

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 04th - 10th September 2023

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1.SLP Limitations Highlighted by the Supreme Court

Case: Nimmanapally Surya Reddy vs Honourable Chief Justice High Court Of Telangana

Background:

In a dispute arising from the High Court of Telangana, the petitioner, Nimmanapally Surya Reddy, challenged an administrative order issued by the Chief Justice. The order dismissed the petitioner's request to comply with the Chief Justice of India's directions for online hearings. Further, the petitioner's plea to permit online submissions for contempt and other petitions and their subsequent online hearings was also rejected.

Key Findings and Observations:

- **Nature of the Order:** The Supreme Court emphasised that SLPs cannot contest orders passed by the High Court on an administrative footing.
- **Judicial Precedent:** Justice KV Viswanathan highlighted the case - Dev Singh and Others vs. Registrar, Punjab and Haryana High Court and Others (1987) 3 SCC 169 - as a benchmark.
- **Understanding Article 136:** The justice pointed out that Article 136 exclusively pertains to SLPs directed towards court or tribunal adjudications. These adjudications should be inherently judicial. Therefore, SLPs challenging administrative orders are invalid.

Definition of 'Consumer'

Case: Rohit Chaudhary & Anr. vs M/s Vipul Ltd.

Facts of the Case:

- Appellants booked a commercial space from M/s Vipul Ltd.
- The developer failed to deliver possession.



The advertisement features a dark brown background on the left with a yellow wave-like border. It contains the text 'UPSC LAW Optional TEST SERIES AIM FOR UPSC 2024' in white. On the right, there are two portraits of toppers. The top one is Avinash V Rao, AIR 31, a UPSC 2021 Law Optional Topper. The bottom one is Kritika Goyal, AIR 14, a UPSC 2022 Law Optional Topper. The background is decorated with white dots and a stylized leaf icon.

- The appellants approached the National Consumer Disputes Redressal Commission (NCDRC) seeking a refund.
- NCDRC dismissed the complaint, stating that the appellants were not 'consumers' as they already ran a business and were engaged in property investment.

Decision:

- The court observed that the appellants sought office space "for their self-employment and to run their business and earn their livelihood".
- The purpose of purchasing the office space wasn't for resale or future investment.
- NCDRC's decision was found to be contrary to the definition clause of 'consumer'.
- The court ruled in favour of the appellants, directing the developer to refund the amount with 12% per annum interest.

Relevance:

- Clarifies the distinction between large-scale profit-making and self-employment.
- Emphasises the importance of intent and purpose behind the purchase of goods or services.

2.Principles of Natural Justice and Oral Submissions

Case: CASA2 STAYS PVT LTD v. BBH COMMUNICATIONS INDIA PVT LTD.

Delhi High Court ruled on the intricacies of natural justice, particularly concerning oral submissions. The case originated from a contractual dispute between a hospitality company, CASA2 STAYS, and an advertising agency, BBH COMMUNICATIONS. The hospitality company contended that their rights to natural justice had been infringed upon, primarily because they weren't provided with an adequate opportunity to present oral arguments.

The underlying contract, which formed the basis of the dispute, revolved around advertising services. Spanning from 19th March to 18th June 2018, the agreement led to several disagreements between the two entities, especially concerning delays, a change in scope, and differences in cost. An arbitrator was eventually called upon to mediate and resolve the dispute, culminating in an award of Rs. 33,70,182 in favour of the advertising firm.

In response, the hospitality company approached the Delhi High Court. Their primary grievance was an alleged lack of opportunity for oral arguments, arguing that this omission amounted to a violation of the principles of natural justice. However, the court, after a careful examination, found that the hospitality firm had been given multiple chances to present their case, both orally and in written form. On numerous occasions, the counsel for the hospitality firm sought adjournments. Furthermore, even when presented with the chance to submit written arguments, the firm failed to do so.

The High Court underscored the importance of parties making full use of provided opportunities to argue their case. The failure of a party to utilise these opportunities, the court opined, cannot be equated with a breach of natural justice. Consequently, the appeal by the hospitality firm was dismissed, and the High Court's verdict solidified the significance of natural justice and the responsibility of parties to actively participate in proceedings.

3.NGT Elucidates 'Bhagwan' in Context of Environment Protection

Case: Vinod Kumar v. State of Uttar Pradesh.

