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MESSAGE

It is a matter of great pleasure that the Odisha Judicial Academy is bringing out the 15th, 16th and 17th issues of its newsletter "Vidya" in a combined manner, highlighting activities during the 4th quarter of 2014 as well as 1st and 2nd quarters of 2015.

As the pioneer institution of legal learning and training, the academy must strive to impart the best practices and knowledge to all the officers of the judicial system. As a publication "Vidya" is an important medium encapsulating the Academy's endeavors towards that end. I am confident that the present edition of "Vidya" will prove to be useful in updating all concerned about the activities of and at the Academy.

My best wishes to learned team of the Odisha Judicial Academy.

[D.H. Waghela]

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Message

Odisha Judicial Academy is bringing out the combined 15th, 16th & 17th issue of its News-letter "Vidya" for the 4th Qr.2014 & 1st, 2nd Qr. of 2015. This issue includes various articles of eminent judges of the Supreme Court and some Judicial Officers. The issue is also highlighted by including a photo gallery of various programmes conducted and organized by the academy having long term impact in the socio-legal aspects of the Judicial Administration System of our state and the country.

On this occasion, on behalf of the Odisha Judicial Academy and the Training Committee, I convey my best wishes for the onward journey of the Journal.

Chairperson,
Odisha Judicial Academy.

Editorial Note ...

In a democratic society like India radical transformation is undergoing every day. The Judicial Officers have to be sensitive, responsive and to be abreast of changing trend both socially and legally. It has now become imperative for the Judges to undergo periodical judicial training to refresh their memories. An integrated approach to Judicial Education includes both the content and the method of training apart from periodical Workshops, Seminars, Conferences in State and National level as well. Judicial Education gains momentum while there is stress laid on knowledge in substantive and procedural Law and Judges should be trained on knowledge in Law, Skill, Attitude and Ethics besides other matters including Information Technology for comprehensive capacity building. Our Academy has always made endeavour to sensitize Judicial Officers about their duties and functions. All efforts have been made to address Judicial Officers with Substantive and Procedural Law. They are updated with the precedents through the latest decisions which are uploaded in the Website of the Academy i.e. (www.orissaiudicialacademv.nic.in) as Monthly Case Review. In order to make them ready for the future generation the Academy is trying to get their mind set metamorphosed and to inculcate a sense of commitment among themselves to protect the rights of the citizens guaranted by the Constitution.

So, each Judicial Officer of the State must identify himself as a modern Judge and acquire adequate knowledge to justify his position as such. Not only this but also he has to discharge his duties and functions by keeping ego outside and observing impartiality as well as integrity with hard work.

Director,
Odisha Judicial Academy, Cuttack

Contents

❍❍❍

Access to Justice :
Changing perspectives and ADR

By

Hon'ble Justice F.M. Ibrahim Kalifulla[1]

1. Introduction

I deem it a matter of pride, pleasure and privilege to be present before this august gathering of young advocates, doyens from the Bar and my fellow brothers and sisters, who have assembled here on this auspicious day for the National Seminar on "Enhancing Judicial Capability" and extend my sincere appreciation to the Odisha Judicial Academy, Cuttack for hosting such a wonderful and much needed initiative. I am honoured to be sharing the podium with my brother Judges Hon. Mr. Justice Dipak Mishra,Hon. Mr. Justice Adarsh Kumar Goel, my sister Judge Hon.Mrs. Justice R. Banumathi, Judges Supreme Court of India and the Hon. Chief Justice Mr. Justice Amitava Roy, Orissa High Court and Patron in Chief, Odisha Judicial Academy. On this occasion and in light of enhancing judicial capability, I would like to address the gathering here on the topic "Access to Justice-Changing perspectives and ADR" which deals with the significance of concept of Access to Justice and the role which can be played by different forms of ADR acting as an alternate form of dispute resolution by identifying the potential issues at the threshold, to avoid the hassle of litigation and keeping the faith of people in judicial system intact.

Through my address, I would like to discuss the concept of Access to Justice with regard to constitutional provisions and how ADR plays a significant role in reducing the burden of judiciary and ensuring justice at the same time. I will discuss certain important Supreme Court decisions which emphasis on the importance of adopting ADR methods to reduce litigation and then, conclude my discussion by giving certain suggestions which I personally feel if implemented in its true sense, will lead to an effective mechanism of ADR in our country.

2. Justice

'Justice' is not defined by any determinate definition. Justice is first and foremost a social construct and then, as a second step, a legal one. In the social acceptance and visibility of justice lies its validation, its very rationale for existence. Hence the often quoted aphorism "justice must not only be done, it should also be seen to be done." Therefore, justice is the foundation and object of any civilized society.

Having dealt with the concept of Justice, I shall now venture and discuss significant concept of Access to Justice and Constitutional Provisions dealing with the same.

3. Access to Justice

'Access to Justice' in its general term, means the individual's access to court or a guarantee of legal representation. It has many fundamental elements such as identification and recognition of grievance,

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1. Judge, Supreme Court of India.I would like to acknowledge and appreciate the support and contribution of my Law Clerks cum Research Assistants, Ms. NandiniPaliwal and Mr. M.A.Aruneshe.

awareness and legal advice or assistance, accessibility to court or claim for relief, adjudication of grievance, enforcement of relief, of course this may be the ultimate goal of a litigant public.

The concept of 'Access to Justice' has two significant components. First is a strong and effective legal system with rights, enumerated and supported by substantive legislations. The second is a useful and accessible judicial/ remedial system easily available to the litigant public. The Constitution of India is the living document of this Country and the basic law of this Nation. As disclosed in its preamble, it stands for securing justice to all the Citizens. In Article 39A, the Constitution retains its aspiration to secure and promote access to justice, in following terms;

"The State shall secure that the operations of the legal system promote justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities".

Access to justice is recognized as a prominent and fundamental right, in several international documents. In India, the National Commission to Review the Working of Constitution (NCRWC), constituted in the 50thyear of Independence, in its final report suggested for incorporation of this right as fundamental rights by incorporating Article 30 A, in the Constitution, in the following terms;

"30 A. Access to Courts and Tribunals and Speedy justice.- *(1) Everyone has a right to have any dispute that can be resolved by the application of law decided in fair public hearing before an independent court, or where appropriate, another independent and impartial tribunal or forum.*

(2). The right to access to courts shall deemed to include the right to reasonably speedy and effective justice in all matters before the courts, tribunal or other for and state shall take all reasonable steps to achieve the said objectives."

The identification and recognition of one's grievance has a direct co-relation to his right. This bundle of rights includes natural rights or basic and human rights, fundamental rights, other constitutional rights and statutory rights. Identification and protection of these rights especially that of the poor and disadvantaged people must be the chief concern, while formulating the principles of access to justice.

The Constitution of India also guarantees fundamental rights in its Part III, from Articles 14 to 32. This includes, right to equality, freedoms, right to life, religious rights, minority rights and finally the special right, which guarantees constitutional remedies in cases of infringement of fundamental rights. Though these rights are not absolute, they are protected under Article 13 of the Constitution, which expressly prohibits enacting of any law inconsistent with or in derogation with the fundamental rights. Additionally, any action abridging the fundamental rights are subject to inherent or implied limitation, as per the Doctrine of Basic Structure or Basic Features.

The concept of access to justice, primarily, necessitates a potential system securing appropriate legal remedies within the Civil and Criminal justice fields. Therefore, in my opinion, Judiciary, being an integral part and parcel of an effective judicial system, has a greater role in ensuring access to justice. As per V.R. Krishna Iyer, the prominent jurist of our Country and the former Judge of the Supreme Court of India, *"Access to Justice is basic to human rights. The right to justice is fundamental to the rule of law and so 'We the People of India' have made social justice an inalienable claim on the State, entitling the*

humblest human to legal literacy and fundamental rights and their enforcement a forensic reality, however powerful the hostile forces be. Declarations and proclamations, resolutions and legislations remain a mirage unless there is an infrastructure which can be set in locomotion to prevent or punish a wrong and to make legal right an inexpensively enforceable human right. Injustices are many, deprivation victimizes the weaker section and the minority suffers the oppression syndrome.[2]

3.1 Constitutional Provisions

The Preamble of our Constitution aims at securing to all citizens Justice: social, economic and political. Though it is not easy to give a precise meaning of the term justice, by and large, it can be stated that the idea of justice is equated with equity and fairness. Social justice, therefore, according to me would mean that all sections of society, irrespective of caste, creed, sex, place of birth, religion or language, would be treated equally and no one would be discriminated on any of these grounds. Similarly, economic justice would mean that all the natural resources of the country would be equally available to all the citizens and no one would suffer from any undeserved want. Similarly, Political justice entitles all the citizens equal political rights such as right to vote, right to contest elections and right to hold public office etc.

Fundamental rights mentioned in the third chapter include in its content, certain basic rights which every individual enjoys being a part of free nation; it tries to ensure that minimum standards that are required for survival with dignity and respect are not taken away. Directive Principles of State Policy were formulated to lay down directives for the state.

Judicially enforceable 'Fundamental Rights' provisions of the Indian Constitution are set forth in part III in order to distinguish them from the non-justifiable 'Directive Principles' set forth in part IV, which establish the inspirational goals of economic justice and social transformation.One of our directive principle also talks about free legal aid. It says that the state shall secure the operation of the legal system and promote justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Therefore, the Constitution provides for safeguards when the provisions of fundamental right are violated by the state in the form of right to constitutional remedy to move directly to the Supreme Court or High Courts under Article 32 and Article 226 respectively. This is the most unique feature of the Indian Constitution. Article32 states that:

4. *(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part [Part-III] is guaranteed.*

5. *(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.*

Article 226 of the Constitution also gives the claimant the opportunity to file a writ in the high court, when there is a violation of a fundamental right or a right guaranteed by a statute. Similarly Article 136 is also a very significant provision in the Constitution. Hence, in our constitutional scheme, the High Court and Supreme Court have been depicted as the guardian of fundamental rights and have been bestowed

2. Justice V.R. Krishna Iyer, Legally Speaking, Universal Law Publishing Co. Delhi, (2003) at p 171

with the power to make void any law passed by state and union legislature, which is violative of any fundamental right, as enshrined under Article 13 of the constitution and thereby deliver justice.

