



CIRCULAR

Dis.No. 3912 /Estt/AO/2025, Dated: 03.06.2025

Sub: WORKSHOPS – Second Workshop for the Judicial Officers' working in the Unit of Chittoor District for the year, 2025 on the subject of **TOPICS ON CIVIL SIDE** - Circulation of papers/articles prepared by the nominated Judicial Officers – Communication – Regarding.– Regarding.

Ref:- 1).Hon'ble High Court's Circular ROC No.960/RC/2023-RC., 07-03-2025 received by the District Court, Chittoor vide R.No.2223, dt. 07-03-2025.

2). Proceedings of the Principal District Judge, Chittoor in Dis.No. 3398/2025, dt. 07-05-2025

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All the Judicial Officers working in the District are hereby informed that the Hon'ble High Court vide reference 1st cited has been pleased to communicate the calendar for conducting of workshops and the subjects to be discussed in the workshops for the Judicial Officers to be conducted once in three months during the year, 2025. As per the said schedule, the "**SECOND WORKSHOP**" in the Unit is scheduled to be held on the subjects "**TOPICS ON CIVIL SIDE**" in four sessions with the topics mentioned hereunder.

Sl. No.	Name of the Topic	Officers identified for submission of papers
SUBJECT: TOPICS ON CIVIL SIDE		
SESSION – I	Section 9 CPC with reference to jurisdiction under various special enactments	Sri G.Srinivas IV Addl. Civil judge (Junior Division) Tirupati
SESSION-II	Lok Adalat Award and Jurisdiction - Lok Adalat award-presence of parties, GPS & Co-accused. - Lok Adalat award – Ex-parte decree - Lok Adalat award – registrations - Lok Adalat award – Executability - Whether award can contain conditions as to future compliance, consequences of violations etc. - Lok Adalat award – Hybrid mode-special reference to matrimonial matters	Smt K.Jayalakshmi Principal Civil Judge, (Senior Division) Madanapalle

	• Lok Adalat award – compoundable offences/ancillary non-compoundable offences	
SESSION – III	• Framing of Issues • Necessity of framing of preliminary issues	Smt G.Archana IV Addl. District Judge, Tirupati.
SESSION – IV	• Judgment writing	Sri S.Ramesh , I Additional District Judge, Chittoor.

All the Judicial Officers are further informed that the Hon'ble Administrative Judge of Chittoor District will be the Ex-Officio Chairperson of the workshop, His Lordship will be the Chief Mentor of the Workshop and will preside over the workshop. The Principal District Judge, Chittoor will be the Nodal Officer of the Workshop and the IX Additional District Judge, Chittoor will assist the Principal District Judge/Nodal Officer during the workshop.

Further, in this connection, I am herewith communicating the Papers/Articles prepared by the nominated Judicial Officers under reference 2nd cited on the given topics, to all the Judicial Officers working in the Unit through their respective e-mail IDs for analysis of the topics by the participating officers and to express their views during the workshop. The Officers are hereby required to download the papers/Articles communicated herein, and bring the same to the scheduled workshop in a booklet with binding.

The Date, venue details, place and the detailed schedule of the workshop will be intimated separately.


Principal District Judge,
Chittoor.
S. Archana

Encl: Papers/ Articles prepared by nominated officers
circulated through digital mode (e-mail)

To
All the Judicial Officer in the District (by name virtually)

Copy to the System Officer, Principal District Court, Chittoor with a direction to place in the official website.

Paper Presentation by :

SRI G.SRINIVAS,
IV Addl. Civil Judge (Junior Division)-cum-
Judicial Magistrate of I Class,
Tirupati

on

**Section 9 CPC with reference to jurisdiction
under various special enactments**

Paper Presentation by :

**SRI G. SRINIVAS,
IV Addl. Civil Judge (Jr. Division)-cum-
Judicial Magistrate of I Class,
Tirupati**

SECTION 9 C.P.C. WITH REFERENCE TO JURISDICTION UNDER VARIOUS SPECIAL ENACTMENTS

INTRODUCTION: -

The Maxim "*Ubi Jus Ibi Remedium*" plays a significant role in the legal system. It means that when a person's rights are violated, they have the legal right to approach a specific complaint process that has been set up by the law. Right and Remedy go hand in hand. Civil courts have the authority to hear any disputes of a civil nature that may arise. The Competent Authority, which has the authority to hear civil disputes, is described in Section 9 of the CPC. According to Section 9 "*the Courts shall (subject to the conditions herein contained) have jurisdiction to try all civil nature excepting suits of which their cognizance is either expressly or impliedly barred.*" The civil court has inherent jurisdiction to hear disputes of a civil nature. Additionally, everyone has the fundamental right to petition the civil court if they believe their rights are being violated.

IMPORTANCE:

The Code of Civil Process, 1908 was created with the intention of ensuring that all parties to an issue have a fair hearing and trial. This section is essential because the initial phase of every lawsuit is establishing authority. Any person may go to a civil court and seek redress if they believe their private rights have been violated. Therefore, it can be claimed that Section 9, Civil Courts serve to preserve a person's private rights. Civil courts have three different sorts of jurisdiction to help people seek redress in this manner:

Section 9 of the Civil Procedure Code (CPC), 1908 states:

Courts to try all civil suits unless barred

"The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred."

SUMMARY:

Section 9 of the c.p.c. provides that the civil courts have the jurisdiction to try all suits of a civil nature unless their jurisdiction is expressly or impliedly barred by a specific statute. This section ensures that individuals have the right to approach civil courts for the enforcement of their civil rights. However, if a law explicitly or implicitly restricts the civil court's jurisdiction in certain matters (e.g., tribunals or special forums), then the civil court cannot entertain such cases.

Key Points:

- *Grants civil courts broad jurisdiction over civil matters.*
- *Excludes cases where jurisdiction is barred by law.*
- *Ensures protection and enforcement of civil rights.*

Section 9 of the Civil Procedure Code, 1908, says that civil courts have the authority to hear all suits of a civil nature unless a specific law says otherwise.

In simple terms, if someone's civil rights like property, contracts, or personal rights are affected, they can approach a civil court, unless there's a law that clearly says a civil court can't deal with that kind of issue.

Write a detailed article along with conclusive error with regard to Section 9 Civil Procedure Code.

The Civil Procedure Code, 1908 (CPC) lays down the procedural framework for civil litigation in India. **Section 9 of the CPC** is a foundational provision that grants jurisdiction to civil courts to adjudicate civil disputes. It embodies the principle *ubi jus ibi remedium* – where there is a right, there is a remedy.

Key Elements:

1. Jurisdiction of Civil Courts:

- Civil courts have **inherent jurisdiction** to try all civil suits unless explicitly or impliedly barred by law.
- The section is enabling in nature and applies to **every suit of civil nature**.

2. Suits of Civil Nature:

- The term “civil nature” is not defined in the CPC, but generally, it includes suits pertaining to private rights such as property rights, contracts, torts, service matters, etc.
- **Explanation I & II** (added in the 1976 Amendment) broaden the scope:
 - **Explanation I:** A suit where the right to property or to an office is contested is a suit of civil nature even if it involves religious rites.
 - **Explanation II:** It is immaterial whether any fees are attached to the office or not.

3. Bar of Jurisdiction:

- Jurisdiction can be **expressly barred** by specific statutes (e.g., Consumer Protection Act, Industrial Disputes Act).
- It can also be **impliedly barred** when special tribunals or authorities are designated to handle particular matters.

JURISDICTION

- Different courts have the authority to rule on various types of lawsuits. The maintenance of certain suits is prohibited under several codes. A lawsuit for the particular performance of a contract, the division of a real estate, a foreclosure, or the redemption of a mortgage cannot be brought before the presidency small causes court.
- In the world of law the first point that an attorney is supposed to prove is that the court which has been approached by him has the jurisdiction to try the suit. However, neither procedural nor substantive laws attempt to describe what is meant by the term “Jurisdiction” The word “Jurisdiction” has stemmed from the Latin phrase “Juris” which translates to “law” and “dicere” meaning “to speak” in simple terms it can be defined as “The power of a court to decide a case or issue a decree”. A court is said to have jurisdiction for the suit when it not only has the power to try the suit but can also pass orders or decrees in relation to it.
- In the year 1928, the Calcutta High court attempted to explain the meaning of the term Jurisdiction in the case of Hoday Nath Roy Vs. Akhil Chandra Roy, the court stated “**jurisdiction** is the power of the court to hear and determine a cause, to adjudicate and exercise judicial powers in relation to it”. It went further and demarcated three different categories of jurisdictions:

1. Subject matter jurisdiction:-

Subject matter implies the main or the fundamental matter of a particular nature which is under question. Subject matter jurisdiction essentially states whether the court has the authority to try the subject matter in question. It primarily specifies whether the courts are allowed to try matters of a certain nature. If not, then the courts cannot try that particular case.

2. Pecuniary jurisdiction:

Pecuniary implies “related to capital”. It means of a certain monetary value. A court can have certain financial limitations which the courts should adhere to and beyond which the courts cannot try the matter. The primary aim of setting a pecuniary jurisdiction is to preclude the higher courts from getting burdened and at the same time extend help to the parties.

3. Territorial jurisdiction:

Also known as local jurisdiction, territorial jurisdiction lays down the geographical limits of a court’s authority. It ensures that limits of courts are clarified clearly and specifically. No court is authorized to try matters which exist beyond their respective territorial limit.

Apart from the above three classifications, jurisdiction are also divided on the basis of “original” and “appellate jurisdiction” or “exclusive” and “concurrent jurisdiction”. Additionally, the jurisdiction of the court is not decided on the arguments of the defence but on the basis of the allegations made in the complaint. An order passed by a court lacking jurisdiction is nullified and is unenforceable by law. When it comes to civil courts they are governed by the “Code of Civil Procedure 1908”, which is procedural law. The jurisdiction of the civil courts is dealt with under section 9 of the Code of Civil Procedure, 1908.

LEGISLATIVE ANALYSIS

If the civil suit desires to have jurisdiction, two requirements must be met:

- **The conflict must be of a civil nature, and**
- **The courts ability to hear such matters is not barred.**

1. Although the term “**civil**” is not defined anywhere in the Civil Procedure Code, it generally refers to the remedies that relate to an individual’s rights as opposed to criminal or political rights.

2. The term “**civil nature**” refers to a citizen’s personal freedoms and responsibilities. A lawsuit that has caste or religion as its main issue is not protected. Whether or not there are expenses involved or the case is associated with a specific party, a lawsuit involving a religious office is maintainable.
3. The word “**shall**” makes it necessary for the courts to consider a case if it fits the section’s definition.

The expression “**nature**” refers to its intrinsic characteristics, such as its sort, kind, and character. Examples of civil lawsuits include those involving property, the right of worship, the disruption of religious processions, and damages for civil wrongs.

SECTION 9 - SCOPE AND APPLICATION:

Suits of civil nature are instituted and tried by the civil courts. The court means that apart from having the trappings of some judicial tribunal should also have the capacity and the power to give the definitive judgment which is a finality and has authority, which are the essentials of the judicial pronouncements. Section 9 of the CPC gives the power to the Civil Courts to try the suits which are of civil nature and are not either expressly or impliedly barred by any other law. Hence, a civil court can try a case if -

The suit in the question is of a civil nature:

The cognizance of the suit is not expressly or impliedly barred by any other statute

The definition of the civil suit is not enunciated anywhere in the Code. It can be said that a suit which is not criminal in nature is a civil suit. A suit that determines the civil rights of the person can be termed as the civil suit. A proceeding which addresses the redressal of the private rights is a civil action.

It was held in the case of ***Dhruv Green Field vs. Hukam Singh, AIR 2002 SC 2841*** Hon'ble Supreme court held that whenever a special statute provides for the exclusion of the civil courts to entertain a suit then it should be construed strictly but in a case where a civil court has the power grant relief to one of the part of the suit then it has the jurisdiction to entertain such a suit.

In ***Union of India v. Delhi High Court Bar Assn, AIR 2002 SC 1479*** Hon'ble Supreme court held that it is not an absolute right given to anyone to decide that a case needs to be determined and entertained by the Civil Court only. Whenever a statute is silent whether the dispute is of the civil nature or not then it cannot take away the jurisdiction of the civil courts to try such matters merely on this issue.

CLASSES OF SUITS:

Suits may be divided into two classes –

- 1) Those of a civil nature and
- 2) Those not of a civil nature.

It is only the former suits that a Civil court has jurisdiction to entertain. A Civil court has no jurisdiction to try suits which are not of a civil nature.

SUITS OF A CIVIL NATURE:

A suit is of a civil nature if the principal question therein relates to a civil or legal right. Explanation to the section specifies that if the principal or only question in the suit is a caste question or a question relating to religious rites of ceremonies, the suit is not of a civil nature for it deals not with the rights of the citizen but with matters that are purely social. However, when 1) a caste question or a question relating to religious rites or ceremonies is not the principal question in the suit, but is merely a subsidiary question and 2) the principal question is of a civil nature eg a question as to any right to property

or to an office or to any other civil right and 3) the principal question, which is of a civil nature, cannot be determined without deciding the caste question or the question relating to religious rites or ceremonies, the court has the power to decide the caste question or the question relating to religious rites or ceremonies, to enable it to decide the principal question. “*Sarda Kunwar v Gajanand* AIR 1942 All 320; *Thiruvengkata Ramanuja v Venkatacharlu* AIR 1947 PC 53 : 73 IA 156 : 1947 ILR Mad 436 : 229 IC 380 ; *Lalji v Walji* (1895) ILR 19 Bom 507; *Pragji v Govind* (1887) ILR 11 Bom 534; *Ramakrishna v Gangadhar* AIR 1968 Ori 26”. It is upon this principle that Explanation I to the section is based.

The bar may be provided explicitly or impliedly to file civil suit. A bar is said to be an explicit bar when it is clearly provided in the statute that the civil courts will be barred from trying this kind of suit. An implied bar is when the statute is providing a legal remedy to the aggrieved party in the form of an appeal, this is an implied bar on the section 9 of the CPC that such a case cannot be tried by the civil court.

An inherent lack of jurisdiction is a case when the court has no jurisdiction to try the case so the decree passed in such a case will be a nullity. Whether the court has jurisdiction or not can be decided once the issues are framed and the arguments are advanced. It was held by the court in the case of ***Mathura Prasad Bajoo Jaiswal v. Dosibai N.B. Jeejebhoy***, AIR 1971, SC 2355 where a decision is given by the court when the court had no jurisdiction then it would not be considered as the res judicata in the subsequent proceeding in the same matter in issue between the same parties. In a case where more than one court has jurisdiction to try a case then an agreement can be made between the parties to submit the dispute to one of the courts and such an agreement will not be considered as against the public policy.

In other words it can be said that the theory of jurisdiction as enunciated under section 9 of the CPC was discussed by the Supreme Court in the case of ***PMA Metropolitan v. M.M. Marthane, AIR 1995 SC 2001***. The court observed as follow:

The phrases used in the section 9 of the Code have both the positive and negative intent.

Section 9 is divided into two parts wherein one part talks about the jurisdiction to try the civil cases and the other part talks about the suit that are impliedly and expressly barred to be tried by the civil courts.

The use of word shall in the section denote that the law envisaged in the provision must be follows scrupulously.

After reading the concept underlying section 9 of CPC, we can say that the civil court tries only suits of civil nature. And the cases which are not of civil nature or the suits which are expressly or impliedly barred are tried either in tribunals or councils or special courts specified under any enactment. The questions purely relating to caste or religious ceremonies are decided by the community or religious heads like priests, spiritual heads, etc. On the other side, questions that are political in nature are decided by public administrative authorities.

When there is no dispute as to the nature of the suits instituted in the civil court being civil in nature but while researching the researcher found out that there are lot of sham complaints that are presented before the court which in turn burden the court as well as cause prejudice to another party. According to Order VII Rule 11 there is a remedy which empowers the court to dismiss a suit at the threshold even without recording the evidences, conducting trial if the court is satisfied that it falls under any of the grounds contained in this provision. The courts are free to reject the vexatious complaints in order to save the time of the courts as the judicial time is precious. The power which has

been given to the court under O7 R11 is mandatory in nature and can be exercised at any time and at any stage of the suit. The Supreme Court in the recent case of ***Dahiben v. Arvinbhai Kalyanji Bhanusali*, AIR 2020 SC 3310** has dismissed an appeal against the order of the lower court and upheld the order of the lower court which rejected the plaint at the threshold because it was found that institution of the plaint by the plaintiff was nothing but a clear abuse of process of law and was also bereft of any merit.