In a significant case addressing the illegal encroachment of more than 91 water bodies in Meerut, the principal bench of the National Green Tribunal (NGT) delved into the holistic interpretation of the term 'Bhagwan', highlighting its elemental associations with the environment.

The NGT, comprising Acting Chairperson Justice S.K. Singh, Justice Arun Kumar Tyagi, and Dr. A. Senthil Vel, elucidated, "The universe and all living beings are creations of the almighty, termed as 'Bhagwan'. This encapsulates five fundamental elements of life:

- Bha = Bhumi (Earth)
- Ga = Gagan (Sky)
- Wa = Vau (Air)
- Aa = Agni (Fire)
- Na = Neer (Water)."

The bench emphasised that pollution arises when the natural equilibrium of these five elements is disrupted by the introduction of toxic substances.

The tribunal made it clear that while development might have some environmental repercussions, it is essential to strike a balance between societal progress and environmental preservation. This sentiment arose from the case at hand, where rampant, unregulated constructions alongside rivers and ponds in Meerut were flagged. Such constructions not only intensify pollution but also disturb the natural flow of water bodies.

The plea also highlighted that certain areas witnessed the emergence of illegal colonies, orchestrated by the local land mafia, encroaching upon riverbanks, leading to significant environmental degradation.

Citing a precedent, Lt. Col. Sarvadaman Singh Oberoi vs Union of India & Ors., the NGT instructed Meerut's District Magistrate and the State Pollution Control Board to undertake restoration measures for the compromised water bodies. Immediate removal of temporary encroachments was mandated, while permanent constructions were left to the discretion of district authorities in line with the governing rules.

The tribunal also advised the petitioner to detail encroachments on individual ponds, enabling precise identification, measurement, and subsequent action against the culprits.

Case Highlight: Vinod Kumar v. State of Uttar Pradesh.

4.Emoji and Contract Law

Case: South West Terminal Ltd. V. Achter Land & Cattle Ltd.

In an unprecedented legal decision, the King's Bench of Saskatchewan, Canada has ruled that a thumbs up emoji (👍) sent in response to a contract can be construed as acceptance, thereby legally binding the involved parties.

The court awarded a substantial amount of \$82,200.21 to a crop seller who suffered a breach of contract. The defendant, after acknowledging the contract with a thumbs up emoji, failed to deliver the crops. Although the defendant argued that the emoji merely acknowledged receipt and not acceptance of the contract's terms, Justice T. J. Keene disagreed. The Justice opined, "Considering all circumstances, it signified approval of the contract, not just its receipt."

The case stemmed from a seller texting a contract picture for a November crop delivery, seeking confirmation. The farmer responded with the now controversial thumbs up emoji but later reneged on the delivery, especially as crop prices rose.

The defendant, arguing his side, claimed the emoji merely acknowledged the contract's receipt. He expected the full terms to follow via fax or email for formal review and signature. The casual nature of his text communications with the plaintiff, exemplified by jokes and other informal messages, was highlighted to bolster this perspective.

However, turning to dictionary.com, the court recognized the (👍) emoji's widespread meaning as an expression of agreement or approval, especially in western cultures. While the judge playfully commented on his late technological adoption, he found the defendant's stance contradictory and somewhat self-serving.

Justice Keene posited that under the right circumstances, a (👍) emoji can be seen as an electronic form of acceptance, as per The Electronic Information and Documents Act, 2000, SS 2000. Debunking the argument that only a traditional signature can affirm identity and contract approval, the Justice asserted that modern emojis, like the thumbs up, can effectively serve this purpose.

Concluding the verdict, the Court deemed that the parties had formed a legally binding contract under the unique scenario. The defendant's breach hence led to a damage award of \$82,200.21 to the plaintiff.

5. Princeton University vs. Hyderabad-Based 'Princeton' Institutions

Case: THE TRUSTEES OF PRINCETON UNIVERSITY v. THE VAGDEVI EDUCATIONAL SOCIETY & ORS."

The prestigious Princeton University of the USA recently found itself embroiled in a trademark tussle against six educational entities in Hyderabad, both using the "Princeton" moniker. The Delhi High Court's judgement sheds light on trademark use and protection in India.

At the heart of the contention was Princeton University's claim of trademark infringement against the Hyderabad-based institutions. The American Ivy League college alleged that these institutions were wrongfully using the "Princeton" mark, a name synonymous with educational excellence worldwide.