Having discussed the concept of Access to Justice and Constitutional Provisions relating to it, I shall now discuss the reasons as to why there has been a change in perspectives towards our judicial system which has raised the need for adopting ADR methods to keep the sanctity of our judicial system intact.

4. Changing Perspectives

It has been rightly said that: 'An effective judicial system requires not only that just results be reached but that they be reached swiftly.' But the currently available infrastructure of courts in India is not adequate to settle the growing litigation within reasonable time. Despite the continual efforts, a common man may sometimes find himself entrapped in litigation for as long as a life time, and sometimes litigation carries on even on to the next generation. In the process, he may dry up his resources, apart from suffering harassment. Thus, there is a chain reaction of litigation process and civil cases may even give rise to criminal cases. Speedy disposal of cases and delivery of quality justice is an enduring agenda for all who are concerned with administration of justice.

4.1 Problems of former legal system

- **Awareness :** Due to lack of awareness of legal rights and remedies among common people that makes roadblock to accessing the formal legal system.
- **Mystification :** The language of the law is quite difficult to understand. Litigant cannot be proceed further without any lawyer or legal representation because law in the book is invariably in very difficult and complicated English, makes it unintelligible even to the literate or education person. Only few attempts have been made at vernacular sing the language of the law and making it simper and easily comprehensible to the person.
- **Delays :** The greatest challenge that the justice delivery system faces today is the delay in the disposal of case. In the case of **Noor Mohammed v. Jethanand and Anr**[3], court stated that "It is high time that courts become sensitive to delays in justice delivery system and realise that adjournments do dent the efficacy of the judicial process and if this menace is not controlled adequately, the litigant public may lose faith in the system sooner than later". In fact, as per statistics of May, 2014, the total number of cases pending before different courts in India is 31.3 million including 63,843 pending cases before the Supreme Court itself. It is also important to note that in India, there are 13 judges for every 10 lakh people as against 35-40 in other developing countries and 50 judges in developed countries as per 2013.
- **Expenses and Costs :** We are all aware of the ineffectiveness of our cost regime even the successful litigant is unable to recover the actual cost of the litigation. The considerable delay in reaching the conclusion in any litigation adds to the costs and makes the absence of an effective mechanism for their recovery even more problematic.

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3. (2013)5SCC202

4.2 Advancement in Information Technology

Technological Developments in the field of information and introduction of computers have made a turning point in the history of human civilization. It has brought about a sea change in all fields of human activity. It has resulted in enhanced efficiency, productivity and quality of output in every walk of life. The Courts in western countries including their subordinate levels have been using information technology including for years now. In my opinion, there is an immediate need for exposing our legal profession, judicial fraternity and court management to update computerised technology so as to render speedy justice with better legal outputs. The need of the hour is to have a sound judicial management information system in India to overcome delays, arrears and backlog.

The facilities like computers and laptops, access to internet, video conferencing, fax etc. will help in knowing the development of law not only at the national level, but at the international level. It will result in higher productivity and quicker decision making at all levels and will also provide a broad understanding and perspective of different laws and their implementation in other countries. Therefore, by adopting such mechanism, the performance of judicial system in India will be enhanced ensuring its primary objective of rendering speedy justice at the same time.

4.3 Need of ADR

In this context, there is an imminent need to supplement the current infrastructure of courts by means of Alternative Dispute Resolution (ADR) mechanisms. Apart from bringing efficiency in working of the judiciary, measures are being taken all over the world for availing ADR systems for resolving pending disputes as well as at pre-litigation stage. Efforts towards ADR have met with considerable success and good results elsewhere in the world, especially in the litigation-heavy United States, where professional teams of mediators and conciliators have productively supplemented the dispute resolution and adjudication process. Therefore, with the advent of the ADR, there is a new avenue for the people to settle their disputes. ADR methods will really achieve the goal of rendering social justice to the people, which really is the goal of the successful judicial system.

5. Significance of ADR

Having discussed the change in perspectives with regard to the legal system and problems attached with it, I feel it is necessary to understand the concept and significance of ADR as a significant form of our adjudicatory process ensuring justice. I shall also discuss certain provisions of Code of Civil Procedure supporting and promoting ADR.

ADR is not a recent phenomenon as the concept of parties settling their disputes themselves or with the help of third party, is very well-known to ancient India. The primary object of ADR movement is avoidance of vexation, expense and delay and promotion of the ideal of "access of justice" for all. ADR system seeks to provide cheap, simple, quick and accessible justice. ADR is a process distinct from normal judicial process. Under this, disputes are settled with the assistance of third party, where proceedings are simple and are conducted, by and large, in the manner agreed to by the parties. ADR stimulates to resolve the disputes expeditiously with less expenditure of time, talent money with the decision making process towards substantial justice, maintaining to confidentiality of subject matter.

Therefore, it can be concluded that ADR aims atproviding justice that not only resolves dispute but also harmonizes the relation ofthe parties.

- **Arbitration :** "Arbitration is an adjudicatory dispute resolution process by a private forum, governed by the provisions of the Arbitration and Conciliation Act. The said Act makes it clear that there can be reference to arbitration only if there is an 'arbitration agreement' between the parties. If there was a pre-existing arbitration agreement between the parties, in all probability, even before the suit reaches the stage governed by Order 10 of the Code, the matter would have stood referred to arbitration either by invoking Section 8 or Section 11 of the Arbitration and Conciliation Act, and there would be no need to have recourse to arbitration under Section 89 of the Code of Civil Procedure. Section 89 therefore pre-supposes that there is no pre-existing arbitration agreement. Even if there was no pre-existing arbitration agreement, the parties to the suit can agree for arbitration when the choice of ADR processes is offered to them by the court under Section 89 of the Code. Such agreement can be by means of a joint memo or joint application or a joint affidavit before the court, or by record of the agreement by the court in the order sheet signed by the parties. Once there is such an agreement in writing signed by parties, the matter can be referred to arbitration under Section 89 of the Code; and on such reference, the provisions of AC Act will apply to the arbitration, and as noticed in Salem Bar-I the case will go outside the stream of the court permanently and will not come back to the court.[4]
- If there is no agreement between the parties for reference to arbitration, the court cannot refer the matter to arbitration under Section 89 of the Code. This is evident from the provisions of AC Act. A court has no power, authority or jurisdiction to refer unwilling parties to arbitration, if there is no arbitration agreement. This Court has consistently held that though Section 89 of the Code mandates reference to ADR processes, reference to arbitration under Section 89 of the Code could only be with the consent of both sides and not otherwise."
- **Mediation** -"Settlement by 'Mediation' means the process by which a mediator appointed by parties or by the Court, as the case may be, mediates the dispute between the parties to the suit by the application of the provisions of the Mediation Rules, 2003 in Part II, and in particular, by facilitating discussion between parties directly or by communicating with each other through the mediator, by assisting parties in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, generating options in an attempt to solve the dispute and emphasizing that it is the parties own responsibility for making decisions which affect them.[5]
- **Conciliation**-"Conciliation is a non-adjudicatory ADR process, which is also governed by the provisions of Arbitration and Conciliation Act. There can be a valid reference to conciliation only if both parties to the dispute agree to have negotiations with the help of a third party or third parties either by an agreement or by the process of invitation and acceptance provided in Section 62 followed by appointment of conciliator/s as provided in Section 64 of Arbitration

4. Afcons Infrastructure Ltd and Anr v. Cherian Varkey Construction Co.(p) Ltd and Ors. (2010)8SCC24
5. Ibid.

and Conciliation Act. If both parties do not agree for conciliation, there can be no 'conciliation'. As a consequence, as in the case of arbitration, the court cannot refer the parties to conciliation under Section 89, in the absence of consent by all parties. As contrasted from arbitration, when a matter is referred to conciliation, the matter does not go out of the stream of court process permanently. If there is no settlement, the matter is returned to the court for framing issues and proceeding with the trial."[6]

- **Difference between Mediation and Conciliation**- There is a subtle difference between mediation and conciliation. While in meditation, the third party, neutral intermediary, termed as mediator plays more active role by giving independent compromise formulas after hearing both the parties; in conciliation, the third neutral intermediary's role, mainly is to bring the parties together in a frame of mind to forget their animosities and be prepared for an acceptable compromise on terms midway between the stands taken before the commencement of conciliation proceedings.
- **LokAdalat** -The "LokAdalat" is an old form of adjudicating system prevailed in ancient India and its validity has not been taken away even in the modern days too. The word 'LokAdalat' means 'People Court'. It is one of the components of ADR system. As the Indian Courts are over burdened with the backlog of cases and the regular Courts are to decide the cases involve a lengthy, expensive and tedious procedure. The court takes years together to settle even petty cases. LokAdalat, therefore provides alternative resolution or devise for expeditors and inexpensive justice.[7]
- LokAdalat is another alternative to Judicial Justice. This is a recent strategy for delivering informal, cheap and expeditious justice to the common man by way of settling disputes, which are pending in courts and also those, which have not yet reached Courts by negotiation, conciliation and by adopting persuasive, common sense and human approach to the problems of the disputants, with the assistance of specially trained and experienced Members of a Team of Conciliators.
- There is no Court fee and if Court fee is already paid the amount will be refunded if the dispute is settled at LokAdalat according to the rules. The basic features of LokAdalat are the procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like Civil Procedure Code and Evidence Act while assessing the claim by LokAdalat. The parties to the dispute can directly interact with the Judge through their Counsel which is not possible in regular Courts of law.The award by the LokAdalat is binding on the parties and it has the status of a decree of a Civil Court and it is non appealable which does not causes the delay in the settlement of disputes finally.