The litigants have the choice to seek the rejection of the plaint at the threshold when the suit fails in disclosing a cause of action which is valid in eyes of law, or is barred by any law or the reliefs which are sought and prayed are un-remediable and defective and not in the line of Order VII Rule 11. Litigants need to be careful that the courts while exercising the power under Order VII Rule 11 cannot go into the merit of the case and the court makes its decision and determination only by scrutinizing the averments that are made out in the plaint which is presumed to be true. The courts also need to be very cautious while exercising their powers under the said Order as the plaint that prima facie provides for a cause of action is not to be rejected at the threshold

- **The court's ability to hear such matters is not barred.**

1. **Suits expressly barred:** When a lawsuit is expressly prohibited by any law that is currently in effect, it is said to be so. If the competent legislature believes that by doing so, it preserves itself within the area of legislation granted to it and does not change the provision of the constitution, then it is up to the legislature to forbid the civil courts' jurisdiction. However, any clause created to allow for expulsion must not be rigidly written. Therefore, under the appropriate sections, special courts deal with cases that fall under the purview of revenue courts or the CRPC. Examples include the Income Tax Tribunal, the Medical Council, and auto accidents. However, if a statute's remedy is

inadequate and no issues can be resolved by a special panel, the jurisdiction is not barred

2. **Suits impliedly barred:** When a lawsuit is prohibited by broad legal principles, it is said to be impliedly banned. When a statute specifies a certain remedy, it denies the individual who demands a remedy any other form than that specified by the statute. An obligation that is created by an act and whose execution is enforced in a certain way is not subject to enforcement in any other way.

JUDICIAL ANALYSIS

In **Dhulabhai v State of MP, AIR 1969, SC 78** it is forbidden for civil courts with authority to take on a case when a state requires that orders be final. In situations where the fundamental rules of judicial procedure have been broken, such prohibitions are inapplicable. When the court's jurisdiction is expressly barred, an examination of the jurisdictional framework of a particular act is necessary to identify a suitable remedy, but this is not necessary to maintain civil court jurisdiction. It views the conditions of certain acts as ultra-virus, and the High Court cannot review or overturn the tribunal's decision. when any of the terms are deemed unconstitutional or when they are found to be unlawful. A writ of certiorari on the basis of reimbursement was then issued. Then, although no payment for the lawsuit must be made, a writ of certiorari on the basis of reimbursement may be submitted Before the court infers these clauses, there can be no violations of the jurisdiction.

According to the Privy Council's historic decision in **The Secretary of State for India vs. Mask and Co (1940) 42 -BOMLR 767.**, jurisdiction cannot be established solely by inferences. The case should be under the exclusive jurisdiction of the court. It went on to say that the court has the right to hear arguments on the case's merits even if the jurisdiction has been expressly or impliedly surrendered.

The Supreme Court in **State of A.P. v. Majeti Laxmi Kanth Rao, dt.04-04-2020** set two standards in this decision for assessing whether to exclude the jurisdiction of a civil court. Legislative intent is required if the civil court's authority is to be restricted. It could be either directly or indirectly, but there need to be good reasons to exclude the lawsuit. If the civil court's jurisdiction cannot be avoided, the claimant shall have access to an alternative remedy.

The Supreme Court's decisions led to the following general conclusions:

- a civil court has the authority to hear any civil lawsuits unless its recognition is openly or implausibly denied.
- Consent cannot grant or revoke a court's jurisdiction.
- The court's judgment may be contested at any point during the procedures.
- Each court has the inherent authority to determine the issue of its own jurisdiction.
- A court's jurisdiction is determined by the allegations presented in a plaint, not by the defense in a written statement.
- The substance of a matter, not its form, will determine the court's jurisdiction.
- Every presumption should be in favour of a civil court's jurisdiction.
- A statute removing a court's jurisdiction must be carefully drafted.
- The burden of proof for denying a court's jurisdiction rests with the party making the claim.
- Even in cases when a civil court's jurisdiction is denied, it can nonetheless determine whether an Act's requirements have been followed or whether an order was made beyond the bounds of the law.

SUITS FOR SECULAR OFFICE

When no remuneration attaches to the office of the secretary of an association [registered under Society Registration Act, 1860 (21 of 1860)], a suit for a declaration that the plaintiff is the secretary of the association and that his dismissal from the office was not justified by the association rules, is not maintainable in a civil court. This is especially so if the association has the power to alter its rules from time to time. The reason is that in such a case, no decree that a Civil court may pass in the plaintiff's favour could prevent the association from altering its rules and then dispensing with the plaintiff's services and employing someone else, thus defeating the decree. "*Maharaj Narain v Shashi* (1915) ILR 37 All 331: 29 IC 53".

FILMS

A suit to restrain the exhibition of a film on the ground that it hurts the religious feelings of one community cannot lie, if there is no breach of legal obligation. "*Ushaben v Bhagyalaxmi Chitra Mandir* AIR 1978 Guj 3".

RELIGIOUS MATTER:

RELIGIOUS QUESTIONS

Explanation 2 to section 9, inserted in 1976, is very relevant on the question of religious offices, "*Sri Sinha Ramanuja v Sri Ranga Ramanuja* AIR 1961 SC 1720" and earlier decisions on the topic should now be read as subject to the newly inserted explanation. The court should not issue an injunction directing that members of the Muslim community should say their Friday prayers in one particular mosque only, particularly when all members of the community are not party to the suit. "*A Ali Aktar v District Muslims Munisiff Pattukotta* AIR 1993 Mad 51". A suit by a Muslim for an injunction restraining interference by others with his uttering the word Aameen loudly in the mosque

after prayers is cognisable in the Civil court. “*Syed Farzand Ali v Nasim Beg AIR 1980 All 342 following (1890) ILR 12 All 494 (FB)*”.

SUITS FOR RELIGIOUS OFFICE:

A suit can be maintained in a civil court to get adjudication in respect of a disputes about the religious office of Christians. “*PMA Metropolitan v Moran Mar Marthoma AIR 1995 SC 2001 : 1995 Supp (4) SCC 286*”. The first explanation to the section states that a suit in which the right to an ‘office’ is contested is a suit of a civil nature. Now, an office may be either secular or religious in its character. Religious offices may further be divided into two classes namely,

1. Those to which fees are appurtenant as of right ; such as the office of the Kazi of Bombay or of the Joshi of a village or the Upadhaya of a caste; and

2. Those to which no fees are attached, but which entitle the holder thereof to receive such gratuities as may be paid to him, such as the office of a pujari or of an officiating priest in a temple or of the Aya of a math.

RELIGIOUS RIGHTS:

A religious right is nevertheless civil in nature. Disputes regarding religious offices may involve religious matters, but with civil consequences. Any infringement of a right, claimed as a member of any religious orders, is a civil wrong. This is the letter and spirit of section 9, Explanation I. “*PMA Metropolitan v Moran Mar Thoman AIR 1995 SC 2001: 1995 Supp (4) SCC 286*”.

INTERFERENCE WITH TEMPLE PROPERTY

Removal or alteration of namams or religious marks in a temple, which are recognized as the badges of a particular denomination, amounts to an

interference with property and is a ground of action in Civil courts. "*Krishnasami v Samaram (1907) ILR 30 Mad 158*". Worshippers of a temple can maintain a suit for a declaration of the title of the temple to certain land. Decree for possession can also be given to them. But it will be open to the trustee to take possession from them at any time. "*Chandrasekharan v Muthu Bogi (1969) 2 MLJ 643*".

INTERFERENCE WITH RIGHT OF WORSHIP

Suits for a declaration of the right to worship or to offer prayers at a certain place are suits of a civil nature. "*District counsel of UBMC v Salvador NMathuias (1988) 2 SCC 31*". It often happens that the members of a particular class are alone entitled to worship in the sanctuary of a temple and to perform certain portions of the religious worship. Such a right is of a civil nature and it may be enforced by a suit in a Civil court. "*Thiruvengkata Ramanuja v Venkatacharlu 73 IA 156 : AIR 1947 PC 53: 1947 ILR Mad 436: 229 IC 380: Anandrao v Shankar (1883) ILR 7 Bom 323; Krishnasami v Krishnama (1882) ILR 5 Mad 313; Vengamuthu v Pandaveswara (1883) ILR 6 Mad 151; Venkatachalapat v Subbarayudu (1890) ILR 13 Mad 293; Kalidas v Gor Parjaram (1891) ILR 15 Bom 309*". Hindu worshipers have the right to enter into a temple for worship including the right to take assistance of a panda. While the authorities cannot prevent the exercise of this right, they can make proper regulations for the exercise thereof. "*Narahari v Badrinath Temple committee 1952 SCR 849: AIR 1952 SC 245*". Further every citizen has a right to carry on the worship in such methods as he likes so long as it does not invade the rights of the other persons. And a suit for declaration that the plaintiff is entitled to carry on worship bareheaded and for an injunction restraining the mandir authorities from interfering with such a right is maintainable. "*Ratnam Singh v Bailey Ram AIR 1952 Punj 163*". Where the right to worship is not in dispute, but the area of controversy relates to the

performance of certain rituals connected with the Christian religion, Civil courts have no jurisdiction.

RELIGIOUS PROCESSIONS

Members of a religious body possess the right to conduct a religious procession with its appropriate observances along a highway and a suit will lie against those who prevent the procession and its observances. The worshippers in a mosque or a temple that abuts on a high road could not compel the processionists to intermit their worship while passing the mosque or temple on the ground that continuous worship was conducted there. But, no single sect can claim the exclusive use of the highway for their worship. "*Chandu Sajan patel v Nyahal Chand* 52 BLR 214: 1950 ILR Bom 192; *Sangabasavaswami v Mahanta swami* 1946 ILR Bom 437: 48 BLR 100 : AIR 1946 Bom 353 : 226 IC 102; *Manzur Hasan v Muhammad Zaman* (1925) 52 IA 61: ILR 47 All 151: 86 IC 236: AIR 1925 PC 36 in app from (1921) ILR 43 All 692 : 63 IC 984 : AIR 1921 ALL 146 : *Sundaram v The Queen* (1883) ILR 6 Mad 203 (FB); *Parthasaradi v Chinnakrishna* (1882) ILR 5 Mad 304; *Sadagopachariar v Rama Rao* (1903) ILR 26 Mad 376; *Mohammed Abdul Hafiz v Latif Husein* (1897) ILR 24 Cal 524; *Baslingappa v Dharmappa* (1910) ILR 34 Bom 571 : 7 IC 663; *Waman v Balu* (1920) 44 Bom 410 : 56 IC 419". The right to take our processions along a highway is not limited to religious processions but extends to all processions. A suit for the declaration of a right to take funeral processions thorough a public street is maintainable. "*P Pillai v Ganapathi Ayyar* AIR 1954 Mad 179".

SUITS RELATING TO CASTE PROPERTY

Where the question in issue is not a matter relating to the internal administration and affairs of a caste, but one relating to the property of the caste, the Civil court has the jurisdiction to interfere, although there has been a division of opinion in the caste. "*Fulchand v Harilal* (1926) ILR 50 Bom 124 : 92 IC 549 : AIR 1926 Bom 69".

SUITS NOT OF CIVIL NATURE

SUITS IN WHICH THE PRINCIPAL QUESTION IS A CASTE QUESTION ARE NOT SUITS OF CIVIL NATURE

A caste is any well-defined community (be it Hindu or Mahomedan), governed for certain internal purpose by its own rules and regulations. "*Abdul Kadir v Dharma* (1896) ILR 20 Bom 190". A caste question is one that relates to matters affecting the internal autonomy of the caste and its social relations. "*Appaya v Padappa* (1899) ILR 23 Bom 122, 130 ; *Nagindas v Sommath* (1932) ILR 56 Bom 242: 137 IC 461 : AIR 1932 Bom 122". To determine whether a question is a caste question or not, the test is whether its cognizance constitutes interference with the caste's autonomy and as such, it is question which the caste as a self governing body is entitled to decide for itself and not the court. "*Murari v Suba* (1882) ILR 6 Bom 725". The question as to the status of a caste also is not one for the court to decide. "*Ram Dulari Saran v Yogeshwar* 1969 Cri LJ 133 : AIR 1969 All 68". And if a court does not have jurisdiction, it does not have jurisdiction, regardless of the fact that one of the parties involved, is a gram panchayat, or the period involved is very short or the amount involved is very small. "*State of Gujarat v Rajesh Kumar* AIR 1996 SC 2664 : (1996) 5 SCC 477". Matters regarding expulsion from caste, suits relating to caste property and suits for inspection of accounts of caste property, discussed above, are however, some exceptions to this rule.

SUITS IN WHICH THE PRINCIPAL QUESTION RELATES TO RELIGIOUS RITES OR CEREMONIES ARE NOT SUITS OF A CIVIL NATURE

A suit will not lie to establish a right to parade bullocks on certain days “*Rama v Shivram (1882) ILR 6 Bom 116*” or to compel pujaris to adorn an idol in certain seasons “*Vasudev v Vamnaji (1881) ILR 5 Bom 80*” or to install it in a particular temple instead of another. “*Radha Krishna Das v Radharamana AIR 1949 Ori 1; Lake Nath v Dasaradhi (1905) ILR 32 Cal 1072*”. However, a declaratory suit in respect of a right to run a customary bull race and for an injunction restraining the defendants from interfering with that right, even though such a right is not one of any office or in relation to a right of worship in the temple has been held to be maintainable on the ground that it deals with a right of a civil nature. “*Srinivasulu Naidu v K. Munaswamy Naidu AIR 1967 Mad 451: 1967 80 LW 296*”.

**SUITS FOR VINDICATION OF MERE DIGNITY ATTACHED TO AN OFFICE
ARE NOT SUITS OF A CIVIL NATURE.**

A claim by a Swami (arch-priest) that he is entitled to be carried on the main road of a town or village in a palanquin on ceremonial occasions will not be entertained by a Civil court. “*Sri Sunkar v Sidha (1843) 3 MIA 198 ; Shankara v Hanma (1878) ILR 2 Bom 470; Andaniswami v Totadswamy (1921) ILR 45 Bom 590, 595-596: 60 IC 907 : AIR 1921 Bom 140*”. What is claimed by the plaintiff in such a case is a mere mark of honour appended to the office of a Swami. Civil courts should discourage, as much as possible, claims of so unsubstantial and objectionable a nature and they ought not to be involved in the determination of trivial questions of dignity and privilege although connected with an office. For the same reason, a suit will not lie for a declaration that the plaintiff as a gurukkal or spiritual leader is entitled to be received at a pagoda by the wardens of the pagoda with the honours and emoluments due to his rank on the occasion of the annual festival of eh pagoda as the same, in the absence of express legal recognition and provisions, is an imperfect obligation of a moral and a civil nature, of which Civil court cannot take cognizance. “*Striman Sadagopa v Krishna (1863) ILR 1 Mad 301*”

SUITS NOT BARRED:

The following suits have been held to be not barred :

i) Suit by a government employee who was downgraded for contravention of army instructions. "*Inder Jain v UOI AIR 1969 Del 220*".

ii) Suit against a University for the correction of date of birth. "*University of Jammu and Kashmir v Kishen Singh AIR 1969 J & K 120*"

iii) The exclusion of the jurisdiction of Civil courts is not to be readily inferred. Provision of special remedies by the special law does not necessarily exclude the jurisdiction of the civil courts. "*Thirumataisami v Villagers of Kadambur AIR 1969 Mad 108*".

iv) A tribunal cannot, by its erroneous decision usurp a jurisdiction which it does not possess. "*Ujjambai v State of Uttar Pradesh (1963) 1 SCR 778: AIR 1962 SC 1621: Dhulabhai v State of MP AIR 1969 SC 78; Subbayya Chetti v State of Andhra Pradesh AIR 1964 SC 322*".

v) Where the tax recovery officer does not proceed to recover arrears of tax under the Income Tax Act a suit to recover the same is not barred by rule 9 of the Income Tax Rules. "*Janaki S Menon v Dr. VR Krishnan AIR 1997 SC 1894*".

SUIT EXPRESSLY BARRED:

The general rule of law is that when a legal right and an infringement thereof are alleged, a cause of action is disclosed and unless there is a bar to the entertainment of a suit, the originally Civil courts are bound to entertain the claim. "*The State of Bombay v Adamjee Hajee Dawood AIR 1951 Cal 147; Valli v Corpn of Madras (1915) ILR 38 Mad 41 : 16 IC 971*". This is, in substance, the rule laid down in the present section, which provides that suits, though of a civil nature, are not triable by Civil courts, if the cognizance of

such suits is expressly or impliedly barred. By “expressly” barred, is meant barred by any enactment for the time being in force. The remedy of a workman aggrieved by an order terminating his services is proceedings under section 25FFF and section 25H of the Industrial Dispute Act, 1947 and therefore a civil suit is barred. *“Pigment Lakes and Chemical Manufacturing Co v Sitaram kashiram (1969) 71 Bom LR 452”*. So it is with respect to a claim falling within Rent control Act. *“Asharti Lal v Vaid Mohan Lal AIR 1970 All 125 : 1969 39 AWR 162”*. Rent control acts are State Acts and vary from state to state. The decision of a tribunal under the Madras Estate Land Reduction of Rent Act (30 of 1947), as to whether land is “ryotti”, cannot be questioned by a civil court. *“Govindaswamy v Srinivas AIR 1969 Mad 172”*.

