclined in favour of containing 'Docket-Explosion'. If the dockets are excluded, the people will resort to street justice, instead of resolving their disputes in the law courts. 'Docket-Exclusion' will therefore, mean that the people have a tendency to settle their disputes outside the Courts, which will not be a healthy sign for democracy. The ideal situation would be-firstly, don't have disputes, but, if at all, they are there, try to settle them in the law courts, who are expected to decide them as early as possible, within the four corners of law.

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Justice V.R. Krishna Iyer in his book ‘The Majesty of the Judiciary’ wrote thus:

“Our judges have much to account for to the people who find litigation most expensive, multi-docketed, gambling in result and on the whole victims of extravagant expensive astrological syndrome. Poor people as Indians are can hardly afford a legal system, which will bankrupt the parties and baffle the verdicts especially because of the dilatory curial process and the highly costly lawyers fees and the overall corruption of the system escalating and not diminishing. The quality of the judges and the diminishing commitments to the community at large and the absence of devotion to the values expressly mentioned in the Preamble to the Constitution such as socialism, secularism and a sense of realism about the agrarian and urban destitution..... Consequently there is chaos in the judicative operation, which will continue until a revolutionary change and creative restructuring, in harmony with the raw Indian condition take place. The reconstructing of a dynamic modern legal system in tune with dialectical materialism pledged with spiritual material and moral values (or Dharma) is the desideratum. The distance is long, the roadblocks are many and the vest interests are barriers.”

There is a dream behind every Legislation. Every adjudicator and every solicitor has a dream. The following description is meant for the dream of an Arbitrator, a Mediator, a Conciliator or an Adjudicator who has been assigned the task of settling the dispute through conciliation in Lok Adalat.

Where there is a dream there is passion. When one feels passion for something, one can achieve a lot. One may be a good adjudicator, and at the same time he may be a good mediator. One may be a good lawyer, and at the same time he may be a good conciliator. Care should, however, be taken that one should not mix up his role while taking up a particular role. An adjudicator can not impose his wish while mediating a dispute. Likewise, a lawyer should not impose his arguments while finding out an amicable solution to the dispute between the parties through mediation or

conciliation. A lawyer can, however, use his persuasive skills while mediating a dispute. He has to see that the parties settle their dispute on their own. The disputants should arrive at a settlement on their own. The job of a mediator is that of a catalyst. A student of chemistry knows it very well that when potassium chlorate and magnesium oxide are heated, oxygen is produced with potassium chloride and magnesium oxide remains intact. It acts as a catalyst, without losing its identity. The same is the role of a mediator. He is expected to mediate in such a way that oxygen (result) is produced without the mediator losing his or her essence. The disputants should not 'feel' that the mediator (catalyst) is, in any way, mediating between them. The parties, therefore, arrive at a win-win situation!

However, chasing a dream does not always mean leaving one's job or changing one's line of work. The bulk of dreams people have are often something they can do along with their work. Would anybody like to learn mediation or conciliation? A big dream. Don't let your dream pass away like a ship in the night. Another passion, like mediation or conciliation, would add a lot of flair and colour to one's personality.

When nuclear bombs shook Japan during the world war, America smiled. But since then, Japan has been smiling away. It has reached a position of economic strength which America can merely envy, and this has been made possible by corporate leaders like Akio Morita of Sony. During the war, Morita was a young engineer fresh out of Osaka Imperial University. He came from a family of brewers who were traditional in their outlook towards life in general. But at a time when the nation was in tatters, he had the courage to dream big. He co-founded Sony on the rubble of war. Years later, he became a folk hero, a cult figure whose vision is acknowledged the world over.

Founding Fathers of our Constitution dreamt big and the result is before us. We are a strong, Secular, Socialist, Democratic, Republic!

Here are a few golden rules about dreams:

- Let a dream grow. If something fires one or ignites one's imagination, let it grow in one's mind. Let the same fill one with good feeling.

- Consider a dream seriously. If a dream or a desire stays in one's mind for long enough, it is time to give it serious attention. If one's dream is flying, start finding about as much as you can. If your dream is to become a good mediator or conciliator, go to every Lok Adalat or mediation centre in your area you can.
- Discuss a dream with the right person. Too often you broach the topic with a totally unimaginative person. They shoot you down by giving you a crazy look. Choose someone to whom you think will understand your ideas.
- Take small steps towards making the dream into reality. No dream can be accomplished overnight. One can do a little something towards one's dream. What's your dream? Dreamt of settling a dispute by mediation or conciliation? And what are you doing about it?

Its better to die
Reaching for a dream
Than to live
Never having had one.