Justice C Hari Shankar of the Delhi HC observed that just because a significant number of Indians have been alumni of Princeton University doesn't equate to the institution's "use" of its mark in India as per the Trade Marks Act. The court further denied interim relief to the American university. Justice Shankar accentuated the improbability of potential confusion between the two entities' services. Given Princeton University's unparalleled global repute and the localised presence of the Hyderabad institutions, distinguishing between the two wouldn't pose a challenge for the average consumer.

Further distinguishing the two, the court highlighted the elite and competitive nature of admissions to Princeton University. In stark contrast, the institutions in Hyderabad offer more accessibility, catering to a broader student base.

6. Case of the Week

Haynes v Harwood [1935] 1 KB 146

Facts: The case of Haynes v Harwood revolves around a situation involving a pair of bolting horses. In 1935, in a crowded area of London, a horse-drawn van was left unattended by its driver. The van was stationed outside a fire station. Some children threw a stone at the horses, causing them to bolt. A police constable, named Haynes, who was on duty at the time, saw that the horses were bolting towards a busy street with children, and he intervened by trying to stop them. In the process, Constable Haynes was injured. He subsequently sued the driver, Harwood, for negligence, claiming that it was Harwood's duty to control the horses and prevent any potential harm they might cause.

Issue: The main legal issue was whether Harwood owed a duty of care to Haynes and whether Harwood's negligence in leaving the horses unattended had caused the harm suffered by Haynes.

Judgement: The court held in favour of Haynes: It was determined that Harwood did owe a duty of care because the risk of the horses bolting in a crowded area was reasonably foreseeable. As a result, Harwood's failure to control or secure the horses adequately was a direct cause of the harm suffered by Haynes.

Analysis:

Duty of Care: The decision confirmed that individuals (or entities) owe a duty of care when their actions, or lack thereof, could foreseeably result in harm to others. In this case, leaving a horse-drawn van unattended in a crowded area could foreseeably lead to the horses bolting and causing harm.

Reasonably Foreseeable Risk: Harwood could, or should, have anticipated the risk of leaving the horses unattended, especially in a busy area. This principle of foreseeability is central to negligence claims.

Rescue Doctrine: Another notable aspect of this case is the acknowledgment of the "rescue doctrine". This doctrine holds that if a defendant's negligence puts a third party in danger, and the plaintiff is injured while reasonably attempting to save that third party, the defendant can be held liable for the plaintiff's injuries. Here, Constable Haynes was injured while attempting to prevent the bolting horses from causing potential harm to the public.

7.Repeated PYQ

Q - A, a singer, contracts with B, the manager of a restaurant, to sing at his restaurant for two nights every week during next two months, and B engages to pay her 5,000 rupees for each night's performance. On the sixth night, A wilfully absents herself from the restaurant and B, in consequence, rescinded the contract. Decide.

The situation presented raises crucial issues related to the Indian Contract Act, 1872. Primarily, it revolves around the enforcement of contractual obligations and the rights of parties when one of them defaults. Section 39 of the Indian Contract Act, 1872 deals with the "Effect of refusal to accept the offer of performance," and Section 73 deals with the "Compensation for loss or damage caused by breach of contract."

Additionally, Section 55 which states "When a party to a contract promises to do a certain thing at or before a specified time, or certain things at or before specified times, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable at the option of the promisee, if the intention of the parties was that time should be of the essence of the contract," would be of relevance in this case.

In this case, A, the singer, committed a breach of contract by willfully abstaining from her contractual obligation to sing on the sixth night. Under Section 39 of the Indian Contract Act, 1872, B, the manager, has a right to rescind the contract if A, the promisor, defaults in the performance of the contract. The contract becomes voidable at the option of the promisee (B), and he can rescind the contract.

Right to Rescind

B has the right to rescind the contract in response to A's willful absence from the restaurant on the sixth night, as provided by Section 39 of the Act. The act of A clearly constitutes a breach of contract, and under Section 73, B is also entitled to compensation for any loss or damage caused due to A's absence, which was supposed to be a result of the contract.

Damages

B may seek damages for the losses incurred due to A's absence. The damages would be calculated based on the losses directly resulting from A's failure to perform, like loss of revenue, and possible harm to the restaurant's reputation.