SUITS IMPLIEDLY BARRED:

Besides suits of which the cognizance is expressly barred, there are suits which are barred by general principles of law, such as suits relating to acts of State and public policy. The precise import of the expression ‘act of State’ has been considered by the Supreme court in a number of decisions. *“Thakur Amar Singh v State of Rajasthan AIR 1955 SC 504; Dalmia Dadri cement Co v Commr of Income Tax AIR 1958 SC 1041 ; State of Saurashtra v Memon haji AIR 1959 SC 1383 ; Jagannadh v State of Orissa AIR 1961 SC 1361; Amar Sarjit Singh v State of Punjab AIR 1962 SC 1305 ; Jiwan Nath Zutshi v State of Madya Pradesh AIR 1971 SC 744”*. When an act of State is pleaded, the question which would arise is-did the State or its agents purport to act catastrophically or subject to the ordinary course of law. And if the act is of the latter kind, it is not an act of State. *“Prasanna v Sri Jagannadh AIR 1971 Ori 246”*. A civil court has no jurisdiction to entertain suits in respect of acts of State. *“Om Prakash Gupta v United Provinces AIR 1951 All 205, but see Bhagabat Transport service v State of Himachal Pradesh AIR 1951 HP 36 ; P& OSN Co v Secretary of State (1861) 5 Bom HC App 1 approved in Secretary of State v Moment (1913) ILR 40 Cal 391 : 40 IA 48 : 18 IC 22 ;*

Jehangir v Secretary of State (1903) ILR 27 Bom 189 ; Shivabhajan v Secretary of state (1904) ILR 28 Bom 314 ; Rossy v Secretary of State (1916) ILR 39 Mad 781 : 31 IC 224 : McInerny v Secretary of state (1911) ILR 38 Cal 797 : 13 IC 370; Secretary of State v Cock-craft (1916) ILR 39 Mad 351 : 27 IC 723”.

REMEDY UNDER SPECIAL LAW :

According to the view of the Orissa High court, in case of the wrongful dismissal of a workman, he has the choice of seeking his remedy under the Industrial Disputes Act or in a Civil court under the Contract Act. If however, he elects one of the remedies, he would be barred from resorting to the other. “*Bishwanth Das v Ramesh Chandra (1978) ILR 2 Cut 500*”.

WRIT AND SUIT :

Plaintiff is *dominus litis*, that is, master of, or having dominion over, the case. He is the person who has carriage and control of an action. In case of conflict of jurisdiction the choice ought to lie with the plaintiff to choose the forum best suited to him unless there is a rule of law excluding access to a forum of plaintiff's choice. “*Dhannalal v Kalawatibai AIR 2002 SC 2572 : (2002) 6 SCC 16*”. Thus, where the High Court while deciding writ petition transferred suits and appeals involving similar issues to itself and without deciding the application for recall of the order, dismissed the suit on the ground that the issue raised were examined it is not true to suggest that he writ petition, it was held by the Supreme Court of India that the procedure adopted by High Court was improper. “*Abdul Gafur v State of Uttarkhand AIR 2009 SC 413 : (2008) 10 SCC 97. [Church of North India v Lavajibhai Ratanji Bhai AIR 2005 SC 2544 : (2005) 10 SC 760, followed]*”

MUNICIPAL ACT:

A special remedy under section 86, Punjab Municipal Act, 1911 excludes the jurisdiction of Civil courts, on the principle that where a special remedy is provided by statute, the general remedy of the suit is barred. "*Munshi Ram v Chheharta Municipality AIR 1979 SC 1250*".

SUMMONS OF A CRIMINAL COURT:

A civil suit cannot be filed to declare illegal, a summons issued by a criminal court. "*Kashi Nath Dutta v Calcutta Municipal Corpn AIR 1992 Cal 83 (DB)*".

ELECTRICITY BOARD:

A suit can be filed against the State Electricity Board for damages for the harm caused by the negligent laying of transmissions lines. "*MP Electricity Board v Vijaya Timber Co AIR 1997 SC 2364 : (1997) 1 SCC 68 (Aug)*".

JURISDICTION:

A court having no jurisdiction in law cannot be vested with jurisdiction by applying principles of res judicata. Further, it is well-settled that there can be no estoppel on a pure question of law; and the question of jurisdiction is a pure question of law. "*Isabella Johnson v MA Susai AIR 1991 SC 993 : (1991) 1 SCC 494*".

RAILWAY CLAIMS:

The claims tribunal under the Railway Act, 1979 has jurisdiction only in matters enumerated in section 13 (2) of the Act. As regards other matters, Civil courts retain their jurisdiction. "*Ratnakar Tanbaji Itankar v UOI AIR 1994 Bom 132*". However, where a railway, entrusted with the carriage of goods, is used for damages for non-delivery of the goods, the claim must be made before the Railway Claims Tribunal constituted under the Railway Claims

Tribunal Act, 1987. Jurisdiction of Civil court is barred. “*MP State Co-operative Marketing Federation v UOI AIR 1998 MP 143*”.

EDUCATION:

A civil suit by the management of a school is maintainable for a declaration that certain orders of the Director of Public Instruction, not approving the appointment of a new Head Mistress, were ultra vires. “*ABN Girls High school v Dy. Director AIR 1983 SC 526 : (1983) 1 SCC 200*”.

DISMISSAL:

A suit for compensation for wrongful dismissal from service can be entertained by the Civil court, though specific performance of the contract cannot be granted. “*Sitaram v Pigment Cakes & Chemicals Mfg Co AIR 1980 SC 16, 17 para 2, 3 : (1979) 4 SCC 12*”.

POLITICAL PARTIES:

Disputes relating to the internal management of political parties are outside the jurisdiction of Civil courts unless questions of proprietary or other civil rights are involved. “*Janardhan Cundya v Rajani Patel (1974) 76 Bom LR 654*”.

AGREEMENT BARRING JURISDICTION OF INDIAN COURTS

When the attention of the court, in which the suit is instituted, is drawn to a contractual stipulation to seek relief in a particular (foreign) forum, the court may, in the exercise of its discretion, stay its hands and refuse to try the suit. The prima facie leaning of the court is that the contract should be enforced and the parties should be kept to their bargain. Subject to this prima facie leaning, the discretion of the court is guided by considerations of justice, balance of convenience etc. If, on a consideration of all the circumstances of the case, the court comes to the conclusion that it will be unjust or unfair to

stay the suit, the court may refuse to grant the stay asked for. Where in a case, the entire evidence in the suit was available in India and the effect of staying the suit and asking the parties to seek relief in Sweden or any other country as per the terms of the agreement between them was that the whole lot of evidence had to be taken to that country, which meant the incurring of enormous expenditure, extreme inconvenience and the spending of a considerable length of time and a large sum of foreign exchange, the court of competent jurisdiction refused to stay the suit on the basis of the agreement between the parties. “*Surrendra (Overseas) Pvt Ltd v Tom Wilhelmsen* AIR 1979 Cal 224”.

CONSENT:

Consent cannot confer or take away the jurisdiction of a court “*Mohamed Sati v SA Pemando* (1969) 1 MLJ 415 ; *Goa Dock Labour Union v Government of the Union Territory of Goa, Daman and Diu and ors* AIR 1969 Goa 16” except to the limited extent provided by the law of arbitration.

DOMESTIC TRIBUNALS:

Decisions of domestic tribunals (Bar Councils, Medical Councils etc) can be set aside by courts, only if the tribunal overstep its jurisdiction or violates natural justice or acts dishonestly or is inspired by malice, bias etc., “Ujjal Talugdar v Netaji Chand Koley AIR 1969 Cal 224”.

ASSOCIATION:

Arbitrary refusal by an association to allow the plaintiff (a member) to take in a certain other person as partner can be challenged in a civil court as there is a breach of natural justice. “*Chiranjit Jadavji v Bhupesh Chandra* AIR 1979 Cal 289 : 83 CWN 393.

CASES EXPRESSLY & IMPLIEDLY BARRED

The exclusion of the jurisdiction of the civil court must be mentioned in clear and unequivocal manner and should not be merely implied. In order to decide the question of the jurisdiction, the main things which need to be seen in the suit is the true nature of the suit and the substance of the plaint. In case if it has to be decided that whether the jurisdiction of the civil court is barred then two things will have to be considered.

The statute provides for the express bar of the civil court to decide the suit.

The statute provides an efficacious alternate remedy.

In *Tamil Nadu v. Ramalinga*, it was held by the court that if a final order has been passed by the special tribunal then it would be seen that such a remedy could have been provided by the civil court or not. If the answer is that such a remedy can be provided by the civil court also, then it cannot be automatically held that the civil court had no jurisdiction to try the suit. In case of *Sonawati v. Sriram* it was held by the court that jurisdiction of the civil court cannot be displaced during the pendency of the suit if the other party has secured the order by any other court defeated on merits. It was held in the case of *Veermalai v. Srinivas* that if a suit is instituted in a civil court and the bar to try such a suit has been introduced after the institution of the suit then the court will still have the jurisdiction to try such a suit which was instituted before the bar came in the existence.

It was held in the case of *Sri Sinha Ramanuja v. Sri Ranga* that suits which raise questions regarding the religious rites and ceremonies is not maintainable as it does not decide on the legal rights of the parties. In order to explain it a little further, Explanation I was added that implies two things-

A suit for an office is a suit which is of a civil nature:

The suit of office does not cease to be suit of the civil nature even if the right depends upon a decision to decide on legal rites and ceremonies.

The Explanation II clears the position that for the office it is immaterial to know that office as given under Explanation I carries any fees or not or is attached to any property or not. In *Saraswatibai Trimbak Gaikwas v. Damodhar D. Motiwale*, it was held by the court that decree passed by the civil court without taking into consideration the special Act and it must be subject to the orders of the appropriate authority.

Special & Domestic Tribunals vs. Civil Courts:

In general, the civil court's jurisdiction is barred in case where a special tribunal or a domestic tribunal is conferred with a power to try a suit but it was held by the Supreme Court in the case of *Ramesh Chand Ardawatiya v. Anil Panjwani*, that even if the domestic/special tribunal is established and conferred with the power to try a suit then too the jurisdiction of the civil court is not barred to try a suit if there are some grounds that are sufficient to establish the jurisdiction of the civil court despite the availability of the special and domestic tribunals to try such a case.

In *Medical Faculty v. Kshiti*, it was held by the court that if a person wants the jurisdiction of the civil court then the person needs to show that the domestic courts have exceeded the jurisdiction which was provided to them by the authority. The civil courts however cannot interfere with the jurisdiction of the domestic tribunals no matter how severe the penalty is until and unless the domestic courts have exercised exceeded their jurisdiction and acted in good faith.

In case the jurisdiction of the civil court has been invoked the civil courts will not go beyond the power of just checking that the tribunal followed the

principles of natural justice or not. In *Dave v. Lodge Victoria*, it was held by the court that a civil court can set aside the order passed by the domestic and special tribunals if they have not acted within the jurisdiction or did not follow the principles of Natural Justice.

CIVIL SUITS VIS-À-VIS OTHER LAWS:

The civil suits and the jurisdiction of the civil courts is not barred even if the other laws do not expressly deal with the civil suits. The jurisprudence under this sub-head has also evolved through the case laws hence it is pertinent to understand and mention the ratio of the courts regarding this subject-matter. One of the landmark judgments of the Supreme Court related to the jurisdiction of the civil courts in the regime of arbitration is *Prakash Narain Sharma v. Burmah Shell C.H.S. Ltd.* In this case it was held by the courts that the jurisdiction of the civil courts is still not barred even if the matter has been referred to the arbitration under the provisions of the Co-operative Societies Act. The Supreme Court while giving the judgment in the case relied heavily on *Dhuabhai v. State of Madhya Pradesh* in which the court held that the jurisdiction of the civil court is not barred even if the statute has barred the jurisdiction expressly if there are requisite grounds for the civil court to interfere and try the matter.

The court in the case of *State of Rajasthan v. Kalyan Sundaram Cement Industries Ltd.* held that the civil courts must investigate facts related to the suit on the same cause of action where the criminal court has already decided the matter and has given a conclusive judgment. The court in the present case also held that the jurisdiction of the civil court is not barred even if the case on the same matter is pending before the criminal court. Hence, it is now a settled law that the pendency of the matter in the criminal court will not bar the civil court to try the matter in the civil suit by exercising its jurisdiction.

In *Chairman, Railway Board v. Chandrima Das*, it was held by the court where the fundamental rights have been infringed by the public authorities, a civil suit can be filed in the civil court under private law even if the remedy is still available in the public law.

The jurisdiction and remedies available under Article 226 of the Constitution and section 9 of the CPC are stand under different footing. It was held in the case of *Srikant Kashinath Jiuri v. Corpn of the Vity of Belgaum* that whatever is good for Article 226 may not be good for the suit under CPC. In *N.T. Abraham v. State of Kerala*, it was held by the court that where one party has paid excess money to the other party then the remedy lies by instituting the suit of the civil nature in the civil courts and not by filing the writ petition under Article 226.

CONCLUSION:-

One could conclude that the main issue covered by section 9 of the Civil Procedure Code is whether a civil court has the right to hear a particular matter. It indicates that a claim of a civil nature may be heard by a civil court unless doing so is expressly forbidden or precluded by necessary inference. When civil court cognizance is specifically prohibited, this rule does not apply. Even though it's possible that the inquiry will show that the court lacks jurisdiction over the matter at hand, the civil court has the right to decide whether or not it has the authority to handle the question of its jurisdiction. Whether or not a tribunal, quasi-judicial organization, or statutory authority acted within the confines of its respective jurisdictions can be looked into by the civil court. Additionally, unless the relevant statute specifically states otherwise, there must be a presumption in favour of a civil court's jurisdiction to hear the case when it comes to questions regarding its ability to entertain it. Even though the statute doesn't directly mention it, this is still the case. The person who contests the civil court's authority to hear their case is the one

who needs to back up their assertion with proof. If such a dispute arises, it must be resolved in light of the legislation's language, its provisional structure, as well as the intended outcome and justification for its adoption. Finally, it is my opinion that there is palpable difference between cases wherein the courts lack jurisdiction to adjudicate cases and wherein the court exercises the jurisdiction irregularly. However, the Apex Court is yet to clarify the situation with the case concerning the jurisdiction of a civil court wherein its jurisdiction is partly barred, impliedly, expressly, or where it is not.

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SECOND WORKSHOP OF THE JUDICIAL OFFICERS

ON CIVIL SIDE

SESSION -II

Paper presentation on topic of

1. Lok Adalat Award and Jurisdiction.

- Lok Adalat award-presence of parties, GPA & co-accused.
- Lok Adalat Award- Exparte decree.
- Lok Adalat Award- Registrations.
- Lok Adalat Award- Executability
- Whether award can contain conditions as to future compliance, consequences of violations etc.
- Lok Adalat award – Hybrid mode Special reference to Matrimonial matters.
- Lok Adalat award – compoundable offences/ancillary non-compoundable offences.

BY

**Smt K. JAYALAKSHMI.,
Principal Civil Judge (Senior Division),
Madanapalle.**

INTRODUCTION

The Legal Services Authorities Act of 1987 was enacted in response to a formal and lengthy process of justice delivery system and case pendency, with the purpose of providing free and competent legal services to the disadvantaged parts of society. Its mission is to ensure that no citizen is denied access to justice due to financial or other constraints. LokAdalat is a radical step in the administration of justice. Lok Adalat has represented a human-sensitive forum that provides amicable, quick, and affordable justice by using an informal procedures and avoiding formalities. The purpose of this article is to explain the nature of awards of the Lok Adalats in India. The current work details the award of a Lok Adalat and it's relation with Judicial Review.

NATURE OF AWARD

2. Lok Adalats do not have adjudicatory or judicial powers. The Lok Adalats are ambulatory in nature and can assist the court in resolving disputes. Their functions are only related to conciliation. The Lok Adalat's 'award' does not imply any independent conclusion or opinion reached via any decision-making process. The award is simply an administrative act of combining the conditions of settlement or compromise agreed upon by parties in the presence of the Lok Adalat in the form of an executable order under the Lok Adalat's signature and seal.