5.1 Access to Justice vis a vis ADR

Justice Warren Burger, the former CJI of the American Supreme Court had observed, while discussing on the importance of ADR:

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6. Ibid.
7. P.T.Thomas v. Thomas Job (2005)6SCC478

"The harsh truth is that we may be on our way to a society overrun by hordes of lawyers, hungry as locusts, and bridges of Judges in numbers never before contemplated. The notion-that ordinary people want black robed judges, well-dressed lawyers, fine paneled court rooms as the setting to resolve their disputes, is not correct. People with legal problems like people with pain, want relief and they want it as quickly and inexpensively as possible". Based on this above quote, I would like to enumerate the benefits or advantages that can be accomplished by the ADR system. They are summed up here briefly:

1. Reliable information is an indispensable tool for the adjudicator. Judicial proceedings make a halting progress because of reluctance of parties to part with inconvenient information. ADR moves this drawback in the judicial system. Information can be gathered more efficiently by an informal exchange across the table. Therefore, ADR is a step towards success where judicial system has failed in eliciting facts efficiently.

2. In Mediation or Conciliation, parties are themselves prodded to take a decision, since they are themselves decision-makers and they are aware of the truth of their position, the obstacle does not exist.

3. The formality involved in the ADR is lesser than traditional judicial process and costs incurred is very low in ADR

4. The cost procedure results in a win-lose situation for the disputants

5. Finality of the result, the time required to be spent is less, efficiency of the mechanism, possibility of avoiding disruption.

Section 89 is generally understood as the only provision in CPC which provides for out of the court settlement; but this I have to state is a misconstrued notion among the legal members, as there are many other provisions under the act which support & promote settlement.

Even prior to the existence of Section 89 of the Civil Procedure Code (CPC), there were various provisions that gave the power to the courts to refer disputes to mediation, which sadly have not really been utilized. Such provisions, inter alia, are in the Industrial Disputes Act, the Hindu Marriage Act and the Family Courts Act and also present in a very nascent form via Section 80, Section 107(2), Section 147, Order 23 Rule 3, Rule 5 B of Order 27, Order 32 A and Order 36 of the CPC, 1908. A trend of this line of thought can also be seen in *ONGC v. Western Co. of Northern America*[8] *and ONGC Vs. Saw Pipes Ltd*[9].

Before I discuss the CPC provisions, here are a few examples of some other statutes and their provisions respectively supporting settlement;

i. Industrial Disputes Act, 1947 provides the provision both for conciliation and arbitration for the purpose of settlement of disputes. (I have already discussed these provisions). In **Rajasthan State Road Transport Corporation v. Krishna Kant**[10], the Supreme Court observed: "*The policy of law emerging from Industrial Disputes Act and its sister enactments is to provide an alternative dispute-resolution mechanism to the workmen, a mechanism which is speedy, inexpensive, informal and unencumbered by the plethora of procedural laws and appeals upon appeals and revisions applicable to civil courts. Indeed, the powers of the courts and tribunals under the Industrial Disputes Act are far more*

8. 1987 SCR (1)1024
9. AIR 2003 SC 2629
10. 1995 SCC (5)75

extensive in the sense that they can grant such relief as they think appropriate in the circumstances for putting an end to an industrial dispute."

ii. **Section 23(2) of the Hindu Marriage Act, 1955** mandates the duty on the court that before granting relief under this Act, the Court shall in the first instance, make an endeavor to bring about reconciliation between the parties, where it is possible according to nature and circumstances of the case. For the purpose of reconciliation the Court may adjourn the proceeding for a reasonable period and refer the matter to a person nominated by the court or parties with the direction to report to the court as to the result of the reconciliation. **[Section 23(3) of the Act]**.

iii. **The Family Court Act, 1984** was enacted to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith by adopting an approach radically different from that ordinary civil proceedings. **[K.A.AbdulJalees v. T.A.Sahida]**[11]. Section 9 of the Family Courts Act, 1984 lays down the duty of the family Court to assist and persuade the parties, at first instance, in arriving at a settlement in respect of subject matter. The Family Court has also been conferred with the power to adjourn the proceedings for any reasonable period to enable attempts to be made to effect settlement if there is a reasonable possibility.

5.2 Provisions in CPC Supporting & Promoting ADR

Section 80(1) of Code of Civil Procedure lays down that no suit shall be instituted against the government or public officer unless a notice has been delivered at the government office stating the cause of action, name, etc. The whole object of serving notice u/s 80 is to give the government sufficient warning of the case which is of going to be instituted against it and that the government, if it so wished can settle the claim without litigation or afford restitution without recourse to a court of law. **[GhanshyamDass v. Domination of India]**[12]. It is to give the government the opportunity to consider its legal position and if that course if justified, to make amends or settle the claim out of court. - **[Raghunath Das v. UOI]**[13].

Section 80 of CPC is also a provision to initiate conciliation and give an opportunity to the Government to settle the matter amicably prior to institution of a suit in the court. A statutory notice of 2 months before the proposed action under section 80 Civil Procedure Code 1908 is intended to alert the State to negotiate a just settlement or at least have the courtesy to tell potential outsiders why the claim is being resisted. The underlying object is to curtail litigation and is also to curtail the area of dispute and controversy. Similar provisions also exist in various other legislations as well.

Section 89 - By the CPC (amendment) Act 1999, section 89 had been introduced in the CPC, 1908 and it became effective from 01-07-2002. Section 89 in CPC reads as follows;

"Settlement of disputes outside the Court- (1) Where it appears to the court that there exist elements of a settlement which may be acceptable to the parties, the court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observation of the parties, the court may reformulate the terms of a possible settlement and refer the same for-

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11. (2003) 4 SCC 166
12. (1984) 3 SCC 46
13. AIR 1969 SC 674

(a) arbitration;

(b) conciliation

(c) judicial settlement including settlement through LokAdalat; or

(d) mediation.

(2) Where a dispute had been referred-

(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act.

(b) to LokAdalat, the court shall refer the same to the LokAdalat in accordance with the provisions of sub-section (1) of section 20 of the Legal Services Authority Act, 1987 and all other provisions of that Act shall apply in respect of the dispute so referred to the LokAdalat;

(c) for judicial settlement, the court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a LokAdalat and all the provisions of the Legal Services Authority Act, 1987 shall apply as if the dispute were referred to a LokAdalat under the provisions of that Act;

(d) for mediation, the court shall effect a compromise between the parties and shall follow such procedure as may be prescribed.

The related provisions which were incorporated by the same amendment act are those contained in Rules 1A, 1B and 1C ofOrder X, CPC, which are extracted hereunder:

1A. Direction of the Court to opt for any one mode of alternative dispute resolution.

After recording the admissions and denials, the court shall direct the parties to the suit to opt either mode of the settlement outside the court as specified in sub-section (1) of section 89. On the option of the parties, the court shall fix the date of appearance before such forum or authority as may be opted by the parties.

1B. Appearance before the conciliatory forum or authority

Where a suit is referred under rule 1 A, the parties shall appear before such forum or authority for conciliation of the suit.

1C. Appearance before the court consequent to the failure of efforts of conciliation

Where a suit is referred under rule 1A and the presiding officer of conciliation forum or authority is satisfied that it would not be proper in the interest of justice to proceed with the matter further, then, it shall refer the matter again to the Court and direct the parties to appear before the court on the date fixed by it."

Referring to the inter-relation between section 89 and Order X Rule 1 A, the Supreme Court[14]has pointed out that there is no inconsistency. Section 89 confers the jurisdiction on the court to refer a dispute to an ADR process, whereas Rules 1A to 1C of Order X, lays down the manner in which the

14. Afcons Infrastructure Ltd and Anr v. Cherian Varkey Construction Co.(p) Ltd and Ors. (2010)8SCC24

jurisdiction is to be exercised by the court. The scheme is that the court explains the choices available regarding ADR process to the parties, permits them to opt for a process by consensus, and if there is no consensus, proceeds to choose the process.

Hence, my advice to every Judicial Officer is that they should at least once read the entire judgment and the guidelines set out, for an effective understanding of Section 89 CPC r/w Order X.

I. **Section 107(2)** states that the Appellate Court shall have the same powers and shall perform as nearly as may be, the same duties as are conferred and imposed by the code on courts of original jurisdiction in respect of institution of suits instituted thereon. Hence I wanted to point out that all these provisions promoting ADR will be applicable to courts of appellate jurisdiction as well and is not restricted to Trial Courts alone.