2.1. The Lok Adalat shall continue and dispose of the matter, as well as reach a compromise or settlement, in accordance with legal principles, equity, and natural justice. Ultimately, the Lok Adalat passes an award, and every such award is deemed to be a decree of Civil Court or as the case may be. The Lok

Adalat is thus awarded in a non-adversarial manner. Every Lok Adalat award is regarded to be a Civil Court judgment, and it is final and binding on all parties to the dispute. It is also not appealable.

2.3. In **PT Thomas v. Thomas Job**, it was decided that the Lok Adalat award is the Court's decision, even if it was reached through the simpler technique of conciliation rather than the process of arguments in Court. It is final, permanent, and comparable to the executable degree, and it marks the conclusion of the parties' dispute.

LOK ADALAT AWARD AND JURISDICTION.

3. Lok Adalats are an effective alternative dispute resolution (ADR) mechanism in India, established under the **Legal Services Authorities Act, 1987**. They aim to resolve disputes amicably through conciliation and settlement.

Here's a breakdown of Lok Adalat awards and jurisdiction:

Lok Adalat Award:- The "award" or decision made by a Lok Adalat holds significant legal weight:.

Deemed a Civil Court Decree: Every award made by a Lok Adalat is considered to be a decree of a civil court. This means it has the same enforceability as a judgment passed by a regular civil court.

Executability: Since it's a deemed civil court decree, a Lok Adalat award is executable through a legal process, typically by filing an execution petition in a civil court if a party fails to comply with the terms of the settlement.

Limited Grounds for Challenge: While there's no appeal, an award can be challenged in rare circumstances through a writ petition under Article 226 or 227 of the Constitution of India, but only on very limited grounds such as:

a) Fraud or misrepresentation: If the award was obtained through fraudulent means.

b) Lack of valid compromise: If it can be proven that there was no genuine compromise or settlement reached between the parties.

c) Violation of procedure: If the Lok Adalat failed to follow the prescribed procedure under Section 20 of the Legal Services Authorities Act. It's important to note that the Lok Adalat's role is to facilitate settlement, not to decide the case on its merits if no compromise is reached.

LOK ADALAT JURISDICTION

4. Lok Adalats have jurisdiction over a wide range of cases, both those pending in court and those at a pre-litigation stage:

- **Cases Pending Before Any Court:** This includes any civil or compoundable criminal case that is already filed and ongoing in any court.
- **Pre-Litigation Disputes:** Lok Adalats can also address disputes that have not yet been formally brought before a court but are likely to be filed. This allows for early resolution and prevents cases from entering the traditional court system.
- **Types of Cases Handled:** Lok Adalats commonly deal with:
 - i. Civil cases (e.g., property disputes, contractual disputes, land acquisition cases)
 - ii. Matrimonial disputes/family disputes
 - iii. Motor accident claims
 - iv. Compoundable criminal cases (those offenses where the victim can legally agree to a compromise)
 - v. Labour disputes

- vi. Bank recovery cases
- vii. Consumer cases
- viii. Pension cases

- **Exclusions:** Lok Adalats **do not have jurisdiction** over matters relating to offenses that are **not compoundable** under the law.
- **Pecuniary Limits (for General Lok Adalats):** While specific pecuniary limits can varies from general Lok Adalats for the matters they can adjudicate.
- **Permanent Lok Adalats (for Public Utility Services):** These are specifically established under Section 22-B of the Legal Services Authorities Act, 1987, to deal with public utility services (e.g., transport, postal, telegraph). Unlike general Lok Adalats, if parties fail to reach a settlement in a Permanent Lok Adalat, the Permanent Lok Adalat itself can decide the dispute (provided it doesn't relate to a non-compoundable offense). The pecuniary jurisdiction of Permanent Lok Adalats is typically up to Rs. 1 Crore.
- **Territorial Jurisdiction:** A Lok Adalat will generally have territorial jurisdiction over cases that fall within the jurisdiction of the court for which it is organized.

5. Lok Adalats serve as a crucial mechanism for accessible, affordable, and speedy justice delivery, reducing the burden on the traditional judicial system by promoting amicable settlements.

6. The Lok Adalat award is likewise made with the cooperation of the parties and is considered a Civil Court decree. As a result, there will be no appeal from the Lok Adalat award. Section 96(3) of the Code of Civil Procedure, 1908 is noteworthy in this regard. It states that ‘**no appeal shall lie from a decree made by the court with the parties’ cooperation.** Similarly, Section 21 (2) of the Legal Services Authorities Act of 1987 states that “***any decision rendered by a Lok Adalat will be final and binding on all parties to the dispute, and no appeal shall lie to any court against the award.***” This aids in avoiding unneeded delays caused by appeals and review procedures.

7. However, if the Lok Adalat does not make an award on the basis of compromise or settlement between the parties, the matter is returned to the Court that referred it, or the parties are instructed to seek relief in a Court, as the case may be. The distinction between Lok Adalat and normal Court procedures may be seen here. Each case has a winner and a loser, and whether a case is won or lost in a court of law does not affect the mentality of the litigants. They remain enemies and continue to battle in appeal after appeal. However, Lok Adalat can assist parties modify their ways. It allows a matter or disagreement to be resolved in a single venue and stage. This fosters societal unity and honesty.

8. The Lok Adalat will pass the award with the parties’ permission, therefore there is no need to re-examine or review the subject again and again,

since the Lok Adalat's award will be final. Even though [Section 96 \(3\) of the Civil Procedure Code](#) states that “*no appeal shall lie from a decree made by the Court with the cooperation of the parties.*” The Lok Adalat award is an order made by the Lok Adalat with the cooperation of the parties, and it is believed to be a decision of the Civil Court; hence, an appeal from the Lok Adalat award is barred by [Section 96\(3\) CPC](#). According to [Section 21](#), the Lok Adalat award is regarded to be a Civil Court judgment and is final and binding on all parties to the dispute. It is also final against the court, and the court that referred the matter to Lok-Adalat cannot become *functus officio* in deciding the case after the Lok Adalat verdict. As a result, under the terms of the Act, an award made by a statutory court operated by any of the agencies cannot be challenged using the usual remedies provided under the law, including [Article 226 of the Indian Constitution](#). While adding the rationale of the finality in the nature for the award of the Lok-Adalat [Madhya Pradesh High Court held that](#) when submitting an appeal, the provisions of the Act shall prevail, and an appeal would not lie within the terms of [Section 96 CPC](#). Lok Adalat is run by an independent enactment, and once the award is made by Lok Adalat, the right of appeal is governed by the provisions of the Legal Services Authorities Act, unless it has been specifically barred under [Section 21\(2\)](#), in which case no appeal can be filed against the award [under Section 96 CPC](#). The Court went on to say, It may further be noted that the Code of Civil Procedure does not provide for an appeal under [Section 96\(3\)](#) against a consent decree. The Civil Procedure Code further states that once a consent decree is issued by a Civil Court, it has finality connected to it. Such finality cannot be destroyed, particularly under the Legal Services Authorities Act, as it would

amount to defeating the entire purpose and goal of the Act, and so we hold that the appeal filed is not maintainable. The Supreme Court confirmed the same observation in the P. T. Thomas case, as mentioned above.

9. The Lok-Adalat judgment's finality provision is founded on two grounds. First, as agreed, and then against, pursuant to the estoppels concept. The Lok - decision Adalat's is declared final based on agreed consent and so based on the estoppel principle. A judgment by consent or default has the same impact on the parties as a decision in which the court exercises its mind on a contentious case. A decision rendered by consent or default is as effective an estoppel between the parties as a judgment rendered by the Court in a contentious matter.

10. The **Andhra Pradesh High Court** observed that , "***The award is enforceable as a decree and it is final.***" The goal in all fours is to narrow down the disagreements and reach a final settlement so that the parties are not forced into additional litigation or conflict. Though the award of a Lok Adalat is not the result of a merits contest, it is as equal and on par with a compromise decree and will have the same binding effect and conclusive effect. Just as the compromise decree cannot be challenged in a regular appeal, the award of the Lok Adalat, being akin to the same, cannot be challenged by any regular remedies available under law, including invoking [Article 22](#). Judicial review cannot be sought in such cases, particularly on the grounds asserted in this writ petition.

11. Similarly, the *estoppel* principle operates in the compromised and agreed-upon order of Lok-adalat. Concerning the estoppels plea, the Judicial

Committee stated in ['Kinch v. Walvott'](#): To begin with, their Lordships make it clear that the fact that the order in the libel case that is purported to raise the estoppel allegation was a consent order is of no benefit to the appellant. For this purpose, an order issued by consent that is not dismissed by mutual agreement and remains unreduced is as effective as an order made by the Court that is not made by consent and is not discharged on appeal.

AWARD OF LOK ADALAT AND JUDICIAL REVIEW

12. One of the goals of Lok Adalat is to settle ongoing court issues by talks, conciliation, and the use of convincing common sense and a humanitarian attitude to the disputants' concerns. This can assist in resolving conflicts quickly and reducing the strain on the courts. According to the Legal Services Authorities Act of 1987, Lok Adalat determines the subject by consent or compromise, and there is no need to rethink or review the matter repeatedly.

13. However, the right of judicial review is not barred in such a circumstance and is inherent in the Indian Constitution unless specifically denied by the provisions of the act itself. It is claimed here that there is always the option of filing a writ petition to dispute the award if there is any substantial irregularity. While negotiating consent or a compromise, there is always the danger of fraud, deceit, coercion, and so on. In Lok Adalat procedures, such an occurrence cannot be ruled out.

14. As a result, in [Mansukhlal Vithaldas Chauhav vs. State of Gujarat](#), it was held that if a Lok Adalat exceeds its powers, commits an error of law, violates the principles of natural justice, or abuses its powers, the award passed by it cannot be tolerated and will justify court intervention under

Articles 226 and 32 of the Indian Constitution. In terms of appeal and judicial review in the case of Permanent Lok Adalat, the situation is different since there is no mechanism for appeal but it is also not expressly precluded by the provisions of the Act. However, in this case, the Permanent Lok Adalat takes on the function of an adjudicator rather than an arbitrator whose award may be challenged. The Parliament has delegated decision-making authority to the Permanent Lok Adalat.

15. Unless specifically denied by a provision of the Constitution, the authority of judicial review is inherent in the Constitution. The High Court's ability to seek judicial review under Article 226 against a Lok Adalat order is limited to circumstances when the order is completely arbitrary and unjustified. Hence, the parties can always seek judicial review through writ petitions. This is a fundamental component (part of the basic structure) of the Indian Constitution and cannot be ruled out. It would be unjust and unjustified to deny it. The judiciary's attitude is to promote justice. Because allowing appeals from Lok Adalat awards would undermine the whole goal of providing simple and quick justice. However, by reserving the authority of judicial review, the court may check any arbitrariness in Lok Adalat operation.

16. The court, however, stated unequivocally that there is not as much room for reconsideration of the Lok-award. Adalat's Particularly, no remedy is available under section 96 (3) of the C.P.C., 1908, and because the Legal Services Authorities Statute, 1987 is special legislation, the remedy must be sought under that act rather than procedural law. Such an award can only be

contested and reviewed in certain circumstances. The Lok-Adalat's decision is available to contest and subject to judicial review for:

- Deception and misrepresentation
- Absence of free consent, absence of parties or any parties, or improper consent
- By force or pressing the parties to submit the case to Lok- Adalat by Court
- No dispute existed between the parties for resolving or settling
- Endangered the minor's interests
- Completely arbitrary and unreasonable
- If the award is found to be made without the parties entering into settlement willingly, out of their own free choice.
- Ex-parte or ex-facie judgments devoid of compromise and resolution.
- The production of a Succession Certificate does not constitute consent.
- If the parties are not heard in the case.
- Errors in procedure
- Concerning a non-compoundable offence
- Lacks jurisdiction and violates the ideals of justice, equality, and fair play.
- If the court exceeds its authority in referring the issue to Lok- Adalat.

17. The Legal Services Act has been amended several times to improve its effectiveness and expand its scope. Notably, the 2002 Amendment Act established Permanent Lok Adalat (a Forum of Dispute Resolution) and provided for compulsory pre-litigation conciliation and settlement of disputes relating to public utility services.

PERMANENT LOK ADALAT 2002 AMENDMENT.

18. The 2002 Amendment Act introduce Chapter-VI-A enabling the establishment of Permanent Lok Adalats these Tribunals provide a pre - litigative mechanism for settling disputes related to public utility service.

19. Disputes informing utilities like transportation, postal services, electricity, water, hospitals and insurance can be resolved through this Forum. The award made by the Permanent Lok Adalat are final and binding, and no appeal can be filed against them.

LOK ADALATS JURISDICTION

20. Lok Adalat a forum of ultimate dispute resolution, has the jurisdiction to settle both civil and criminal case (compoundable offences Under Section 359 of BNSS, 2023 (corresponds to old U/s 320 of Cr.P.C) it also handles the cases pending in the court are at a pre- litigation stage.

JURISDICTION OF THE PERMANENT LOK ADALATS.

21. Permanent Lok Adalat services disputes are specifically designed to handle the disputes relating to public utilities like water, electricity, transportation and heavy communication.

22. Permanent Lok Adalat had pecuniary jurisdiction over cases with a monetary value upto Rupees One Crore.

LOK ADALAT AWARD- PRESENCE OF PARTIES, GPA & CO-ACCUSED

23. What it is Lok Adalat Award: A Lok Adalat (People's Court) is an alternative dispute resolution (ADR) mechanism established under the Legal Services Authorities Act, 1987. It's a forum where disputes, either pending in court or at a pre-litigation stage, are settled amicably through compromise and conciliation.

24. Presence of Parties: The Lok Adalat process relies on the mutual agreement of the parties involved. Therefore, the **presence of the parties** (or their authorized representatives) is crucial for a settlement to be reached. The members of the Lok Adalat act as conciliators, persuading parties to come to a conclusion for settling the dispute. They do not have a judicial role to decide the matter on their own.

25. Legal Status of the Award: An award (decision) made by a Lok Adalat has significant legal weight. It is **deemed to be a decree of a civil court** and is **final and binding on all parties**.

26. Appeal: Generally, **no appeal lies** against a Lok Adalat award before any court of law. This is because the award is based on a compromise or settlement voluntarily reached by the parties.

27. Remedy if dissatisfied: If parties are not satisfied, despite the non-appealability, they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a fresh case. This is an exercise of their right to litigate, but they cannot appeal the Lok Adalat award itself.

28. Benefits: Lok Adalats offer a cost-effective, timely, and amicable resolution of disputes, reducing the caseload of regular courts.

PRESENCE OF GENERAL POWER OF ATTORNEY(GPA).

- a) A GPA holder can represent a party in the Lok Adalat proceedings, provided the GPA specifically authorizes them to make decisions and enter into a compromise on behalf of the principal.
- b) The Lok Adalat may require verification of the GPA to ensure its validity and the scope of powers granted.

- c) Some Lok Adalats might prefer the personal presence of the main parties for a more direct settlement process, especially in sensitive matters.

PRESENCE OF CO-ACCUSED:

- a) In cases involving multiple accused persons, the presence of all co-accused might be necessary, especially if the settlement involves all of them or has implications for their respective roles and liabilities.
- b) The Lok Adalat aims for a comprehensive resolution, and the presence of all relevant parties helps in achieving this.
- c) The presence of the main parties is preferred in Lok Adalats. A GPA holder can represent a party if duly authorized. In cases with co-accused, their presence might be important for a comprehensive settlement. An award based on mutual consent in the presence of the parties (or their authorized representatives) is generally valid and binding.

LOK ADALAT AWARD -PRESENCE OF PARTIES :- *Relevant latest citations.*

29. In Yalamarthi Narasimha Rao's case (infra 2022(1) ALT 553 (D.B), the Hon'ble Division Bench issued important directives under Section 29 of the Legal Services Authorities Act, 1987, and the A.P. State Legal Services Authority Regulations, 1996. Lok Adalat members, especially subordinate officers, are required to verify the suit documents to ensure that all parties from the civil court are included in the Lok Adalat proceedings. To prevent impersonation, photographs of the parties, along with their signatures,

should be taken when passing awards. Legal services authorities must maintain records of disposed cases, including applications, photographs, and awards, for at least three years. Additionally, Lok Adalat members must investigate any pending proceedings related to the subject property and record relevant orders. They must also verify that any compromise or settlement involves all parties; otherwise, if it adversely affects a non-consenting party, the award shall not be based on such a compromise.