II. **Section 147** is a very significant provision which I feel all judges must pay heed to more often. It deals with the 'consent or agreement by persons under disability'. It states that 'in all suits to which any person under the disability is a party, any consent or agreement, as to any proceeding shall, if given or made with the express leave of the court by the next best friend or guardian for the suit (as provided under Order 32 Rule 7) have the same force and effect as if such person, were under no disability and had given such consent or made such agreement.' Hence, according to me, it is the responsibility of the court to make sure that people with certain disabilities, should be provided assistance along with the right advice, so that the matter is sorted out amicably, and to which you all can play a great role. (Look up **BishundeoSeogeni**[15])

III. **Order 23 Rule 3** of CPC is a provision for making a decree on any lawful agreement or compromise between the parties during the pendency of the suit by which claim is satisfied or adjusted. The scheme of Rule 3 of Order 23 provides that if the court is satisfied that a suit has been adjusted wholly or partly by and lawful agreement or compromise, the court shall pass a decree in accordance to that. Order 23, Rule 3 gives mandate to the Court to record a lawful adjustment or compromise and pass a decree in terms of such compromise or adjustment. But the compromise decree has to be read as a whole, to gather the intention of the parties. (**MamjuLata Sharma v. Vinay Kumar Dubey**[16]). The compromise should also not be recorded in a casual manner, but the court must apply its judicial mind while examining the terms of the settlement before the suit is disposed of in terms of the agreement. There is a responsibility cast on the court to satisfy itself about the lawfulness and genuiness of the compromise. (**BanwariLal v. ChanoDevo**[17]) **Some Cases which I recommend you to look up are as follows; (ILR 1946 Page 36, VSA Arumuga Mudilyar v. VPS BalasubramaniumMudilyar; AIR 1953 Madras, page 492, City Chidambaram Chetiar v. CT Subramanium Chetiar; AIR 1956, Bomabay, Page 569 Misrilal Jalamchand v. Shobhachand Jalamchand; AIR 1971 SC 1081)**

IV. **Order 27 Rule 5B** confers a duty on court in a suit against the government or a public officer to assist in arriving at a settlement. In a suit where Government or public officer is a party it

15. AIR 1951 SC 280
16. AIR 2004 All 92 (94) (DB)
17. AIR 1993 SC 1139

shall be the duty of the Court to make an endeavor at first instance, where it is possible according to the nature of the case, to assist the parties in arriving at a settlement. If it appears to the court in any stage of the proceedings that there is a reasonable possibility of a settlement, the court may adjourn the proceeding to enable attempts to be made to effect settlement. [PP Abubacker v. Union[18]]

V. **Order 32A of CPC** lays down the provision relating to "suits relating to matters concerning the family". It was felt that ordinary judicial procedure is not ideally suited to the sensitive area of personal relationships. Litigations involving affairs of the family seem to require special approach in view of the serious emotional aspects involved. In these circumstances, the objective of family counseling as a method of achieving the object of preservation of family should be kept in forefront. Therefore, Order 32A seeks to highlight the need for adopting a different approach where matters concerning the family are at issue, including the need for effort to bring about amicable settlement.

The provisions of this Order applies to all proceedings relating to family, like guardianship, custody of minor, maintenance, wills, succession, etc., Rule 3 imposes a duty on the Court to make an effort of settlement by way of providing assistance where it is possible to do so. The Court may also adjourn the proceeding if it thinks fit, to enable an attempt to be made to effect a settlement where there is a reasonable possibility of settlement. In discharge of this duty Court may take assistance of welfare expert who is engaged in promoting the welfare of the family. [Rule 4] When the family dispute is essentially between family members, it would appropriate to refer the dispute to a LokAdalat. [Pushpa Suresh Bhutada v. SubhashMaheshwari[19]]

VI. Besides the above mentioned provisions, another important one, which I feel might be of significance is **Order 36 Rules 1-6**. According to this provision, courts have a duty and obligation to provide any opinion to the parties and must as far as possible, indulge and advocate a settlement or compromise. By this provision, parties enter into an agreement to get the opinion of the court and hence, court must go out of the way to make sure that issue is handled appropriately. Some Cases which I recommend you to look up are as follows;[Ramdhan Sinha v. Notified Area Authority, AIR 2001 Gau 149; Trustees & Co. v. Municipal Corp. 54, Bom 825; Saradindu v. Bhagobati, 10 CWN 835; Sayad v. Lakabhai, 23 B 752; Baxly Board v. WKMS Board, 9 QBD 518; Glargow Navigation Co. v. Iron Ore Co., 1910 AC 293; Minoo v. Manecj, AIR 1964 Mys 185]

6. important supreme court decisions to reduce litigation

With an intention to reduce litigation, the Supreme Court started issuing various directions so as to see that the public sector undertakings of the Central Govt. and their counterparts in the States should not fight their litigation in court by spending money on counsel, court fees, procedural expenses and waiting public time. (see Oil and Natural Gas Commission v. Collector of Central Excise, 1992 Supp2 SCC 432, Oil and Natural Gas Commission v. Collector of Central Excise, 1995 Supp4 SCC 541 and Chief Conservator of Forests v. Collector, (2003) 3 SCC 472).

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18. 1972 K 103,107
19. AIR 2002 Bom 126

In ONGC v. Collector of Central Excise[20], [ONGC I] there was a dispute between the public sector undertaking and GOI involving principles to be examined at the highest governmental level. Court held it should not be brought before the Court wasting public money any time. In ONGC v. Collector of Central Excise[21], (ONGC II) dispute was between government department and PSU. Report was submitted by cabinet secretary pursuant to SC order indicating that instructions have been issued to all depts. It was held that public undertaking were to resolve the disputes amicably by mutual consultation in or through good offices, empowered agencies of govt. or arbitration avoiding litigation. GOI directed to constitute a committee consisting of representatives of different depts. To monitor such disputes and to ensure that no litigation comes to court or tribunal without the Committee's prior examination and clearance, the order was directed to be communicated to every HC and all subordinate courts for information. In Chief Conservator of Forests v. Collector[22], ONGC I and II were relied on and it was said that state/union govt. must evolve a mechanism for resolving interdepartmental controversies- disputes between depts.

In Punjab & Sind Bank v. Allahabad Bank[23], it was held that the direction of the Supreme Court in ONGC III[24], to the govt. to set up committee to monitor disputes between government departments and public sector undertakings, make it clear that the machinery contemplated is only to ensure that no litigation comes to court without the parties having had an opportunity of conciliation before an in-house committee.

In the judgment of the Supreme Court of India in Salem Bar Association v. Union of India[25], the Supreme Court has requested for preparation of model rules for ADR and also draft rules of mediation under section 89(2) (d) of Code of Civil Procedure, 1908. The rule is framed as "Alternative Dispute Resolution and Mediation Rules, 2003".

"Rule 4 of the Alternative Dispute Resolution and Mediation Rules, 2003", lays down that the Court has to give guidance to parties (when parties are opting for any mode of ADR) by drawing their attention to the relevant factors which parties will have to take into account, before they exercise their opinion as to the particular mode of settlement, namely;

(i) it will be to the advantage of the parties, so far as time and expense are concerned, to opt for one of these modes of settlement rather than seek a trial on the disputes arising in the suit;

(ii) where there is no relation between the parties which requires to be presented it will be in the interests of the parties to seek reference of the matter to arbitration as envisaged in clause (1) of sub-section (1) of sec.89.

(iii) where there is a relationships between the parties which requires to be preserved, it will be in the interests of the parties to seek reference of the matter to conciliation or mediation, as envisaged in clauses (b) or (d) of sub-section (1) of sec.89. The Rule also says that disputes arising in matrimonial, maintenance and child custody matters shall, among others, be treated as cases where a relationship between the parties has to be preserved.

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20. 1992 Supp2 SCC 432
21. 1995 Supp4 SCC 541
22. (2003) 3 SCC 472
23. 2006(3) SCALE 557
24. (2004) 6 SCC 437
25. Para 65, (2005) 6 SCC 344

(iv) where parties are interested in a final settlement which may lead to a compromise, it will be in the interests of the parties to seek reference of the matter to judicial settlement including LokAdalat as envisaged in clause (c) of sub-section(1) of section 89.

According to Rule 8, the provisions of these Rules may be applied to proceedings before the Courts, including Family courts constituted under the Family Courts (66 of 1984), while dealing with matrimonial, and child custody disputes.

Shri M.C.Setalvad, former Attorney General of India has observed: *"….equality is the basis of all modern systems of jurisprudence and administration of justice… in so far as a person is unable to obtain access to a court of law for having his wrongs redressed or for defending himself against a criminal charge, justice becomes unequal …Unless some provision is made for assisting the poor men for the payment of Court fees and lawyer's fees and other incidental costs of litigation, he is denied equality in the opportunity to seek justice."*

7. Role of Judiciary in the Settlement Process

Having in detail enumerated the various provisions applicable to settlement, now I shall deal with the role of judges in this process, which is of great importance;

Judges who refer the cases for settlement through any of the ADR methods are known as referral judges. The role of a Referral Judge is of great significance in court-referred mediation. All cases are not suitable for mediation. Only appropriate cases which are suitable for mediation should be referred for mediation. Success of mediation will depend on the proper selection and reference of only suitable cases by referral judges.

Section 89 and Order X Rule 1A of Code of Civil Procedure, 1908 require the court to direct the parties to opt for any of the five modes of alternative dispute resolution and to refer the case for Arbitration, Conciliation, Judicial Settlement, LokAdalat or mediation. While making such reference the court shall take into account the option if any exercised by the parties and the suitability of the case for the particular ADR method. In the light of judicial pronouncements a referral judge is not required to formulate the terms of settlement or to make them available to the parties for their observations. The referral judge is required to acquaint himself with the facts of the case and the nature of the dispute between the parties and to make an objective assessment to the suitability of the case for reference to ADR.

The appropriate stage for considering reference to ADR processes in civil suits is after the completion of pleadings and before framing the issues. If for any reason, the court did not refer the case to ADR process before framing issues, nothing prevents the court from considering reference even at a later stage. However, considering the possibility of allegations and counter allegations vitiating the atmosphere and causing further strain on the relationship of the parties, in family disputes and matrimonial cases the ideal stage for mediation is immediately after service of notice on the respondent and before the filing of objections/written statements by the respondent. An order referring the dispute to ADR processes may be passed only in the presence of the parties and/or their authorized representatives.

Under section 89 CPC, consent of all the parties to the suit is necessary for referring the suit for arbitration where there is no pre-existing arbitration agreement between the parties. Similarly the court can refer the case for conciliation under section 89 CPC only with the consent of all the parties. However, in terms of Section 89 CPC and the judicial pronouncements, consent of the parties is not mandatory for referring a case for Mediation, LokAdalat or Judicial Settlement. The absence of consent for reference does not affect the voluntary nature of the mediation process as the parties still retain the freedom to agree or not to agree for settlement during mediation.