30. In Public Prosecutor, High Court of Andhra Pradesh Hyderabad vs. Basireddy Vema Reddy, (2008) 3 ALT (CRI) 199 (D.B.), the court examined Section 89 of the Civil Procedure Code, 1908, in the context of judicial settlements and the Legal Services Authorities Act, 1987, as amended by Act 59 of 1994 and Act 37 of 2002. Section 89(2)(c) stipulates that for a judicial settlement, the court must refer the matter to a suitable institution or person, which shall be considered a Lok Adalat constituted under the Act. It is important to note that Section 89 CPC provides that if no settlement is reached through any of the alternative dispute resolution (ADR) methods, the matter will be sent back to the court for adjudication.

31. In the Hon'ble High Court of Kerala in Y.P. Baijus vs. State of Kerala and others, reported in 2008 Crl.L.J. 928, held that compromises can be recorded even in the absence of the accused when the victim reports a compromise. In **Yalamarathi Narasimha Rao vs. District Legal Services Authority (Lok Adalat) at Vijayawada, Krishna District, reported in 2022 (1) ALT 553 (D.B.),** it was held that photographs of the parties may be taken at the time of passing the award, with their signatures, to prevent impersonation. In **Dr. Talluri Satish Chandra vs. Thoram Venkateswara Rao and others,**

2017 (2) ALT 545, it was affirmed that a Lok Adalat award is deemed a decree of a civil court.

32. Court-fee exemption: In **Katepogu Danamaiah v. Chairman** reported in 2022 (5) ALT 111(DB).

LOK ADALAT AWARD – EX-PARTE DECREE

33. A Lok Adalat award cannot be an ex-parte decree in the traditional sense, as the very essence of a Lok Adalat is based on compromise and settlement between parties. Here's a breakdown:

- a) **Lok Adalats function as an Alternative Dispute Resolution (ADR) mechanism.** Their primary role is to facilitate an amicable settlement or compromise between the parties. An award is passed *only* when both parties mutually agree to the terms of the settlement. This is why it is often equated to a "compromise decree" of a civil court.
- b) **For a Lok Adalat award to be valid, the presence and consent of both parties are crucial.** The Lok Adalat members act as conciliators

and do not have an adjudicatory role to decide a case on merits if there's no compromise. They cannot pass a judgment based on their own assessment of the evidence or pleadings if the parties do not reach an agreement.

c) An ex-parte decree, in contrast, is a judgment passed by a court in the absence of one of the parties, typically the defendant, who has failed to appear despite being duly served with notice.

d) Challenging an "Ex-Parte" Lok Adalat Award: While a true ex-parte Lok Adalat award is generally not permissible, situations may arise where a party claims they were not present or did not consent. In such cases, the award can be challenged, but on very limited grounds, primarily:

e) Fraud or Misrepresentation: If it can be proven that the award was obtained through fraudulent means or by impersonation.

f) Lack of Genuine Compromise: If there was no valid compromise or settlement reached, or if a party's signature was forged.

g) Lack of Jurisdiction: If the Lok Adalat acted beyond its jurisdiction.

34. Such challenges are usually made through a **writ petition under Article 226 or Article 227 of the Constitution of India** in the High Court, as there is no provision for appeal against a Lok Adalat award under the Legal Services Authorities Act, 1987.

35. A Lok Adalat award is a settlement arrived at with the consent of both parties and is deemed to be a decree of a civil court. It is fundamentally

different from an ex-parte decree, which is passed in the absence of one party. If a party alleges that a Lok Adalat award was passed "ex-parte" or without their consent, they would be essentially arguing that no valid compromise took place, and the award would be open to challenge on grounds of fraud or lack of genuine settlement.

LOK ADALAT AWARD – EX-PARTE DECREE: *Relevant latest citations.*

36. In **B. Srinatha Reddy vs. District Legal Service Authority, Kadapa, reported in (2020) 2 ALT 65 (D.B.)**, His Lordship Justice C. Praveen Kumar outlined several important principles regarding procedural fairness in legal proceedings.

1. Issuance of Notice: When a plaintiff seeks to amend the suit schedule to include additional properties after the suit has been filed, it is prudent and necessary from a natural justice perspective to issue notice to the second defendant, even if they have been set ex-parte.

2. Ex-Parte Proceedings: A defendant who has been set ex -arte can still participate in the trial from the point where they appear, regardless of whether a petition to set aside the ex parte order has been filed.

3. Essential Notice: Notice must be issued to the second defendant in interlocutory applications for amendments to the plaint, as this is a legal requirement.

4. Obligation of Lok Adalat: Lok Adalats are required to adhere to principles of justice, equity, and fair play while considering references.

5.**Notice to Litigants:** The Secretary of the District Legal Services Authority must provide notice to all litigants when a matter is referred for settlement.

6.**Mechanical Awards:** Lok Adalats must not issue awards mechanically; they need to thoughtfully consider the facts, circumstances, and legal implications of each case.

LOK ADALAT AWARD – REGISTRATIONS

37. A Lok Adalat award is a decision made by a Lok Adalat, which is an alternative dispute resolution (ADR) forum in India. These awards are significant because they are:

- a) **Statutory Status:** Lok Adalats are established under the Legal Services Authorities Act, 1987.
- b) **Deemed a Civil Court Decree:** An award made by a Lok Adalat is considered to be a decree of a civil court.
- c) **Final and Binding:** The award is final and binding on all parties involved in the dispute.

- d) **No Appeal:** Generally, no appeal lies against such an award in any court of law. However, if parties are dissatisfied, they are free to initiate fresh litigation in a court of appropriate jurisdiction.
- e) **Enforceable:** Since it's deemed a civil court decree, it is legally enforceable.

REGISTRATION OF LOK -ADALAT AWARDS

38. Unlike a typical court decree, a Lok Adalat award does not generally require separate registration to be legally binding and enforceable.

Here's why and what's relevant:

- a) **Deemed Decree:** Because the Lok Adalat award is "deemed to be a decree of a civil court" under Section 21 of the Legal Services Authorities Act, 1987, it inherently carries the same legal weight and enforceability as a civil court decree. This legal fiction means it doesn't need additional steps like registration to become effective.
- b) **Court Fee Refund:** If a matter pending in a court of law is referred to Lok Adalat and settled, the court fee originally paid is refunded to the parties, indicating that the Lok Adalat process is a self-contained resolution mechanism.
- c) **Specific Cases (e.g., Property):** While generally not required, there might be specific instances, particularly concerning immovable property, where a Lok Adalat award might be presented to a registering authority. However, even in such cases, courts have held that a Lok Adalat award, being a statutory award, should not be refused registration by the registering authority if it's presented. Some court rulings have

also clarified that enforcement of a Lok Adalat award does not require payment of stamp duty or registration.

- d) Registering of a Lok Adalat award** in the same way you register a sale deed. Its binding and enforceable nature comes from its statutory backing under the Legal Services Authorities Act, 1987, which deems it a civil court decree.

LOK ADALAT AWARD REGISTRATIONS : *Relevant latest citations.*

39. In Karumanchi Venkaiah and others v. State of Andhra Pradesh rep. by Secretary Law, Hyderabad and others, reported in 2016 (6) ALT 186 (D.B.), it was held that The writ petition is maintainable in the facts of the case from the passing of award as a P.L.C case is unsustainable, for the parties effective remedy is by filing final decree application from there is already a suit wherein a preliminary decree is passed, with a direction to work out their rights by filing final decree petition, for which there is no limitation even.

40. In Koneru Venkata Subbaiah v. Koneru Venugopal and others, reported in 2002 (1) ALT 49, it was held that under Section 17(1)(b) of the Registration Act, 1908, an unregistered award that deals with immovable property valued over one hundred rupees, particularly in a partition of joint family property, is inadmissible in evidence. The Andhra Pradesh High Court held that such an award must be registered to be relied upon or made a rule of the court, reaffirming that registration is mandatory when immovable property is affected.

41. In Kalathooru Venkata Reddy (died) Vs. Kalathooru Buchireddi and others, 1954 (1) ALT 99, His Lordship Hon'ble Sri Justice Koka Subba

Rao, J. held: An admission of a partition or an award must relate to a valid partition or valid award to be effective. The combined reading of Sections 17 and 49 of the Registration Act, 1908 establishes that non-registration of a partition deed or award invalidates the transaction, making it incapable of affecting immovable property. It is not merely a matter of inadmissibility, but a question of invalidity. Mere admission of execution of such an invalid document does not confer legality upon it. If the award is invalid, the correct legal course is to file a suit for partition, not a declaration of title.

42. In *Gugilla Aruna v. Adluri Ramesh Babu and others*, reported in 2024 (4) ALT 54, it was held that in a suit for partition, the Court held that an unregistered award can be admitted only for collateral purposes such as establishing severance of title, nature of possession, and identity of various shares, but not for the primary purpose of partition by metes and bounds. An unstamped instrument is inadmissible even for collateral use unless impounded after payment of stamp duty and penalty. The trial court may admit the document for collateral purposes subject to proof and relevancy once it is properly impounded. The ruling clarified that a collateral purpose is one distinct from the primary purpose the document serves, and emphasized that the party can secure admission of the unregistered award by fulfilling stamp duty requirements and impoundment procedures.

43. In *Suram Bapu Reddy v. Janagam Laxmi*, reported in 2019 (2) ALT 149 (D.B.), the Hon'ble Andhra Pradesh High Court held that unstamped and unregistered awards of the Legal Services Authority are inadmissible, as the Stamp Act, 1899, being a fiscal statute, mandates strict compliance to generate State revenue. It emphasized that court fee and stamp duty serve

different purposes court fee supports judicial administration and can be refunded under certain conditions, but stamp duty ensures tax on transactions and is non-refundable. The Legal Services Authorities Act, 1987 promotes settlement but does not exempt stamp duty. If a decree holder under Order 21 Rule 32(5) seeks execution of a sale deed, stamp duty applies. Finding no illegality in the trial court's view, the High Court upheld the order and dismissed the revision petition.

LOK ADALAT AWARD EXECUTABILITY

44. A Lok Adalat award holds significant legal weight and is fully executable. Here's a breakdown of its executability:

- a) Deemed a Civil Court Decree:** Section 21 of the Legal Services Authorities Act, 1987, explicitly states that "Every award of the Lok Adalat shall be deemed to be a decree of a civil court." This is a crucial provision as it gives the Lok Adalat award the same status and enforceability as a judgment passed by a regular civil court.
- b) Final and Binding:** The award made by a Lok Adalat is **final and binding** on all parties to the dispute. This means that once an award is passed, the parties are bound by its terms and cannot reopen the same dispute in another court.

c) No Appeal: A key characteristic of a Lok Adalat award is that **no appeal lies against such an award before any court of law**. This is because the award is based on a compromise or settlement reached between the parties with their mutual consent.

d) Enforceability through Execution Petition: Since a Lok Adalat award is deemed a civil court decree, it can be enforced through the process of an **execution petition** filed in the appropriate civil court under the Code of Civil Procedure, 1908 (Order XXI Rules 37 & 38). This means if a party fails to comply with the terms of the award, the other party can approach the civil court to compel compliance, including recovery of money, possession of property, etc.

e) Applicability to various disputes: Lok Adalat awards are executable regardless of whether the original case was civil or even criminal (for compoundable offenses, such as certain cheque dishonour cases under Section 138 of the Negotiable Instruments Act). The Andhra Pradesh High Court has affirmed that even if a matter originates under Section 138 of the NI Act, an award passed by a Lok Adalat can be enforced like a civil court decree.

Important Considerations:

- **Consent-Based:** The executability stems from the fact that Lok Adalat awards are based on the mutual consent and compromise of the parties. The members of the Lok Adalat act as statutory conciliators and facilitate the settlement, but they do not have a judicial role to decide the

matter on merits unless it's a Permanent Lok Adalat dealing with public utility services where a settlement is not reached.

- **Challenging an Award (Limited Grounds):** While there is no provision for appeal, a Lok Adalat award can be challenged on very limited grounds, such as:
 - If it was obtained by **fraud** or misrepresentation.
 - If the Lok Adalat acted **without jurisdiction**.
 - If there was a **violation of the procedure** prescribed in Section 20 of the Legal Services Authorities Act, 1987 (e.g., if a party's consent was not genuinely obtained). Such challenges are typically made through a writ petition under Articles 226 and 227 of the Constitution of India.
- **Refund of Court Fees:** If a matter pending in a court of law is referred to Lok Adalat and settled, the court fee originally paid is refunded to the parties.

Lok Adalat award – Executability: *Relevant latest citations.*

45. In **V. Kameswara Rao v. District Legal Services Authority-cum-VII Additional District and Sessions Judge Court (Lok Adalat), at Vijayawada, rep. by its Secretary and others, reported in 2015 (4) ALT 745 (D.B.)**, the Hon'ble Court held that a Lok Adalat award is unsustainable if it is not signed by all the members of the Lok Adalat or by the parties to the appeal, making it invalid under law. It clarified that observations in a writ petition, later withdrawn with Supreme Court's permission, do not constitute a binding ratio. Furthermore, a plea of fraud or misrepresentation cannot be entertained in a

writ petition to set aside a Lok Adalat award without substantive material, as mere allegations in pleadings are insufficient to establish fraud.

46. In Banda Chinna Subbarayudu and others vs. Thailam Vishwanatha Rao and another, reported in (2011) 1 ALT(D.N.) (SC) 2.4 (D.B.), the Hon'ble Supreme Court addressed important issues related to limitation in execution proceedings under the Civil Procedure Code, 1908, specifically Order 21 Rule 89, and the Limitation Act, 1963, Article 127. In this case, the respondent No. 1, the decree-holder, initiated execution proceedings for the sale of property, which was subsequently sold. However, execution proceedings were stayed on appeal. The appellants, who were the judgment-debtors, filed an application to set aside the sale, but the respondent objected, arguing that the deposit made by the appellants was insufficient and that the application was filed beyond the prescribed limitation period. The Executing Court dismissed the application, and this dismissal was confirmed by the appellate court. Upon reviewing the case, the High Court found in favor of the appellants regarding the deposit amount. However, it upheld the Executing Court's and appellate court's decisions concerning the limitation issue. The Supreme Court, however, held that since the appellants were prevented from taking further action in the execution proceedings due to the stay order, they were entitled to benefit from the period of the stay when considering the limitation. Thus, the Court ruled that this period should be excluded when assessing the limitation period as prescribed under Article 127 of the Limitation Act. Consequently, the Supreme Court set aside the High Court's order regarding the limitation question and allowed the appeal.

47. In Atluru Chandra Sekhara Rao v. Atluru Mahesh Babu and others, reported in 2019 (3) ALT 119 (D.B.), the Hon'ble Court held that once the petitioner and her counsel signed the compromise terms, she cannot later resile from the compromise or allege fraud without any prima facie evidence. The award passed by the Mandal Legal Services Authority under a reference as per Section 21 of the Legal Services Authorities Act, 1987, was in strict compliance with Section 20(4). The Court found no illegality or procedural irregularity and rejected both grounds raised-alleged fraud and non-compliance with Section 20(4)-stating that writ jurisdiction under Article 226 is limited in such matters. Writ petition was accordingly dismissed.

Jurisdiction and Deposit in Execution Proceedings: A Case Study: Relevant latest citations.

48. In B. Suryanarayana Rao vs. K. Satyanandam and others, reported in (1974) 1 ALT (NRC) 30, the Hon'ble court examined the scope of Order 21, Rule 89 of the Civil Procedure Code regarding the sale of a defendant's property in execution of a decree. In this case, the defendants had offered their property for sale to another person, who subsequently filed a petition to set aside the sale in execution of the decree against the defendants. The subsequent purchaser made a deposit of 5% of the purchase money intended for the decree-holders. However, this purchaser later withdrew their petition. The court had to determine whether it had the jurisdiction to distribute the amounts deposited by the subsequent purchaser to the decree-holders following the withdrawal of the petition.

Limitation for Deposit in Setting Aside Sale of Immovable Property:
Relevant latest citations.

49.In **Dadi Jagannadham vs. Jammulu Ramulu and others, reported in (2002) 6 ALT (D.N.) (SC) 50.1 (L.B.)**, the Hon'ble Supreme Court addressed the issue of the period of limitation for making a deposit in an application to set aside the sale of immovable property under Order 21, Rules 89 and 92 of the Civil Procedure Code, 1908 as well as Article 127 of the Limitation Act, 1963. The key question referred to the court was whether the limitation period for making a deposit in such an application is 30 days from the date of sale, as prescribed in Order 21 Rule 92(2), or 60 days from the date of sale, as outlined in Article 127 of the Limitation Act.

50. The court held that there is no anomaly and that there are not different periods of limitation for making deposits and/or filing an application to set aside the sale. It clarified that while Order 21 Rule 89 CPC allows for an application to set aside a sale and the associated deposit, it does not specify a period within which either must be made. If a deposit is made beyond 30 days but within 60 days, it would be at the court's discretion whether to grant the application. Therefore, an application could be made within the 60-day period prescribed under Article 127 of the Limitation Act, and consequently, the deposit could also be made within that same time-frame.

Enforceability of Arbitration Awards: Relevant latest citations.

51. In **Afcons Infrastructure Ltd. and another vs. Cherian Varkey Construction Co. (P) Ltd. And others, reported in (2010) 6 SCJ 786 (D.B.)**,

the Hon'ble Supreme Court addressed the enforceability of arbitration awards within the framework of Section 89 of the Civil Procedure Code, 1908, and Section 36 of the Arbitration and Conciliation Act, 1996. The court held that an award passed by arbitrators is binding on the parties involved and is executable/enforceable as a decree of a court. This ruling underscores the legal authority of arbitration awards, affirming that they carry the same weight as judicial decrees, thereby facilitating the effective resolution of disputes through arbitration. The decision reinforces the credibility of arbitration as a viable alternative dispute resolution mechanism, ensuring that parties can rely on arbitrators' decisions with the same enforceability as those issued by courts.

WHETHER AWARD CAN CONTAIN CONDITIONS AS TO FUTURE COMPLIANCE, CONSEQUENCES OF VIOLATION Etc.,

52. Yes, a Lok Adalat award can contain conditions as to future compliance and consequences of violations, but with specific caveats. Here's a breakdown:

Nature of a Lok Adalat Award:

- a) Based on Compromise/Settlement:** A Lok Adalat functions on the principle of amicable settlement and compromise between the parties. The "award" is essentially a record of the agreement reached by the parties, with the Lok Adalat putting its "seal of confirmation" on it. It's not an adjudicatory verdict delivered by a judicial authority.
- b) Deemed as a Civil Court Decree:** Under Section 21 of the Legal Services Authorities Act, 1987, an award passed by a Lok Adalat is **deemed to be a decree of a civil court**. This gives it legal enforceability.
- c) Final and Binding:** The award is final and binding on all parties, and generally, no appeal lies against it.

Conditions as to Future Compliance:

53. Since the award is a reflection of the parties' mutual agreement, it can certainly incorporate terms and conditions relating to future compliance. For example:

- a) **Payment schedules:** In a money recovery case, the award can specify installments, due dates, and interest rates for future payments.
- b) **Performance of obligations:** In a civil dispute, it can lay down specific actions to be taken by each party within a certain time frame.
- c) **Adherence to rules/regulations:** In certain cases, it might stipulate that future actions must comply with relevant laws or regulations.

Consequences of Violations:

54. While a Lok Adalat award can outline the terms of the settlement, it's crucial to understand how "consequences of violations" are handled:

- a) **Enforceability as a Civil Decree:** If a party violates the terms of the Lok Adalat award, the other party can initiate execution proceedings in a civil court, just like they would for any other civil decree. The civil court can then enforce the terms of the award, including imposing penalties or taking other remedial actions as per the law (e.g., attachment of property, arrest in civil prison for willful non-compliance in specific cases).
- b) **No Direct "Punishment" by Lok Adalat:** The Lok Adalat itself does not have the power to "punish" a party for non-compliance in the way a criminal court would. Its role is primarily facilitative and conciliatory. The "consequences" flow from the enforceability of the award as a civil decree.

- c) The Lok Adalat's authority is confined to the specific dispute it resolves. It generally does not impose a permanent prohibition on any future actions beyond the terms of the settlement. Any new disputes or violations that arise after the award, which are not directly covered by its terms, would need to be addressed through standard legal channels.

55. A Lok Adalat award, being a consent decree, can indeed contain conditions for future compliance. The "consequences of violations" are not directly meted out by the Lok Adalat but arise from the award's status as an executable civil court decree, allowing the aggrieved party to seek enforcement through the regular judicial system.

Whether award can contain conditions as to future compliance, consequences of violations etc. Relevant latest citations.

56. In **Nellore Sujanamma Vs. Attipalli Nagi Reddy and others, reported in 2017 (6) ALT 193 (D.B.)**, The Hon'ble Court Interpreting Section 21(1) of the Legal Services Authorities Act, 1987, the Court held that although a Lok Adalat award is deemed to be a civil court decree and is final and binding under sub-section (2), no appeal lies against such award, but subsequent case law clarified that civil suits are not barred, and thus the District Court erred in rejecting the suits relying on Batchu Subba Lakshmi; the High Court set aside the rejection and directed the suits to be registered and heard on merits.

57. In the Supreme Court in **M.P. State Legal Services Authority vs. Prateek Jain and another, reported in (2014) 10 S.C.C. 690**, stated that courts can reduce or waive costs in cases settled in Lok Adalat. In **K.N.**

Govindan Kutty Menon vs. C.D. Shaji, reported in (2012) 2 S.C.C. 51, the Supreme Court ruled that in cheque bounce cases under Section 138 of the Negotiable Instruments Act, the court can allow installment payments for the agreed amount.

58. Lok Adalat has no jurisdiction to grant relief beyond the scope of what is claimed in the suit: **In Gaddagunti Rajapathi and others v. State of Telangana, rep. by its Principal Secretary, Law and Justice, Hyderabad and others, reported in 2023 (2) ALT 740 (D.B.)**, the Hon'ble Division Bench held that under Section 19 of the Legal Services Authorities Act, 1987, a Lok Adalat has no jurisdiction to grant relief beyond the scope of what is claimed in the suit. Awards must be confined strictly to the reliefs sought by the parties. In this case, although the Lok Adalat exceeded its jurisdiction by granting relief outside the scope of the claim, the Court declined to set aside the award considering the peculiar facts and circumstances. Since the petitioners were not parties to the Lok Adalat proceedings, the award is not binding on them. As they raised disputed questions of fact, the High Court held that such matters could not be adjudicated in a writ petition. The petitioners were granted liberty to raise all relevant contentions, including the applicability of the Lok Adalat award, in the pending civil suit, and the Trial Court was directed to consider those issues on merits.

59. In **Vadiga Amose v. Vadiga Anjaneyulu and others, reported in 2014 (3) ALT 763 (D.B.)**, it was held that a third party to a Lok Adalat proceeding is entitled to approach a civil court by filing a suit for declaration if the Lok Adalat award was obtained by fraud played upon the court. The Court

emphasized that fraud vitiates all judicial acts, and a person not party to the compromise is not bound by such an award.

60. In P.T. Thomas v. Thomas Job, reported in 2005 (6) ALT (D.N.) (SC) 69.1 (D.B.), it was held that under Sections 21 and 22 of the Legal Services Authorities Act, 1987, an award of the Lok Adalat is deemed to be a decree of the civil court, and courts possess all incidental powers, including extension of time in appropriate cases. The Supreme Court held that the High Court erred in dismissing the execution petition merely on technical grounds, without attempting to give effect to the compromise award. It directed the respondent to execute the sale deed within two weeks, failing which the appellant could get it executed through court. The judgment underscores the enforceability of Lok Adalat awards and the court's duty to uphold the compromise rather than frustrate it.

Error in Lok Adalat Award: Relevant latest citations.

61. In Sikhakolli Venkata Chandra Sekhar Rao and Others v. A.P. State Legal Services Authority and Others, reported in 2024 (4) ALT 674 (D.B.), comprising Their Lordships Sri Justice U. Durga Prasad Rao, And Smt. Justice Sumathi Jagadam, JJ., it was held that an error in the Lok Adalat award, specifically relating to the description of the property, can be rectified by way of amendment. Such an amendment does not alter the fundamental nature or core content of the award and does not contravene the provisions of the Legal Services Authorities Act, 1987. The Court observed that the amendment sought was not a challenge to the award, but rather served to strengthen and clarify it.

Challenge of Lok Adalat Award: Relevant latest citations.

62. In **Behara Kiran Kumar and another vs. Venkumahanthi Asha Jyothi**, reported in (2025) 2 ALT 571, the Hon'ble High Court of A.P addressed the rejection of a plaint under Order 7 Rule 11(d) of the Civil Procedure Code, 1908. The Court found that although the plaintiff/respondent did not directly challenge the Lok Adalat award, the suit effectively constituted a challenge to the award in disguise. It emphasized that the proper legal recourse for contesting the Lok Adalat award, specifically the one passed in P.L.C. No. 29 of 2017, was through a writ petition, which had already been determined in W.P. No. 6708 of 2018, rendering the award final.

63. Consequently, the Court ruled that the plaintiff/respondent could not maintain the suit, as no valid cause of action existed, and the challenge was impermissible. Thus, the civil revision petition was allowed, and the plaint was rejected. In **P. Naresh Kumar vs. Secretary, Legal Services Authority**, reported in (2022) 1 ALT 174 (D.B.), the Hon'ble Division Bench, addressed the maintainability of a writ petition challenging a Lok Adalat award. The Court recognized that the petitioner had a legitimate interest in the matter, which could not be disregarded. It noted that the only avenue available for the petitioner to contest the award was through a writ petition. Given these circumstances, the Court concluded that the writ petition filed by the petitioner, despite being a third party, was maintainable.

64. In Yalamarthy Narasimha Rao vs. District Legal Services Authority (Lok Adalat) at Vijayawada, (2022) 1 ALT 553 (D.B.), His Lordship Justice C. Praveen Kumar highlighted several key points regarding the functioning and oversight of Lok Adalats:

1. Challenge to Lok Adalat Award: An award from a Lok Adalat can be challenged in a writ petition if it was obtained through misrepresentation, fraud, or without proper compliance with the Act, and if it was not preceded by a valid compromise or settlement.

2. Direction to Lok Adalat Members: Members of the Lok Adalat, particularly subordinate officers handling cases, are directed to verify the documents related to the suit or at least the plaint copy to ensure that all parties involved in the civil court are also represented before the Lok Adalat.

3. Photographs of the Parties: To prevent impersonation, photographs of the parties should be taken at the time of passing the award, along with their signatures on these photographs.

4. Pendency of Any Other Proceedings: Lok Adalat members should inquire about the existence of any other proceedings related to the subject property between the parties in other courts and record any orders passed in those proceedings in the Lok Adalat's award.

5. Compromise/Settlement: Members of the Lok Adalat must verify that any compromise or settlement is agreed upon by all parties. If it is found that only some parties have entered into the compromise, the Lok Adalat should consider whether this could adversely affect any non-consenting parties.

LOK ADALAT AWARD – HYBRID MODE SPECIAL REFERENCE TO MATRIMONIAL MATTERS

65. Lok Adalats are a vital alternative dispute resolution (ADR) mechanism in India, particularly effective in resolving cases through amicable settlement, including matrimonial matters. The adoption of a "hybrid mode" for Lok Adalats, especially post-COVID-19, has significantly enhanced their accessibility and efficiency.

Lok Adalat Award and Hybrid Mode

66. A Lok Adalat award is a decision or settlement reached by parties through conciliation and compromise at a Lok Adalat. It holds statutory status under the Legal Services Authorities Act, 1987, and is **deemed to be a decree of a civil court, final and binding on all parties**. No appeal lies against such an award in any court of law, although parties are free to initiate fresh litigation if they are dissatisfied.

67. The "hybrid mode" in Lok Adalats refers to a blend of physical and virtual participation in the proceedings. This means:

- **Physical presence:** Some parties, lawyers, or panel members might attend the Lok Adalat session in person at a designated venue.
- **Virtual participation:** Others can join remotely through video conferencing platforms, allowing them to participate from their homes or other convenient locations.

67-A. Government of Andhra Pradesh Implements Hybrid Mode and Video Conferencing Rules for Hon'ble High Court of Amaravathi and District Courts etc in Andhra Pradesh -

1. The Government of Andhra Pradesh has formally introduced "Rules of Video Conferencing for Court" through Gazette Notification No. 497, dated May 2, 2024. This gazette is issued based on letters from the Hon'ble High Court of Andhra Pradesh (Roc.No.45/2020-CPS, dated July 17, 2023, and April 30, 2024).

2. The new rules, which came into effect on October 30, 2023, establish procedures for implementing a hybrid mode of court proceedings. This includes provisions for appearance, evidence submission, and video conferencing.

3. Notably, the rules specifically address video submission for confessing before Hon'ble High Courts and Hon'ble District Courts within the State of Andhra Pradesh. This signifies a significant step towards modernizing judicial processes and enhancing accessibility to the legal system.

68. This hybrid approach was largely necessitated and popularized during the COVID-19 pandemic, leading to the emergence of "E-Lok Adalats." It has since become a standard practice, increasing the reach and convenience of Lok Adalats.

Special Reference to Matrimonial Matters

69. Lok Adalats are highly effective in matrimonial disputes due to their focus on conciliation and amicable settlement, which is often crucial for preserving family harmony or at least ensuring a smooth separation.

Advantages of Hybrid Mode in Matrimonial Matters:

1. Increased Accessibility and Convenience:

- **Reduced travel burden:** Parties, especially those living in different cities or countries, or those with mobility issues, can participate without the need for extensive travel. This is particularly beneficial in matrimonial disputes where spouses might be estranged and residing in different locations.
- **Flexibility:** It offers greater flexibility in scheduling and participation, making it easier for parties to attend amidst their personal and professional commitments.

2. Reduced Emotional Stress:

- **Less confrontational environment:** The virtual mode can reduce the direct confrontation and emotional stress often associated with physical court appearances in sensitive matrimonial matters. Parties might feel more comfortable expressing themselves from a familiar environment.
- **Privacy:** While Lok Adalat proceedings can be public, the hybrid mode allows for a degree of controlled privacy, especially in breakout rooms for individual consultations with conciliators.

3. Cost-Effectiveness:

- Elimination of travel, accommodation, and related expenses for parties and sometimes even legal representatives.
- Lok Adalats themselves are free of court fees, and if a case is settled, any court fee already paid is refunded.

4. Faster Resolution:

- The hybrid model can expedite the settlement process by making it easier to convene sessions and ensuring participation from all concerned parties.
- By reducing logistical hurdles, more cases can be listed and disposed of in a shorter time frame.

5. Focus on Conciliation:

70. The core principle of Lok Adalats in matrimonial cases is to encourage reconciliation and compromise. The hybrid format does not detract from this; rather, it facilitates it by making engagement more accessible. Conciliators can still interact effectively with parties, guiding them towards a mutually agreeable solution.

71. The hybrid mode has undoubtedly brought significant advantages to Lok Adalats, particularly in matrimonial matters, by enhancing accessibility, convenience, and cost-effectiveness. The legal framework ensures that awards made in a hybrid Lok Adalat carry the same binding force as those from physical sessions. However, addressing the digital divide, ensuring genuine consent, and facilitating effective communication despite physical distance remain crucial aspects for maximizing the potential of this innovative approach while safeguarding the principles of natural justice and fairness. The continued evolution of guidelines and technological infrastructure will further streamline and strengthen the hybrid Lok Adalat system in India.

Lok Adalat award Hybrid mode special reference to matrimonial matters:

72. Standard Operating Procedure for Virtual Lok Adalat: In response to the challenges posed by the pandemic, the State Legal Services Authority has introduced a Virtual Lok Adalat (e-Lok Adalat) to facilitate amicable settlements of cases that have stagnated due to the inability of parties to appear in person. Notices regarding the scheduled dates for Virtual Lok Adalat will be displayed in court premises and communicated through press and electronic media. Interested parties can express their willingness to settle by sending their case details via SMS, Whatsapp, or email to the respective District Legal Services Authority (DLSA). The DLSA will then coordinate video conferences with judicial officers and stakeholders to assess the cases for settlement suitability. On the scheduled date, parties will participate in negotiations through platforms like Blue Jeans or Whatsapp. If a settlement is reached, the Lok Adalat Bench will issue an award, which will be sent to the parties via email for their signatures. The final award will be signed by the Lok Adalat Bench members and sent to the concerned parties, thus concluding the case through the Virtual Lok Adalat mechanism. Furthermore, Jail Virtual Lok Adalats will be held every two months to ensure access to justice for incarcerated individuals.

Settlement in Matrimonial matters: *Relevant latest citations.*

73. In **Suresh Narayan Kadam and others vs. Central Bank of India and others**, reported in (2016) 3 ALT (D.N.) (SC) 35 (D.B.), the Hon'ble Supreme Court, comprising Hon'ble Justices Madan B. Lokur and R.K.

Agrawal, acknowledged the role of mediation centers established within the Supreme Court and across the country to facilitate amicable settlements in various disputes, including matrimonial cases. Despite the Court's encouragement for institutionalized mediation, it remains under-recognized as an acceptable method of dispute resolution.