8. Conclusion

In my opinion, time has come when we have to introspect and think of a process, which can be developed whereby all kinds of litigations can be amicably settled at the bilateral levels by the parties themselves by providing some effective assistance with the help of some experts who can facilitate the parties to reach such an amicable settlement.

- In India, it is a harsh reality that people who can not afford litigation are not aware of free legal aid and therefore, are very cynical about judicial process. In my opinion, mediation and conciliation are the most suited methods for dispute settlement in India specially in rural areas where disputes can be resolved amicably. Therefore, more awareness should be created among the masses regarding ADR methods and their efficacy in resolving disputes through media etc.
- It is also noticed that rent and eviction matters constitute considerable amount of limitation till the Supreme Court. Therefore, as suggested by the Law Commission of India, adoption of alternative methods for resolving these disputes is the need of the hour which will also help in reducing the burden of judiciary.
- It has also been noticed that the despite having mediation and conciliation centres having set up at district courts, it is still not gaining momentum as envisaged for which infrastructure is to be blamed. There should be a neutral space for mediation or negotiation where disputes can be resolved amicably and the parties being satisfied with the outcome being in a win-win situation. Therefore, necessary personnel and infrastructure is required for which government has to play a very significant role with regard to funding.
- In my opinion, imparting of training should be made a part of continuing education on different facets of ADR so far as judicial officers and judges are concerned. Judicial officers must be trained to identify cases which would be suitable for taking recourse to a particular form of ADR.

If these suggestions are implemented in true sense, it will help in considerably reducing the load on the courts apart from providing justice at the door stop without substantial cost being involved. While concluding, it will be worthwhile to quote what the father of our Nation, Late Mohandas Karamchand Gandhi said as regards a settlement being made between the parties in any litigation, which is quoted as under:-

"My joy was boundless. I had learnt to find out the better side of human nature and to enter men's hearts. I realized that the true function of a lawyer was to unite parties driven as under. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby – not even money, certainly not my soul."

My endeavor is for the readers to ponder over the little ideas cited in this discussion and come out with more of their suggestions and ideas to improve the process of ADR working in our State/Country and make it a grand success. With these few words of wisdom, I wish you all nothing but the best.

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ORISSA STATE JUDICIAL ACADEMY
"NATIONAL SEMINAR"
ON
"ENHANCING JUDICIAL CAPABILITY"
(REVIEW ON RULES, PRACTICES AND TECHNOLOGY)

JUSTICE R. BANUMATHI

7.2.2015 & 8.2.2015

Inadequacy of the infrastructure, Judges strength at the subordinate as well as the High Court level being abysmally low, proliferation of litigation, unnecessary adjournments, huge pendency of the cases have always been the topic of discussion in many seminars. But, we must not allow ourselves to be overcome by a sense of despair because of the inadequacies of the system. Despite the inadequacies, . we will have to collectively find ways and endeavour a strong justice delivery system with speedy disposal of the cases.

To me, judicial capability does not only mean the ability to contain docket explosion. But it means Judge's competence and skill, efficient case management and court administration, well trained in computers, trained in Lok Adalat, Mediation and Conciliation, inclination to take the Bar alongwith, fairness to all stake holders, readiness to take up the responsibility and commitment to the Institution.

Having been a part of justice delivery system for about two decades and to some extent associated with the State Judicial Academy and also the National Judicial Academy and the continuing education for the Judges, I would like to make some suggestions for enhancing the judicial capability.

Each High Court has to have an 'Action Plan' in respect of the human resources. Recruitment of the Judicial Officers, promotion of the officers at various levels, recruitment of required staff, and recruitment of experts in computers in a time bound manner. The process for appointment/promotion in district and subordinate judiciary should commence sufficiently in advance so that, immediately on a promotion/recruitment the next incumbent is taken/appointed. Posting required number of Judicial Officers depending on the pendency in each district toning up the administration, scientific analysis of the data of pending cases, standardization of the performance appraisal of the Judicial Officers, endeavouring to enhance the level of competence of the Judicial Officers and also the members of Registry amongst others, are the key measures required to enhance the judicial capability.

With the unprecedented changes induced by technology and the globalization, all professionals are forced to re-think their methods of management and the delivery of service. In view of falling values in public life and it has affected on every institution of society. In the midst of mediocrity around us, we need to develop our level of competence. Competence or quality of service is a product of knowledge, attitude, values, skills and capability to apply them in the day-to-day work.

To render speedy and quality judgments, the Judicial Officers must thoroughly go through the day-to-day cases and must develop the constant habit of reading atleast three or four law journals. Information Technology should be utilized for seeking knowledge and improving oneself. The judgments of the higher courts are available on the internet and are located on the website of the Supreme Court/ High Courts and they can be accessed and seen. They should also equip themselves in other areas and gain knowledge in every branch of human knowledge. They need to keep "their silver lamp of learning trim and bright always. There is a need for equipping themselves not only for the present but also for the future. For instance, Civil Judges, Junior Division,though, may be dealing with only few categories of IPC offences and only suits and few other matters, they should equip themselves for the next level, develop the competence of dealing with the Civil Appeals, Sessions Cases, motor accident cases, matrimonial disputes etc. Likewise Civil Judges, Senior Division, ought to equip themselves for the next level of conducting sessions cases, commercial disputes, matrimonial disputes and other categories falling within the jurisdiction of the District Courts.

In this regard, the role of the State Judicial Academy is very important. The Judge must be imbibed with constitutional philosophy of equal justice and social justice. To be abreast with changing trends both socially and legally, a Judge has to be sensitive, responsive and receptive. The State Judicial Academy should motivate the Officers always to equip themselves and also develop the habit of constant reading and interaction. Many new emerging areas like the matrimonial adjudication, Domestic Violence Act, POSCO Act, commercial law litigations, development of competence on technology, access to the various law journals through websites, need to encourage arbitration and conciliation and such other relevant topics are to be selected for discussion and training in the Academy. The Judicial Academy should also motivate officers in the areas of communication, evidence gathering and their pro-active role under Section 165 of the Evidence Act, appreciation of evidence, art of writing good judgments, time and stress management skills etc. Much of these can be acquired through continued practice supported by the guided learning in the Academy. Continuing legal education is the best mechanism to learn the skill, particularly, in the context of the explosion in knowledge and technology. The staff members being part of the system their level of performance to be increased by organizing programmes at the district levels under the leadership of the District Judges and the staff members are to be equipped on basic procedural law, law of limitation, Court fees and other rules which are necessary for day-to-day functioning. Such programmes organized for staff members yielded very good results in the State of Tamil Nadu and Jharkhand. State Judicial Academy has to support the District programmes, both with the study materials and financially.

Insofar as enhancing the capability of officers individually, the officers must be able to manage their Board equally distributing the work through out all the working days of the month and not to overload themselves on a particular day and keep few other days light. It should be equally distributed. Delay in disposal of cases undermines the efficiency of the system. Each officer has to devise the ways and means to take stock of the pendency of cases and find out ways and means to bring them to a manageable limit.

In this regard, Principal District Judges are to play a pivotal role. As held by the Supreme Court in All India Judges' Case (AIR 1992 SC 164 at 174) , periodical meetings are to be convened by the Principal District Judge. In those meetings officers are to be impressed upon their collective responsibility in case management and speedy disposal of cases. In those meetings judicial officers are to be motivated for efficient functioning of the courts and Justice Delivery System. In such periodical meetings:-

- Take stock of the pendency of cases of each Court and ensure equal distribution of the work.
- Examine the reasons for pendency of old cases and impress upon the Officers in the district to concentrate upon old cases and senior citizen cases and part-head cases.
- Know about the requirements of each one Court rather than to rely upon the details furnished by the staff in the district.
- Collect statistics of cases regarding non-appearance of Investigating Officer and also reason for the delay in disposal of cases. The same has to be communicated to the Chief Judicial Magistrate who participates in the monthly meeting with the Superintendent of Police and other Police Officers.
- Impress upon the Officers about the effective implementation of ADR mechanism.

Monthly meetings would enable the District Judge to get first hand knowledge of the statistics and functioning of the Courts and requirements and it would enable the District Judge to deal with the issues. Such monthly meetings in the District would also enable the Judicial Officers to have interaction and such periodical interaction will enhance the judicial capability in the District as well as their collective responsibility in Justice Delivery System.

I would like to suggest that there should be freshness and ease in disposal of the cases. 2002 amendment in CPC provides time limit for different stages in a civil case. After the case has been heard as per Order XX Rule 1 CPC, the court shall pronounce the judgment at once in the open court or soon thereafter, as may be practicable. It is equally true for the criminal case. Section 353 Cr.P.C. makes it obligatory for the court to pronounce the judgment immediately. Human mind is like a torch and light is focus sed only in a limited area. Whenever the officers reserve any matter, they must try to deliver the judgment within a day or two or soon thereafter as may be practicable. This makes the officer confident in recollecting the facts and evidence which is afresh in the mind in rendering a quality judgment apart from ensuring quick disposal of cases.

All the High Courts have the fixed units/norms/grades of performance. Some of the officers are in the habit of disposing of cases only to satisfy the grades/norms/units. Hardly very few officers thrive to dispose of more cases higher than the units fixed. Zonal Judges and Principal District Judges are to motivate the judicial officers in their district to handle and dispose of more cases higher than the norms/ units. High Court is vested with the power to see that the high traditions and standards of judiciary are maintained. The control of the High Court over the subordinate judiciary should be in such a manner to encourage officers with honesty and integrity and good performance. At the same time to deal with the officers lacking integrity with stern hand. Inspection by the High Court and by the District Judges must be scientific and rationalized. Obsolete methods of inspection are to be reviewed and revised.

Annual inspection is, in a way assessment of the work done and its quality which substantially enhances the capability of the officer. Annual inspection by the unit head is expected to provide creative measures and not fault finding. Subordinate judiciary is to be encouraged and that inspection should act as guidelines (AIR 1999 SC 1677 High Court of Punjab and Haryana vs. Ishwar Chand Jain And Anr.) .

In the 'Times of India' newspaper dated January 17, 2015 World Bank suggestions were reported. For 'Ease of doing business' India was ranked as 142 among 189 countries last year. Interestingly, World Bank has suggested that there was an urgent need for reform in the system of performance appraisal of the judicial officers in the country to bring out uniformity smd objectivity and standardization without judicial reforms and enhancing the capability of the judicial officers, the developed agenda in the country cannot be carried forward. The World Bank cited an example from Malaysia - where implementation of a reform index for judges improved, when connected with disposal rates and reduced backlog by 50% in less than three years. Another example was also cited from the United Arab Emirates where rewards were instituted for the best performers.

There is a need to set high standards. A judicial officer should benchmark himself against the best in all their pursuits. Time has now come for us to focus more on implementation and making it work. What is needed is time-bound implementation of the measures. Let us make every one at all levels responsible for enhancing judicial capability and the delivery of administration of justice.

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RIGHTS OF THE ACCUSED UNDER THE CONSTITUTION OF INDIA

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Ancient India was not aware of concept of equal justice. It is revealed from the history that the King was empowered by Manus' smriti to administer justice without minding his wimps empowering on the religion. Manusmriti says that the sanctity of administration of justice in social economic and political aspect has to be preserved and developed. In ancient India, Hindus were administered by Hindu law in deciding Civil and religions of which the parties were Hindus. In the medieval period, the King was required to administered Islamic law in deciding in all cases irrespective of religion of parties to the suit. In the modern period, the framers of the constitution of India keeping in mind, the well being of the citizens of India have enshrined certain fundamental rights under Chapter III of the constitution and also conferred certain rights to be enjoyed by the citizens under the directive principles of State policies under Chapter IV of the constitution.

Each citizen of India is cautioned not to infringe the right of others guaranteed by the constitution and thus violation of individual rights makes the violator liable for penalties as per the procedure established by law. Therefore, the perpetrators of crime are subjected to punishment under procedure established by law. However, the right to equality of the wrong doers is guaranteed under Article 14 of the constitution. They are also protected so far as their arrest, detention in custody, free and fair trial, punishment proportionate to the crime committed by them and their lives and personal liberty are concerned under Articles 20, 21 and 22 of the constitution.

It is experienced in due course of time that the rights guaranteed under the constitution are availed of the wrong doer who are capable of affording for justice. Therefore, the cry for equal justice and free legal aid to the accused persons under Article 14, 21 and Article 39-A of the constitution are ensured due to intervention of the Hon'ble Apex Court in various judicial pronouncements. The poor and downtrodden people were deprived of enjoying their rights due to their ignorance, illiteracy and poverty. In such a situation, the Hon'ble Apex Court opened the flood gate for the State to enact law in order to ensure the right of access to justice for the poor accused who was not able to knock the door of the justice owing to his poverty. Further, the illiterate accused who was not aware of his rights was awakened and necessary assistance was provided to him to ensure and enforce his constitutional rights. Thus, the person who has committed any wrong and has become an accused has enjoyed various rights under the constitution such as:

1) ***Right of the accused to protest against custodial violence during arrest and detention and right of the accused to defend himself by engaging lawyer of his choice***
2) ***Right to speedy as well as free and fair trial***
3) ***Right of access to justice and free legal aid***
4) ***Right to guard against self incrimination***
5) ***Right to protection in respect of conviction and right against double jeopardy***
6) ***Right to just and humane condition of works***

RIGHT OF THE ACCUSED TO PROTEST AGAINST CUSTODIAL VIOLENCE DURING ARREST AND DETENTION AND RIGHT OF THE ACCUSED TO DEFEND HIMSELF BY ENGAGING A LAWYER OF HIS CHOICE :

According to Article 22(1) of the constitution no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by, a legal practitioner of his choice. In order to ensure the above right of the accused Sec. 50 of the Code of Criminal Procedure has been amended and a new provision under sec. 50-A has been incorporated in the Code of Criminal Procedure (Amendment Act), 2005 w.e.f. 23.06.2006. In this connection, the dictum expressed by Their Lordships in the case of ***D.K. Basu Vrs. State of West Bengal*** reported in ***AIR 1997 SC 610*** has widened the right of the accused against custodial violence and the arresting officer was assigned with the duty to give information regarding the arrest of the accused, the place and time of arrest to any of the friends, relatives of the accused or such other person as nominated by the accused. Further, the arresting officer has to inform the accused about his right as soon as he is brought to the police station. Moreover, the person to whom information regarding arrest of the accused has to be given is required to be entered in the book to be kept in the police station. In order to ensure that the accused is not subjected to torture by the arresting officer, provision has been made for examination of the accused by a registered medical practitioner. Therefore, the right of the accused with regard to protection against custodial violence during his arrest has been ensured by the judicial pronouncement of the Apex Court. Further, the right of the accused to be released on bail or by bailable offences on his personal bond is guaranteed under Article 21 of the constitution. Moreover, the right of the accused to be defended by a legal practitioner of his choice has been ensured under Article 22(1) of the constitution.

Even though such right was not provided to a person detained under the law relating to preventive detention under Article 22(3) of the constitution yet in the case of ***Francis Coralie Mullin Vrs. Union Territory of Delhi*** reported in ***AIR 1981 SC 746***, the Hon'ble Apex Court has held that the detenue under the preventive detention law has the right to consult a legal counsel of his choice and accordingly his right of legal aid was established in the aforesaid case by relying on the view taken in the case of ***Madhab Hayawadanrao Hosket Vrs. State of Maharashtra*** reported in ***AIR 1978 SC 1548.***

RIGHT TO SPEEDY AS WELL AS FREE AND FAIR TRIAL:

Speedy trial is the essence of criminal justice and, therefore delay in trial by itself constitute delay of justice. Though speedy trial is not specifically enumerated as a fundamental right, it is implicit in the broad sweep and content of Article 21. Speedy trial which means reasonably expeditious trial, is an integral part of the fundamental right to life and liberty enshrined in Article 21. A person cannot be deprived of his life and liberty except in accordance with the provision prescribed by law and it is not enough to constitute compliance with requirement of that Article, there some semblance of procedure should be prescribed by law, but that procedure should be "reasonable, fair and just". If a person is deprived of his liberty under a procedure which is not 'reasonable, fair and just' such deprivation would be violative of fundamental right under Article 21 and he would be entitled to enforce such fundamental right and secure his release. This view is expressed in the case of ***Hussainara Khatoon and others Vrs. Home Secretary, State of Bihar, Govt. of Bihar, Patna*** reported in ***AIR 1979 SC 1360*** relying on the decision rendered in the case of ***Menaka Gandhi Vrs. Union of India (1978) 2 SCR 621***. In the case of ***Hussainara Khatoon (supra)*** right to bail and speedy trial were considered as fundamental rights of an accused guaranteed under Article 21 of the Constitution. Further, in the case of ***Hussainara Khatoon and others (supra)*** guidelines are given for release of poor accused persons who are unable to afford sureties due to financial problems on executing their personal bonds on the basis of information placed before it with the accused as his roots in the community, and are not likely to abscond. The Hon'ble Apex court has further observed :- To determine whether the accused as his roots in the community which would deter

him from fleeing, the court should take into account the following factor concerning the accused :

1) The length of his residence in the community
2) His employment status, history and his financial condition
3) His family ties and relationships
4) His reputation, character and monetary condition
5) His prior criminal record including any record or prior release on recognizance or on bail
6) The identity of responsible members of the community who would vouch for his reliability
7) The nature of the offence charged and the apparent probability of conviction and the likely sentence in so far as these factors are relevant to the risk of non-appearance, and
8) Any other factors indicating the ties of the accused to the community or bearing on the risk of wilful failure to appear".

Therefore, the judicial pronouncements of the Hon'ble Apex Court in the case of ***Menaka Gandhi (supra)*** and ***Hussainara Khatoon and others (supra)*** have not only given guidelines for speedy trial but also pave the way for the accused to be released on bail and in case of poor accused on his personal bond. This is a mile stone in achieving the aim of the constitution to protect the fundamental right of the accused guaranteed by constitution under Article 21. Further, in the case of ***Menaka Gandhi (supra)*** it is held that the law enacted by the Legislature and administered by the court is intended not only to guard against pre-trial detention of the accused but also to change its approach in order to ensure the reasonable, just and fair trial for the accused.

RIGHT OF ACCESS TO JUSTICE AND FREE LEGAL AID:

Even though directions were given to the State authorities and to the court to protect the fundamental rights of the accused guaranteed under Article 21 of the constitution, yet flagrant violation of such rights were reported before the Hon'ble Apex court and those allegations contained in the writ petitions were heard and disposed of by the Hon'ble Apex Court in the case of ***Khatri and others Vrs. State of Bihar and others*** reported in ***AIR 1981 SC 928***. In the said decision, the Hon'ble Apex court has not only cautioned the State Govt. to pay compensation to the accused person who lost their vision but also directed the courts to provide lawyer to the accused as a matter of his right under Article 21 of the constitution. In the case of ***Khatri and others(supra)***, the Hob'ble Apex Court took note of the police atrocity reaching its culmination and there was execution of brutality by the police and jail authorities as a result of which many accused persons lost their vision and the State denied them their right of compensation and right of access to justice for which there was intervention from the judiciary and direction was given by the Hon'ble Apex Court for strict compliance of the requirement of Article 21 of the constitution. It was held in that decided case that "the State is under a constitutional obligation to provide free legal service to an indigent accused not only at the stage of trial but also at the stage when he is first produced before the Magistrate as also when he is remanded from time to time".