74. In Syeda Maimona Tasneem vs. Syed Shah Ul Hameed, reported in (2018) 5 ALT 678 (D.B.), the Hon'ble Court addressed the binding nature of awards issued by Lok Adalat under Section 21 of the Legal Services Authorities Act, 1987. Following the dismissal of FCOP No. 1389 of 2009, both parties entered into a Memorandum of Understanding-cum-Matrimonial Settlement Agreement on April 9, 2012, wherein the appellant agreed to receive Rs. 2,50,000 towards full and final settlement of all claims against the respondent. The appellant also consented to the continued custody of their minor child with the respondent and to withdraw five cases, including the present appeal, pursuant to the settlement. Despite acknowledging the agreement in court, the appellant sought to pursue the appeal, which the court found untenable due to her admission of the settlement and the subsequent compounding of the offence under Section 498-A IPC. Consequently, the appeal was dismissed, highlighting the principle that a party cannot pursue litigation after entering into a binding settlement.

LOK ADALAT AWARD COMPOUNDABLE OFFENCES
/ANCILLARY –NON COMPOUNDABLE OFFENCES

75. Lok Adalats are an effective Alternative Dispute Resolution (ADR) mechanism in India, operating under the Legal Services Authorities Act, 1987. They are designed to settle disputes amicably through conciliation and compromise.

Here's a breakdown of their jurisdiction regarding compoundable and non-compoundable offenses:

1. Compoundable Offences:

- a) Jurisdiction:** Lok Adalats have clear jurisdiction over compoundable criminal offenses. These are offenses where the victim (or the aggrieved party) can agree to drop the charges against the accused, usually with the permission of the court.
- b) Examples:** Common examples include minor hurt, simple assault, certain forms of theft, defamation, and offenses under Section 138 of the Negotiable Instruments Act (cheque bounce cases).
- c) Nature of Settlement:** The award (decision) made by a Lok Adalat in such cases is based on the mutual agreement or compromise between the parties. It is deemed a decree of a civil court and is final and binding on all parties, with no appeal lying against it.
- d) Benefits:** This mechanism offers speedy, economical, and flexible resolution, often leading to the refund of court fees if the matter was pending in court.

2. Non-Compoundable Offences:

- a) No Jurisdiction:** Lok Adalats *do not* have jurisdiction over non-compoundable offenses. This is a fundamental limitation explicitly stated in the Legal Services Authorities Act, 1987.
- b) Reason:** Non-compoundable offenses are generally more serious in nature, involving a larger public interest, and cannot be settled privately between the parties. The state plays a significant role in prosecuting these offenses.

c) Examples: Serious crimes like murder, rape, grievous hurt, dacoity, and many economic offenses are non-compoundable.

d) Ancillary Non-Compoundable Offences: The Lok Adalat's lack of jurisdiction extends to non-compoundable offenses, even if they are somehow "ancillary" to a compoundable offense. If a case involves a non-compoundable element, the Lok Adalat cannot adjudicate it or pass an award based on compromise for that specific non-compoundable aspect. While a Lok Adalat might be able to mediate on a compoundable offense that is part of a larger dispute, it cannot compel a compromise on the non-compoundable aspects. If no compromise is reached, the case is returned to the referring court for disposal according to law.

76. The core principle of Lok Adalats is amicable settlement based on mutual consent. This principle inherently restricts their power to cases where such a compromise is legally permissible, primarily civil and compoundable criminal matters. They cannot force or facilitate the compounding of offenses that the law deems non-compoundable.

Lok Adalat award compoundable offences/ancillary non- compoundable offences: *Relevant latest citations.*

77. In **Public Prosecutor, High Court of Andhra Pradesh Hyderabad vs. Basireddy Vema Reddy, reported in (2008) 3 ALT (CRI) 199 (D.B.)**, the Hon'ble court clarified the applicability of the Legal Services Authorities Act, 1987, as amended by Act 59 of 1994 and Act 37 of 2002, in conjunction with various legal provisions. Section 19(5) of the Legal Services Authorities Act, along with Section 320(2) of the Criminal Procedure Code, 1973, and Section

89 of the Civil Procedure Code, 1908, establishes that there is no distinction between criminal and civil cases regarding their referral to Lok Adalat. Any case pending before a regular court, including offenses punishable under the Indian Penal Code (IPC), can be referred to Lok Adalat. However, this referral is limited to those cases explicitly mentioned in the table appended to Section 320 of the Criminal Procedure Code. Therefore, certain disputes under Section 89 of the CPC and any matters pending in criminal courts, as specified in Section 320, can be referred to Lok Adalat and resolved using one of the alternative dispute resolution (ADR) methods. Importantly, Lok Adalat is not considered a "court" as referred to in Section 320(2) of the Criminal Procedure Code. Consequently, "Lok Adalat" cannot be equated with the "court" mentioned in Section 320(2) for all offenses covered by the IPC, except for those specifically listed in the table under Section 320. Since Section 354 of the IPC is included in this list, such offenses can be compounded by the parties with the permission of the court.

78. In the Hon'ble High Court of Judicature at Hyderabad in **Darapuneni Raj Kumar vs. State of A.P., reported in 2015 (1) A.L.D. (Crl.) 280**, confirmed that offences under Section 324 IPC are compoundable.

79. In **Krishna Veni Nagam vs. Harish Nagam, reported in (2017) 5 ALT (SC) 4 (D.B.)**, the Hon'ble Supreme Court, comprising Justices Adarsh Kumar Goel and Uday Umesh Lalit, emphasized the need for directions regarding the transfer of proceedings. The Court recognized that a party's inability to contest proceedings far from their ordinary residence could lead to a denial of justice. Further more, if the parties express interest in mediation, the

transferee court should explore the possibility of reaching an amicable settlement through that process.

80. In J. Ramesh Kamath and others vs. Mohana Kurup and others, reported in (2016) 3 ALT (CRI.) (SC) 103 (D.B.), the Hon'ble Supreme Court, comprising Hon'ble Justices Jagdish Singh Khehar and C. Nagappan, addressed the scope of the High Court's power under Section 482 of the Cr.P.C. to quash proceedings. The Court clarified that this power is not limited to cases within Section 320 Cr.P.C. and can extend to quashing criminal proceedings based on settlements between private parties, including compromises between offenders and victims. However, this power does not apply to crimes against society. Furthermore, the Court held that the jurisdiction under Section 482 can be exercised in criminal cases with a significant civil aspect, particularly those stemming from commercial, matrimonial, or family disputes, including dowry-related issues.

81. In Sudarsana Rao Gadde vs. Karuna Gadde, reported in (2018) 1 ALT (SC) 111 (D.B.), the Hon'ble Supreme Court, comprising Justices Kurian Joseph and Mohan M. Shantanagoudar, addressed matrimonial disputes under Section 10-A of the Indian Divorce Act, 1869. The Court granted a divorce by mutual consent and emphasized the importance of adhering to the terms of the settlement reached by the parties. Furthermore, it restrained both parties from initiating any fresh cases related to disputes arising from the settlement. Consequently, the appeal was disposed of in accordance with these directives.

82. In Dusanapudi Venkateswara Rao vs. The State of Andhra Pradesh, reported in Criminal Revision Case Nos. 1251 and 1252 of 2019, decided on December 6, 2019, it was held that the Lok Adalat can facilitate

settlements under Section 324 of the Indian Penal Code. In *Komallapalli Rama Venkata Dandapani and others vs. State of A.P. and others*, reported in 2004 (2) ALT (CRI.) 532, it is clarified that all offences under Sections 354, 324, and 323 IPC are compoundable even if a charge sheet is not filed, directing the magistrate to refer the case to Lok Adalat for compounding.

CONCLUSION

83. Lok Adalat is not a Bench Court or a legislative body with the authority to adjudicate or arbitrate. In the first case, it is intended to serve as a mediator. Lok-Adalat has represented a human-sensitive forum that delivers amicable, rapid, and economical justice by minimizing formality and employing informal methods. The Lok Adalat award is final and permanent, equal to an executable decree, and marks the end of the parties' case. It is binding on all parties involved. However, the parties' consent must be unambiguous, agreed upon, and free of fraud and deception.

84. Although the provisions of the Legal Services Authorities Act are intended to make Lok Adalat awards reached through compromise or settlement between parties to a dispute final, and remedies of appeal, review, and revision against Lok Adalat awards are not available under law, because Lok Adalat is a tribunal of special nature, the remedy to recall the order/award passed by Lok Adalat on the ground of fraud, misrepresentation, or mistake of fact cannot be held to be barred under law. Similarly, awards made by Lok Adalats organized or established under the Act cannot be held immune from judicial review because the High Court, under has ample superintendence over decisions of all courts or tribunals throughout the territories over which it

exercises jurisdiction; thus, orders passed or awards made by Lok Adalats organized or established under the Act within the territorial limits of the High Court are subject to judicial review. The Lok-Adalat award cannot be appealed on the grounds specified in other laws.

(Smt K. JAYALAKSHMI.)
Principal Civil Judge (Senior Division),
Madanapalle.

PAPER PRESENTATION ON THE TOPIC OF
FRAMING OF ISSUES AND
NECESSITY OF FRAMING OF PRELIMINARY ISSUES

By **G. Archana,**
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INTRODUCTION:

Issue means problem or point for discussion. The litigation process in civil courts aims to bring clarity to disputes and deliver justice through a structured method. In the adversarial system, where disputes are resolved through the presentation of evidence and legal arguments, the precise articulation of the points of contention is paramount. The framing of issues serves as the compass that guides the entire legal process, defining the boundaries of the dispute and directing the focus of both the contending parties and the adjudicating authority.

As per **Order XIV Rule 1 of Code of Civil Procedure**; “*Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other*”. The process of framing issues in legal proceedings is a crucial step that occurs after the initial pleadings have been exchanged. It involves the court, often in consultation with the parties, identifying the specific questions of fact and law that need to be determined in order to resolve the dispute. A well-framed issue is clear, concise, and directly addresses the core of the disagreement between the parties. It ensures that the evidence presented is relevant, the arguments advanced are focused, and the final judgment directly addresses the matters in controversy. Without properly framed issues, legal proceedings can become meandering, inefficient, and ultimately fail to deliver a just resolution.

02. Types of Issues:-

As per Order 14 Rule 4 issues are of two kinds:

- (a) Issues of Fact.
- (b) Issues of Law.

These are the core questions in dispute that need to be resolved once any preliminary hurdles have been cleared. They relate to the actual merits of the case, the core of the policy debate, or the main challenges in a given situation.

Issues of Fact:

These questions concern what actually occurred or the existence of certain circumstances. Framing factual issues involves identifying the specific factual disputes that need to be resolved through the presentation of evidence.

For example: “Whether the plaintiff was in the actual possession of suit property on the date of filing suit for permanent injunction?” Or “Whether the plaintiff has executed the suit promissory note?”

Issues of Law:

These questions concern the interpretation and application of legal principles, statutes, regulations, and precedents. Framing legal issues involves identifying the specific legal questions that need to be determined based on the established facts.

For example: “Does the doctrine of promissory estoppel apply to the facts of this case?” or “What is the correct interpretation of Section 10 of the relevant statute?”

Mixed Issues of Fact and Law:

These issues involve applying legal principles to specific factual situations. Their resolution requires both establishing the facts and then determining the legal consequences of those facts.

For example: “Was the defendant’s conduct ‘reasonable’ under the circumstances of the case, as required by the law of negligence?”

Preliminary Issues:

Order XIV Rule 2: *“Court to pronounce judgment on all issues,*

(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

These are the threshold issues that must be decided before the main dispute or question can be addressed. These decisions may render the rest of the trial unnecessary or whether the main matter can even proceed. Examples in a legal context include:

1. Jurisdictional Issues: Does the court or tribunal have the authority to hear the case?
2. Limitation Issues: Is the claim barred by the statute of limitations?
3. Maintainability Issues: Is the suit properly constituted? Are all necessary parties present? Is there a valid cause of action?
4. Procedural Issues: Have the necessary procedural requirements been met?
5. Standing (Locus-Standi): Does the claimant have the right to bring the action? In a broader context (e.g., policy), preliminary issues might involve defining the scope of the problem, identifying key stakeholders, or establishing the feasibility of a proposed solution.

03. Importance of Framing Issues:-

The way the different types of issues are framed significantly impacts the subsequent trial and adjudication process. A poorly framed issue, whether preliminary or substantive, can lead to misdirected efforts, irrelevant evidence, and ultimately, an unsatisfactory outcome.

- **Framing Preliminary Issues Correctly:** As emphasized, accurately framing preliminary issues is crucial for efficiency and legitimacy. A well-defined preliminary issue ensures that resources are not wasted on cases that cannot proceed due to fundamental flaws.
- **Framing Substantive Issues Effectively:** Once preliminary hurdles are cleared, the framing of substantive issues dictates the scope of the inquiry on the merits. A clearly framed substantive issue ensures that the evidence and arguments presented are relevant to the core dispute.

04. Necessity of Framing of Preliminary Issues:-

The necessity of framing preliminary issues is paramount in any structured adjudicatory or decision-making process, particularly within legal frameworks. It serves several critical functions that contribute to efficiency, fairness, and the overall integrity of the system.

Here's a detailed breakdown of why framing preliminary issues is essential:

1. Ensuring jurisdictional competence by preventing futile proceedings and upholding the rule of law.
2. Addressing bars to the action by identifying and resolving limitation issues and determining maintainability.
3. Streamlining the adjudicatory process by focusing on the core dispute and enhancing efficiency and reducing costs.
4. Promoting fairness and preventing prejudice by providing early notice and avoiding surprise and ambush.
5. Establishing the scope of the inquiry by defining the boundaries of the dispute and guiding evidence admissibility.
6. Lastly by upholding procedural propriety for ensuring compliance with rules and regulations.

In essence, the necessity of framing preliminary issues stems from the need for a logical, efficient, fair, and legally sound process. It acts as a crucial filter, ensuring that only matters that are properly before the adjudicating body and are legally sustainable proceed to the substantive stage. Neglecting the proper framing and resolution of preliminary issues can lead to chaos, inefficiency, injustice, and ultimately, a breakdown of the decision-making process.

Therefore, meticulous attention to the identification and framing of preliminary issues is not merely a procedural formality but a fundamental requirement for effective and principled adjudication and decision-making.

05. Recasting of issues:-

Recasting of issues refers to the process by which a civil court may revise, amend, or modify the issues previously framed under Order XIV Rule 1 of C.P.C, during the course of trial, when it appears that the original issues do not adequately reflect the real controversy between the parties.

Order XIV Rule 5 of C.P.C. provides that

“(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.”

This provision empowers the court to; amend previously framed issues; add new issues (called additional issues); or to recast the issues altogether. Recasting becomes necessary when new facts emerge during trial, when there has been an inadvertent omission or misstatement in the original issues, or the framed issues are ambiguous, misleading, or irrelevant, or there is a change in pleadings (through amendment under Order VI Rule 17 of C.P.C), and the actual controversy between the parties has not been correctly identified.

Recasting of issues is a procedural safeguard to ensure that the trial is based on the real points of dispute. It underscores the principle that substance must prevail over form, allowing courts to dynamically adjust the framework of the trial for just and complete adjudication.

06. Who Frames the issues:-

Under Order X and Order XIV of C.P.C, issues are framed by the judge, usually at the first hearing after going through pleadings and documents and hearing both parties. While both the parties can submit their draft issues for the court's consideration, the framing of actual issues is the exclusive function and discretion of the court.

07. How to Frame the Issues:-

We are also guided by the Rule 106 of A.P. Civil Rules of Practice and Circular Orders, 1980 which is as follows,

In framing of issues the Court shall proceed as follows:

1. Every material proposition of fact and every proposition of law, which is affirmed by the one side and denied by the other, shall be made the subject of a separate issue.
2. Every issue of fact shall be so framed as to indicate on whom the burden of proof lies.
3. Every issue of law shall be so framed as to indicate, either by a statement of admitted or alleged facts, or by reference to the pleadings or some documents mentioned therein, the precise question of law to be decided.
4. No proposition of fact which is not itself a material proposition but is relevant only as ending to prove a material proposition, shall be, made subject of an issue.
5. No question regarding admissibility of evidence shall be made subject of an issue.

08. Form of issues:

The issues framed by the court and any order passed upon any application under Rule 101 shall be drawn up in Form No. 21 and shall form part of the record in the suit; and all parties shall be entitled to inspect the same and to obtain copies thereof.