RIGHT TO GUARD AGAINST SELF INCRIMINATION

Under Article 20(3) of the constitution no person accused of any offence shall be compelled to be a witness against himself. This right of the accused has been ensured by the enactment of different provisions such as under sec. 313 and 315 of the Code of Criminal Procedure. As per sec. 313(3) of the Code of Criminal Procedure, the accused shall not render himself liable to punishment by refusing to answer any question or by giving false answer to the questions put by the court during enquiry or trial. Under sec. 315 proviso (a) and (b) the accused cannot be called as a witness except on his own request

in writing. Further, his failure to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against him or any person charged together with him at the same trial.

RIGHT TO PROTECTION IN RESPECT OF CONVICTION AND RIGHT AGAINST DOUBLE JEOPARDY:

Under Article 20 of the constitution no person shall be convicted of any offence except for violation of any law in force at the time of commission of the offence of the act charged as offence, nor be subjected to a penalty greater than that which might have been inflicted under law in force at the time of commission of the offence. Similarly, under Article 20(2) no person shall be prosecuted and punished for the same offence more than once. Therefore, constitution of India safeguards the right of the accused for trial and punishment for the same offence only for once and punishment for the offence committed by him under the law in force at the time of commission of such offence.

RIGHT TO JUST AND HUMANE CONDITION OF WORKS

The accused persons are provided with just and humane condition during the period of their detention in custody because by the time of their detention their right to locomotion is restricted without restricting all other rights guaranteed by the constitution.

In order to ensure all the rights given to the accused under constitution it is highly essential to provide necessary legal assistance to the poor and needy accused who are unable to protect their constitutional rights. The Hon'ble Apex Court in the case of ***Khatri (supra)*** has held that it was not necessary that the accused must ask for legal assistance. Even though there is no such demand, such aid must be made available. Further, the Hon'ble Supreme Court imposed duty upon the trial court to tell the accused about his right. The Hon'ble Supreme Court viewed that the Magistrate or Sessions Judge before whom the accused is produced must inform him about his right to counsel for his defence. The above settled principle are also reiterated in the case of ***Suk Das Vrs. Union Territory of Arunachal Pradesh, AIR 1986 SC 991***.

Thus, from the aforesaid analysis it is concluded that constitution of India has provided maximum safeguard to protect the rights of the accused persons. All endeavors are being made by the courts of law to ensure the rights of the accused persons guaranteed by the constitution. But the right to speedy trial is hindered due to various factors such as increase in number of criminal cases which are disproportionate to the number of law courts existing in India, non-availability of witnesses during trial and non co-operation of the accused owing to his personal problems. But to ensure speedy trial, the right of the accused for fair trial should not be sacrificed. Therefore, the only solution is to expedite the trial of the accused by taking appropriate measures and to ensure the right of the accused to be released either on bail or on executing his own bond without surety and to guard against his self incrimination. Further, it is the duty of the court to inform the accused about his right to defend himself by a lawyer of his choice at the first instance if he is unable to defend himself due to poverty or ignorance.

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Adverse Possession
- Proposition of Bad-faith and Good-faith

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Introduction : - Adverse possession is a right exercised by a person over a specific immoveable property of which he is not the real owner and continues to do so openly and peacefully with a hostile animus against the true owner far more than the statutory period.The Common-law doctrine of adverse possession has been statutorily recognized by the Limitation Act vide Article 65 read with section 27 of the said Act.

A long standing controversy in the mind of jurists as to whether a person can claim ownership in landed property held by him adversely to the knowledge of the true owner appears to have been set at rest by the decision of the Supreme Court in the case of Gurudwara Sahib vs Gram Panchayat Village Sirthala & Ors(Bench: K.S. Radhakrishnan, A.K. Sikri) reported in 2013 (11) SCALE 564, wherein it has been very clearly declared "Even if the plaintiff is found to be in adverse possession, it cannot seek a declaration to the effect that such adverse possession has matured into ownership. Only if proceedings filed against the appellant and appellant is arrayed as defendant that it can use this adverse possession as a shield/defence" - Para 7) The Hon'ble Court further clarified that though the suit of the appellant (plaintiff) seeking relief of declaration has been dismissed, in case respondents (defendants) file suit for possession and/or ejectment of the appellant, it would be open to the appellant to plead in defence that he (appellant) had become the owner of property by adverse possession.(Para 9)

The above view of the Apex court recognizes the theory that "Adverse possession" can only be used by defendant as a shield when a suit is filed by the true owner to evict him from a specific immovable property under his possession and not as a sword to claim title against him. A person in adverse possession can protect his possession in respect of the land on which he has exercised his such right for more than statutory period of limitation (12 years in case of private land and 30 years in case of Government land) continuously, openly and peacefully within the knowledge of the true owner and adversely against his interest. It may be mentioned here that there is no direct provision regarding acquisition of title by way of adverse possession. It is only the Courts who by interpretation of the provision of article 65 and section 27 of the Limitation Act derived such proposition. The article 65 of the Act prescribes 12 years limitation for filing a suit for possession by a person having title to a land but who is not in possession and the said period would commence from the day the defendant's possession becomes adverse. The section 27 of the Act declares - "At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished."

The Law therefore specifically provides for extinguishment of title of a person and not creation or transfer of title in favour of another. However in Amrendra Pratap Singh vs Tej Bahadur Prajapati & Ors, (Bench: R.C. Lahoti, Ashok Bhan) reported in (2004) 10 SCC 65 it was observed - "The process of

acquisition of title by adverse possession springs into action essentially by default or inaction of the owner. A person, though having no right to enter into possession of the property of someone else, does so and continues in possession setting up title in himself and adversely to the title of the owner, commences prescribing title into himself and such prescription having continued for a period of 12 years, he acquires title not on his own but on account of the default or inaction on part of the real owner, which stretched over a period of 12 years results into extinguishing of the latter's title. It is that extinguished title of the real owner which comes to vest in the wrongdoer." In the said judgment it is also observed that adverse possession operates on an alienable right. The right stands alienated by operation of law, for it was capable of being alienated voluntarily and is sought to be recognized by doctrine of adverse possession as having been alienated involuntarily, by default and inaction on the part of the rightful claimant, who knows actually or constructively of the wrongful acts of the competitor and yet sits idle. Such inaction or default in taking care of one's own rights over property is also capable of being called a manner of 'dealing' with one's property which results in extinguishing one's title in property and vesting the same in the wrong doer in possession of property and thus amounts to 'transfer of immovable property' in the wider sense assignable in the context of social welfare legislation enacted with the object of protecting a weaker section.

In P. T. Munichikkanna Reddy & Others v. Revamma & Others (Bench: S.B. Sinha, Markandey Katju) reported in (2007) 6 SCC 59] the court observed "Adverse possession in one sense is based on the theory or presumption that the owner has abandoned the property to the adverse possessor on the acquiescence of the owner to the hostile acts and claims of the person in possession. ..... As against rights of the paper-owner, in the context of adverse possession, there evolves a set of competing rights in favour of the adverse possessor who has, for a long period of time, cared for the land, developed it, as against the owner of the property who has ignored the property. Modern statutes of limitation operate, as a rule, not only to cut off one's right to bring an action for the recovery of property that has been in the adverse possession of another for a specified time, but also to vest the possessor with title".

On a close analysis of the observation of the Hon'ble Apex Court in the above three Two Judges Bench decisions one may confuse regarding the acceptable principle in dealing with a case on the question regarding acquisition of title by way of adverse possession. Since in the latest decision (Gurudwara Sahib case) the above two decisions of co-equal bench were not referred, one may also think of whether the doctrine of "per-inquiriam" would come into picture in applying the ratio in individual cases. In this context it would be profitable to refer to a three Judges bench decision of the Apex court in the case of Parsinni (Dead) By Lrs. And Ors. vs Sukhi And Ors. Reported in (1993) 4 SCC 375, (Bench: K Singh, M Punchhi, K Ramaswamy) in which the the finding of the trial court that the defendants have perfected their title to the suit land by prescription was upheld.

Let us now deal with the concern of the Supreme court on the point of adverse possession in the following two decisions.

In Hemaji Waghaji Jat vs Bhikhabhai Khengarbhai Harijan & Ors.. (Bench: Dalveer Bhandari, Harjit Singh Bedi) decided on 23 September, 2008 the Hon'ble Supreme Court of India for the first time questioned

the long tradition of judicial and legal recognition of title by adverse possession in the following terms -".. we deem it appropriate to observe that the law of adverse possession which ousts an owner on the basis of inaction within limitation is irrational, illogical and wholly disproportionate. The law as it exists is extremely harsh for the true owner and a windfall for a dishonest person who had illegally taken possession of the property of the true owner. The law ought not to benefit a person who in a clandestine manner takes possession of the property of the owner in contravention of law. This in substance would mean that the law gives seal of approval to the illegal action or activities of a rank trespasser or who had wrongfully taken possession of the property of the true owner (Pr. 34)... We fail to comprehend why the law should place premium on dishonesty by legitimizing possession of a rank trespasser and compelling the owner to loose its possession only because of his inaction in taking back the possession within limitation (Pr. 35)... In our considered view, there is an urgent need of fresh look regarding the law on adverse possession. We recommend the Union of India to seriously consider and make suitable changes in the law of adverse possession. A copy of this judgment be sent to the Secretary, Ministry of Law and Justice, Department of Legal Affairs, Government of India for taking appropriate steps in accordance with law (Pr.36)."