Important Case Laws:-

1. In *R. Ramrameshwari Devi & Ors vs Nirmala Devi & Ors* reported in (2011) 8 SCC 249, the Hon'ble Supreme Court highlighted the importance of framing issues correctly, stressing the need for due care and diligence.
2. In *Siddalingappa vs Veeranna* reported in AIR 2000 SC 1854 the Hon'ble Supreme Court pleased to emphasize that courts must frame issues carefully, with full attention to pleadings.
3. In *Makhan Lal Bangal vs Manas Bhunia* reported in 2001 (2) SCC 652 the Hon'ble Supreme court pleased to held that improper framing can vitiate the entire trial.
4. In *Laliteshwar Prasad Singh vs S.P. Srivastava* reported in 2007 (2) SCC 34 the Hon'ble Supreme Court pleased to held that the absence of formal issues is not fatal if parties understood the dispute and led evidence accordingly.
5. In *Shyam Lal vs Sanjeev Kumar* reported in 2003 (2) SCC 151, the Hon'ble Supreme Court pleased to reiterate that Order XIV Rule 5 empowers courts to recast issues at any stage before passing a decree. It was held that the Court is not functus officio after framing of issues and has the power to amend or recast issues even at a later stage.

Land mark Judgments on Preliminary Issues:

6. In *Ramesh B. Desai vs Bipin Vadilal Mehta* reported in 2006 (5) SCC 638 the Hon'ble Supreme Court pleased to held that preliminary issues should only be decided if they can dispose of the suit entirely.
7. In *Sundaram Finance Ltd., Vs Abdul Samad* reported in 2018 (3) SCC 622 the Hon'ble Supreme Court pleased to held that jurisdictional issues should be addressed at the threshold.
8. In *K.K. Modi vs K.N. Modi'* reported in 1998 (3) SCC 573 the Hon'ble Supreme Court pleased to held that maintainability can be decided as a preliminary issue when it goes to the root of the matter.
9. In *M/s. Mongia Realty and Buildwell Private Limited Vs. Manik Sethi* held in Civil Appeal No.814 of 2022 (Arising out of SLP (C) No.26930 of 2019) the Hon'ble Supreme Court pleased to held that the determination of the issue of limitation is not a pure question of law, it cannot be decided as preliminary issue under [Order XIV Rule 2 of the CPC.](#)

CONCLUSION:

Issue framing is a foundational principle in any structured decision-making process, shaping analysis and outcomes. Identifying and categorizing different issue types, from preliminary to substantive, is crucial for effective handling. The necessity of framing preliminary issues cannot be overstated. It acts as a critical gatekeeper, ensuring jurisdictional competence and addressing bars to action like limitation, preventing futile proceedings and wasted resources. Early resolution of these threshold questions streamlines the process, allowing focus on the core dispute.

Proper framing of preliminary issues also promotes fairness by providing early notice to all parties, preventing surprises and ensuring a level playing field. It establishes the scope of the inquiry, guiding evidence admissibility and keeping the process focused. Neglecting this crucial step can lead to protracted, costly, and

ultimately unsustainable proceedings, potentially undermining the integrity of the entire system.

On the other hand, a meticulous approach to framing preliminary issues lays a solid foundation for a more efficient, equitable, and legally sound process. It ensures that only legitimate and sustainable matters proceed to the substantive stage, paving the way for fair and effective resolutions or informed policy decisions. Therefore, the deliberate and skillful framing of preliminary issues is not a mere procedural formality but a fundamental requirement for sound decision-making, upholding principles of efficiency, fairness, and the rule of law across diverse fields.

In conclusion, understanding the different types of issues within the ambit of this topic highlights the multifaceted nature of the framing process. Recognizing whether an issue is preliminary or substantive, factual or legal, simple or complex, is essential for employing appropriate framing techniques and ensuring a focused, efficient, and ultimately just or effective resolution. The careful consideration and articulation of all types of issues, particularly preliminary ones, are foundational to any sound decision-making process.

Mrs. G. Archana
IV Addl. District Judge,
Tirupati.

PAPER PRESENTATION

By__
S.Ramesh,
I Additional District Judge,
Chittoor.

Topic:- "JUDGMENT WRITING" =====

INTRODUCTION__

A 'Judgment [తీర్పు]' is the final decision or ruling made by a judge or court in a legal case. It outlines the court's decision on the matter in dispute, including which party has won, and any required actions or remedies.

PROLOGUE__

The concept of justice has to remain embedded inspite of adversities. It should remain unshaken, unterrified, unperturbed and loyal to the rule of law.

Since cases are either settled outside court or disposed of in early stages through Mediation etc., and since the unsettled cases only reach the stage of judgment, analysis is very important.

Judgments are of two types, judgments in civil suit and judgments in criminal case. Judgments delivers by different bodies, such as, Judicial forums, Revenue courts, Judicial Tribunals which includes Arbitral Tribunals, etc.

Judgments again can be divided into two types, a 'Judgment in rem' and 'Judgment in personam'.

DISCUSSION__

A 'Judgment' must begin with clear recital of facts of the case, cause of action and the way the case has been brought to the Court.

A Judge must have essential facts in mind, and its narration should be brief but without any mistake.

The judgment must quote the issues/ or charges immediately after the narration of facts. It is always advisable to decide preliminary issues like limitation, valuation, or authority of Court before going into the merits of the case.

The reasons are the soul of a judgment. The findings recorded by the Judge must be based on the reasons and reasoning to support or to explain such findings.

Every Judge is a master of his own court.

A Judge must clearly write the operative portion of the judgment, which pronounces his conclusion over the issues brought before him.

For example, in general some of the complaints filed for partition of properties shows the prayer as the plaintiff may allotted particular share or shares from out of the suit schedule properties, in such a case it is the duty of the Judge to state, what properties are to be allotted the remaining shares.

తీర్పు రాయడంలో స్పష్టత అనేది ఒక సద్గుణం.

The behavior and appearance of a witness in the witness box has to be noted by the Judge on the issue of credibility [Rule 12 of Order XVIII of C.P.C].

It is better to avoid invidious examples, jargons, unnecessary quotations, and lecture.

Broadly, the meaning thereof, in Civil matters, is that a judgment is a document, which incorporates __

- (a) brief statement of the plaint and written statement;
- (b) gist of the evidence adduced by the parties to the *lis*;
- (c) discussion on issue(s) involved;
- (d) consideration of the arguments advanced by the parties;
- (e) reference to the relevant provisions of law;
- (f) the opinion of the judge/judges and
- (g) the royal seal.

Essential parts of a judgment.__

1. Title__
 - (a) Name of the Court
 - (b) Name of the Judge/Judges present.
2. No. of the case.
3. Name of the parties and their particulars in brief.
4. Name of the advocates appearing for the parties.
5. Heading: Judgment/ Order
6. Decision __

- (a) Facts in brief, containing contentions raised by the parties.
Background giving rise to dispute before the Court.
- (b) Facts in issue – Points of disagreement between the parties.
 - Points to be determined by the Court:
- (c) Evaluation of issues of facts.
 - Discussion of evidence produced before the Court by the parties and evaluation with the help of contentions and examinations conducted by advocates of the parties.
- (d) Issues on law points – Mention or recitation of relevant law or Rule __ Rule of interpretation applied __ Reference of case law put forward by the advocates of the parties __ *Ratio decidendi* binding on the Court.
- (e) Operative order – Applicable law or facts proved – Decision on facts in issue with reasons therefor – Clear order to the parties.
- (f) Costs of the case.
- (g) Date of delivery of judgment.
- (h) Signature of Judge/ Judges.

CIVIL JUDGMENTS__

Section 2(8) of the Code of Civil Procedure [CPC], defines the word '**Judge**', means, the Presiding Officer of a Civil Court.

Section 2(9) of the CPC defines the word '**Judgment**', means, the statement given by the Judge of the grounds of a decree or order.

Section 2(14) of the CPC defines the word '**order**', means, the formal expression of any decision of a Civil Court which is not a decree.

Section 2(2) of the CPC defines the word '**decree**', means, the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within Section 144, but shall not include—

- (a). any adjudication from which an appeal lies as an appeal from an order, or

(b). any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

Section 137 of the CPC, says as__

“Language of subordinate courts.—(1) The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate court until the State Government otherwise directs.

(2) The State Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Courts shall be written.

(3) Where this Code requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.”

Section 33 of the C.P.C, says as__

33. Judgment and decree.—The Court, after the case has been heard, shall pronounce Judgment, and on such Judgment a decree shall follow.

Facts, which are not properly proved, cannot be considered by the Judge, and cannot form the basis of a Judgment. It is only those facts which are declared to be relevant and duly proved, which can be the basis of Judgment as provided by section 165 of the Evidence Act.

Rule 60 of Civil Rules of Practice and Circular Orders, says as__

“Proof of facts by affidavit:-

Any fact required to be proved upon an interlocutory proceeding shall unless otherwise provided by these Rules or ordered by the Court, be provided by affidavit but the Judge may, in any case, direct evidence to be given orally, and thereupon the evidence shall be recorded, and

exhibits marked, in the same manner as in a suit and lists of the witnesses and exhibits shall be prepared and annexed to the judgment.”

Rule 142 of Civil Rules of Practice and Circular Orders, says as__

“Time for delivery of judgment:-

(1). The court, after the case has been heard, shall pronounce judgment in an open court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some further day, and such day shall be within thirty days and it shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded the court shall fix a day for the purpose, of which due notice shall be given to the parties or their pleaders”

(2). The fair copy of the judgment required for the record in court shall be prepared within five days of the date on which judgment is pronounced.”

Rule 143 of Civil Rules of Practice and Circular Orders, says as__

“Form of judgment:-

(1). The judgment of the court shall be headed with the full cause-title of the suit, appeal or matter, the name of the Judge, and the date on which it was passed, and shall state the names of the parties or their advocates who appeared at the hearing and be drawn up in consecutive numbered paragraphs and shall also state the dates on which the case was heard as in Form No.24 and a list of exhibits filed and witnesses examined shall be annexed thereto.

(2). The judgment and final order in matters other than suits or appeals including contested Interlocutory Applications, Execution Petitions and Execution Applications, shall be drawn up in the same manner as the judgment and decree in the suit.”

A judge is ultimately judged by the quality of the judgments delivered by him/ her.

It is an art because it involves application of the intellect, intelligence, understanding, rational capacity, power of comprehension, power of expression and the power of communication of a judge.

The making and the writing of a judgment and the style in which it is written, varies from Judge to Judge and reflects the characteristic of a Judge. Every Judge, of every rank has his own style of writing judgment.

A 'Judgment' is not written only for the benefit of the parties. It is also written for benefit of the Appellate court, members of legal profession, other Judges, students of law, and civil society.

A court judgment is the official and binding conclusion of a case, settling the rights and obligations of the parties involved.

The legal definition of 'Judgment' contemplates decisions made by the Judges in a court of law. Decisions of quasi-judicial bodies and administrative bodies may also be colloquially referred to as 'judgments', but they must be distinguished from true judgments in that they are not made by judges in courts of law.

Judgments must also be distinguished from arbitral awards, which are made by arbitral tribunals.

A judgment may be provided either in written or oral form depending on the circumstances.

Oral judgments are often provided at the conclusion of a hearing and are frequently used by courts with heavier caseloads or where a judgment must be rendered quickly.

Written reasons for judgment are often provided in circumstances where a complex decision must be made, where the matter is likely to be appealed, or where the decision is considered to be of some significant importance to members of the legal community and/or the public at large.

Written reasons for judgment are not generally provided immediately following the hearing and may take some days, to be released.

(ii). A Judge ought not to import his own private knowledge or opinion into a case.

(iii). A Judge should not allow his judgment in one case to govern his decision in another, even if the subject-matter of dispute is of a similar nature, and the evidence similar in character, when the parties are not the same, and the subject-matter of the suit is different.

CRIMINAL JUDGMENTS__

Section 288 of BNSS [section 265 Cr.P.C], says as __

“Language of record and judgment.—

(1). Every such record and judgment shall be written in the language of the Court.

(2). The High Court may authorise any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.”

Rule 65 of the Criminal Rules of Practice and Circular Orders 1990, says as__

“No Abbreviations in Judgments:-

Abbreviations shall not be used in Judgments or Orders.”

Rule 67 of the Criminal Rules of Practice, says as__

“Tabular Form to be annexed to Judgment:-

The Judgment in original decisions shall be in the form prescribed by Section 354 of the Code, with a foot note or side note in a tabular form giving in addition, the following particulars,

Viz.....

Columns:

- (1) Serial Number.
- (2) Name of Police Station and Crime No. of offence.
- (3) Description of accused; Name, Father Name, Race, Occupation Residence, age
- (4) Date of : Occurrence, Complaint, Apprehension, Release on bail, Commitment, Commencement of trial, Close of trial, Sentence or Order;
- (5) Explanation for delay.

Only two copies in manuscript of this statement are required, one copy for record and one for transmission to the High Court. The one for record may conveniently be written up in a list to be bound up by way of index with the printed judgments for each year.

But in all summons cases the copy for record need not be

prepared.”

Rules 68 to 78 of Criminal Rules of Practice, deals with, “List of witnesses etc., to be Appended to Judgment”, “Judgment to specify offence in respect which sentence is passed”, “Sub-section under which Convicted to be stated”, “Judgment to state whether previous conviction was proved or confessed”, “Copies to the Prosecution and the Accused”, “Judgment against the Government officials to be furnished, to the Heads of Department”, “ Copy of Judgment when to be sent to the Head of Department”, “Intimation to be given to the Controller of Defence Accounts on Conviction of Military Pensioners”, “Copies of Judgments in food Adulteration Cases when to be sent to Food Inspector”, “Copy of Judgment when to be sent to Professions/ Lecturers in Forensic Medicine”, and “Copy of Judgment when to be sent to Professors/ Lecturers in Forensic Medicine”.

PROVISIONS OF LAW__

Rule 262 of the Criminal Rules of Practice, says as__

“Submission of Judgment by Magistrates:-

Except in cases dealt with under Sections 204(3); 252 and 256 to 258 of the Code, Magistrates shall within a week from the passing of the judgment or order or from the termination of enquiry send to the Sessions Judge.”

A Judge is required to express the opinion in temperate language usually associated with and reflecting the impersonal dignity of judicial restraint.

All orders passed by the court should be speaking orders giving reasons for the decision after noting the points at issue. There must be expression to show that the Court applied its mind to the facts and circumstances of each case to the point in issue. Section 362 of the Criminal Procedure Code, 1973, says that, “Court not to alter Judgment.”

PRESUMPTIONS__

In my personal opinion, it is the bounden duty of a Judge, to mention what are the presumptions applicable to the facts of each and every case.

Example:-

Presumption under section 90, 113-A, 113-B, 114, 114-A of the Evidence Act,
Section 6 of Pattadar Passbooks Act,
Sections 118 and 139 of the Negotiable Instruments Act,
Section 42 of the Excise Act,
Presumptions under POCSO Act, NDPS Act, and Other Acts.

SKILLS__

Each judge has an individual manner of expression.

Judgments should be expressed in a language and style which suits the decision-maker. What is more essential is lucidity rather than style. Lucidity should be the prime aim in Judgment writing. Eminent jurists recommend using short sentences, without packing too many ideas in a single sentence.

And a Judge is required to narrate the brief facts of a case, law involved therein, his decision, whenever we come across to state our view on the point of law and the reasoning thereof.

While writing a Judgment, a Judge is required to bear in mind the essentials or key points, such as__

- Ingredients of the provision [in respect of charges],
- settled legal principles [and land-mark judgments],
- admissions of parties [in pleadings and evidence],
- demeanor of the witness [while giving evidence in the court],
- changes in law [amendments to the Acts, new rulings etc.,],
- facts which are admitted [by the parties to the lis] and no longer in dispute,

Each Judge has a different way of writing Judgments, and there may be wide variation in style.

NOTE__

In the cases relating to the offences punishable under sections 376 or similar offences, of Indian Penal Code, and the offences under the POCSO Act, 2012, the identity of the victim or the child, as the case may be, should not be disclosed in the Judgment with details, in view of restriction under section 33 (7) of the POCSO Act, 2012 and section 228-A of the I.P.C.

Section 74 of the Juvenile Justice [Care & Protection of Children] Act, 2015 [No.2 of 2015] says as “prohibition on disclosure of identity of children.”

CONCLUSION__

Therefore, a Judge is required to take more care and caution while drafting judgments and pronouncing because it will reflect the image of the Judge, in the minds of the Stake-holders, Advocates for Parties, and other Advocates of the Bar, as well as Colleagues, so also, Law students, because, now-a-days every Judgment will be available to the public through Portal, and many of the persons used to down-load the Judgments for reading and reference purposes, therefore, it is my sincere request to the Officers to take more care and caution while preparing the Judgments to be pronounced.

Thanking You,

S.Ramesh, I Additional District Judge, Chittoor.
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