Subsequently in State Of Haryana vs Mukesh Kumar & Ors decided on 30 September, 2011 (Bench: Dalveer Bhandari, Deepak Verma) the Hon'ble Court came up heavily upon the Police Department of the State of Haryana which they felt to be anxious and keen to grab the property of the defendants in a clandestine manner on the plea of adverse possession. The Hon'ble Court observed that the doctrine of adverse possession has troubled a great many legal minds. "Adverse possession allows a trespasser - a person guilty of a tort, or even a crime, in the eyes of law - to gain legal title to land which he has illegally possessed for 12 years. How 12 years of illegality can suddenly be converted to legal title is, logically and morally speaking, baffling. This outmoded law essentially asks the judiciary to place its stamp of approval upon conduct that the ordinary Indian citizen would find reprehensible."

It was further observed -" The Parliament must seriously consider at least to abolish "bad faith" adverse possession, i.e., adverse possession achieved through intentional trespassing. While it may be indefensible to require all adverse possessors - some of whom may be poor - to pay market rates for the land they possess, perhaps some lesser amount would be realistic in most of the cases. The Parliament may either fix a set range of rates or to leave it to the judiciary with the option of choosing from within a set range of rates so as to tailor the compensation to the equities of a given case".

The Hon'ble Court went on to suggest -"If this law is to be retained, according to the wisdom of the Parliament, then at least the law must require those who adversely possess land to compensate title owners according to the prevalent market rate of the land or property in question. This alternative would provide some semblance of justice to those who have done nothing other than sitting on their rights for the statutory period, while allowing the adverse possessor to remain on property."....(Para 42) ... There is an urgent need for a fresh look of the entire law on adverse possession. We recommend the Union of India to immediately consider and seriously deliberate either abolition of the law of adverse possession and in the alternate to make suitable amendments in the law of adverse possession. A copy of this

judgment be sent to the Secretary, Ministry of Law and Justice, Department of Legal Affairs, Government of India for taking appropriate steps in accordance with law." (Para 51)

On a careful scrutiny of the decisions cited above it may be conceived that the claim of adverse possession needs be examined under the principles of Good faith and Bad faith. In case of good-faith adverse possession, the real owner gets compensation/ consideration for parting with possession of his land though the transfer may not be valid and thereby has no grievance against the possessor. In the case of bad-faith adverse possession however, the trespasser by force enters upon the land of another and acquires right therein but the innocent real owner prefers to remain calm feeling safe to loose his property rather than to protest and put his life at risk. He even prefers not to approach the legal forum within statutory period of limitation apprehending pecuniary loss in legal battle which in every possibility may go against him. It is of personal experience of many legal professionals that the unscrupulous people in order to avoid payment of stamp duty on registration adopt the tactics of filing collusive suits either as plaintiff or defendant seeking declaration or recognition of their title by way of adverse possession.

Conclusion : - It is high time that the Central Government should comply the suggestion of the Hon'ble Supreme Court and bring suitable amendment in law by at least abolishing the Bad-faith probability in adverse possession and making provision for compensation to the real owner at the cost of the adverse possessor. Besides all findings of courts and consequent decrees regarding acquisition of title by way of adverse possession should be made compulsorily registrable so as to confer title in respect of the concerned land upon the possessor. In a democratic set up the legislature must try to satisfy the will of the People. When Courts and intellectual people in the entire Globe have considered the right to property as a Human Right, the old concept of encouraging the practice of acquisition of title by adverse possession by land grabbers should be given a go-bye with suitable legislation.

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Photographs taken during National Seminar on "ENHANCING JUDICIAL CAPABILITY" on 7th & 8th February 2015 at Odisha Judicial Academy

Hon'ble Mr. Justice Dipak Misra, Judge Supreme Court of India, offering flower at the statue of Mahatma Gandhi.

Hon'ble Mrs. Justice R. Banumathi, Judge, Supreme Court of India, offering flower at the statue of Mahatma Gandhi.

Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Judge, Supreme Court of India offering flower at the statue of Mahatma Gandhi.

Hon'ble Mr. Justice Dipak Misra, Judge Supreme Court of India, Welcomed by Hon'ble Mr. Justice Amitava Roy, Chief Justice, Orissa High Court & Patron-in-Chief, Odisha Judicial Academy.

Hon'ble Mr. Justice Dipak Misra, Judge Supreme Court of India, lighting the lamp in presence of Hon'ble Judges and inaugurating the National Seminar.

Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Hon'ble Mr. Justice Dipak Misra, Hon'ble Mrs. Justice R. Banumathi & Hon'ble Mr. Justice Pradeep Mohanty on the dias.

Hon'ble Mr. Justice Sujoy Paul, Judge, MP High Court addressing the participants.

Hon'ble Mr. Justice B.K. Nayak, Judge, Orissa High Court addressing the participants.

Hon'ble Mr. Justice S.K. Sahoo, Judge, Orissa High Court addressing the participants.

Hon'ble Mr. Justice V. Dhanpalan, Judge, Madras High Court addressing the participants.

Hon'ble Mrs. Justice R. Banumathi, Judge, Supreme Court of India addressing the participants.

Hon'ble Mr. Justice V.M. Kanade, Judge, Bombay High Court addressing the participants.

Hon'ble Mr. Justice Ravi R. Tripathy, Judge, Gujarat High Court addressing the participants.

Hon'ble Mr. Justice Pradeep Nandrajog, Judge, Delhi High Court addressing the participants.

Hon'ble Mr. Justice I. Mahanty, Judge, Orissa High Court & Chairperson, Odisha Judicial Academy addressing the participants.

Hon'ble Mr. Justice N. Kotiswar Singh, Judge, High Court of Manipur addressing the participants.

Hon'ble Mr. Justice T.P.S. Mann, Judge, Punjab & Haryana High Court addressing the participants.

Hon'ble Mr. Justice S.C.Parija, Judge, Orissa High Court and member, Odisha Judicial Academy addressing the participants.

Hon'ble Mr. Justice K. T. Sankaran, Judge, Kerala High Court addressing the participants.

Hon'ble Mr. Justice Debabrata Dash, Judge, Orissa High Court addressing the participants.

Hon'ble Mr. Justice B.P. Ray, Judge, Orissa High Court addressing the participants.

Hon'ble Mr. Justice P.K. Saikia, Judge, Gauhati High Court addressing the participants.

Hon'ble Mr. Justice Amitava Roy, Chief Justice, Orissa High Court and Patron-in-Chief, Odisha Judicial Academy addressing the participants in the National Seminar.

Hon'ble Kumari Justice Sanju Panda, Judge, Orissa High Court & Member, Odisha Judicial Academy, Presenting Memento to Hon'ble Mrs. Justice R. Banumathi, Judge, Supreme Court of India.

Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Judge, Supreme Court of India, addressing the participants.

Hon'ble Mr. Justice S.K. Mishra, Judge, Orissa High Court & Member, Odisha Judicial Academy addressing the participants.

Hon'ble Mr. Justice I. Mahanty, Judge, Orissa High Court & Chairperson, OJA addressing the participants at the end of National Seminar on 8th Feb. 2015.

Hon'ble Mr. Justice Dipak Misra, Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Hon'ble Mrs. Justice R. Banumathi & Hon'ble Kumari Justice Sanju Panda in the Lounge of OJA.

Hon'ble Mr. Justice Navin Sinha, Chief Justice, Chhatisgarh High Court addressing the participants.

Hon'ble Judges witnessing Cultural Programme

Hon'ble Mr. Justice Dipak Misra & Hon'ble Mrs. Justice R. Banumathi with Hon'ble Judges of other High Courts witnessing the cultural programme at the OJA Ampitheatre.

Hon'ble Judges of the High Court of Orissa witnessing the Cultural Programme at the Ampitheatre of OJA.

Hon'ble Judges having Mahaprasad of Lord Jagannath.

Artists of the Cultural Programme with Judges & other dignitaries

Hon'ble Mr. Justice Amitava Roy, Chief Justice, Orissa High Court, Patron-in-Chief, Odisha Judicial Academy addressing the Judicial Officers (2012 Batch) in Valedictory Ceremony on 22nd Feb. 2015.

Hon'ble Mr. Justice P.K. Mohanty, Acting Chief Justice administrating oath to the newly recruited Judicial Officers on dt. 09.03.2015.

Hon'ble Mr. Justice Indrajit Mahanty, Judge, Orissa High Court and Chairperson of OJA addressing Judicial Officers (2012 Batch) on complete of their probation.

Newly recruited Judicial Officers on probation (2014 Batch) in their oath taking ceremony dt 09.03.2015.

Judicial Officers (2012 Batch) in the valedictory Ceremony.

Judicial Officers on probation (2014 Batch) after taking oath in the High Court of Orissa.

PHOTOGRAPHS TAKEN ON 28TH APRIL 2015 ON THE OCCASION OF UNVEILING OF THE STATUE OF UTKAL GOURAV MADHUSUDAN DAS IN OJA CAMPUS

Hon'ble Justice Mr. Vinod Prasad & Hon'ble Justice Kumari Sanju Panda on the occasion of Unveiling the Statue of Utkal Gaurav Madhusudan Das in the campus of OJA on dt. 28.04.2015.

Hon'ble Judges of Orissa High Court present in the Academy on the eve of Unveiling the Statue of Utkal Gaurav Madhusudan Das in the campus of OJA on dt.28.04.2015.

Hon'ble Kumari Justice Sanju Panda, Member OJA Training Committee with the Trainee Judicial Officers (2014 Batch) near the Statue of Utkal Gaurav Madhusudan Das.

Hon'ble Judges of Orissa High Court and others near the Statue of Utkal Gaurav Madhusudan Das.

PHOTOGRAPHS OF REFRESHER PROGRAMME DURING DISTRICT JUDGES & COURT MANAGERS ON 11TH JUNE 2015





PHOTOGRAPHS OF THE WORKSHOP ON PCPNDT ACT IN OJA ON 20TH JUNE 2015