

Session 5 Judging Skills: Art, Craft & Science of Drafting Judgments

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Writing judgments is difficult
across jurisdictions

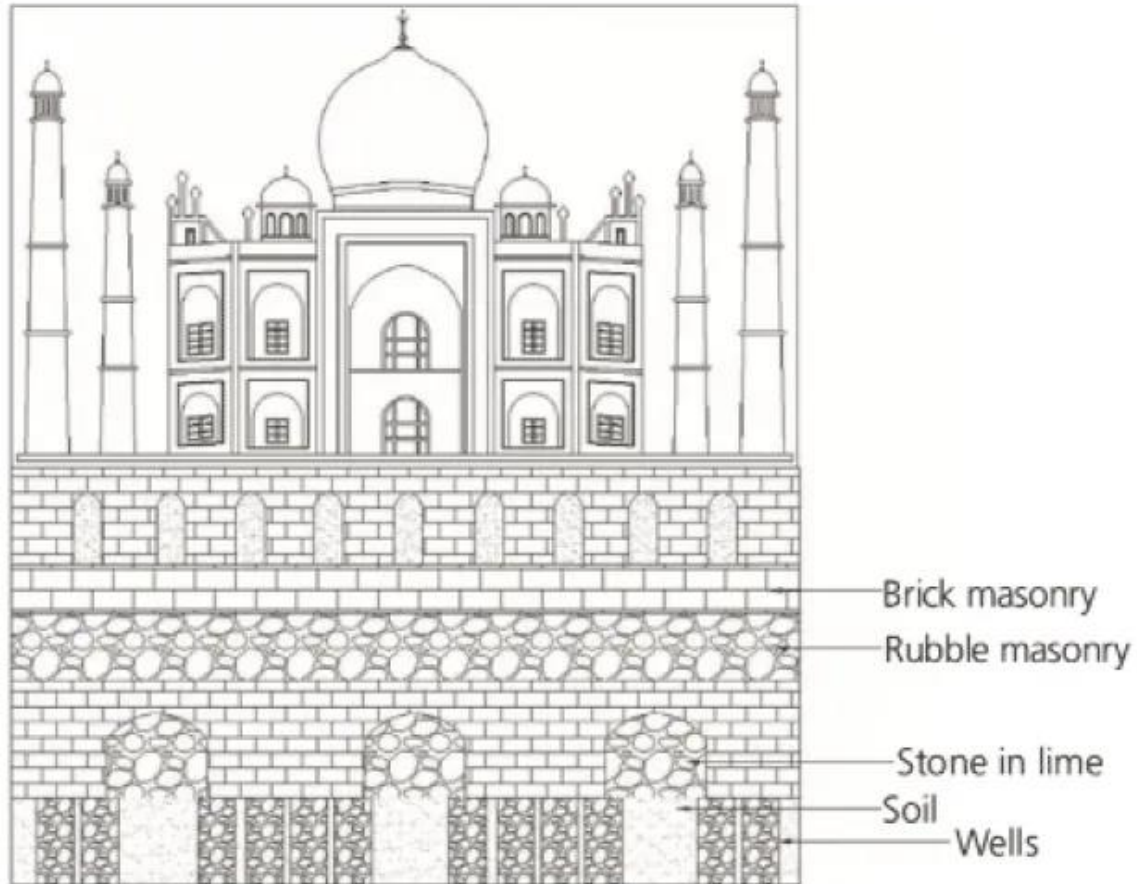
Your judgment is important

- Do not underestimate the importance of the judgments of the District Judiciary

Taj Mahal



Taj Mahal Foundations



Your Aim

- to deliver judgments of high quality on a consistent basis

Writing Judgments: psychological and technical aspects

- Psychological: diffidence, doubts, lack of self-confidence, procrastination
- Consequences: delay in delivery of judgment, last moment effort, spelling mistakes, typos, shortcuts in reasoning
- an overall shabby output

What do I do?

- Do not wait for motivation or inspiration to write judgments. Take action first. Motivation will follow action.
- The five second rule and the five minute rule
- Focus on the process. Forget the output. The process will ensure that your output is of very good quality

Three basics features of every good judgment

- BSc for judgments
- BSc stands for:
 - ✓ Brevity,
 - ✓ Simplicity and
 - ✓ Clarity

Writing for whom?

- For whom are you writing your judgment?
Who is the audience for your judgment? It is important to identify this first. The content of your judgment will depend on its audience

Wrong reasons to write a judgment

- to show your legal knowledge, language skills, Knowledge of literature
- to impress the higher judiciary
- to get your name in the newspapers

Writing judgments: before and during the hearing

- Identify difficult cases
- Plan your activities
- Start writing your judgment early
- Write down your notes ; cross reference pleadings, exhibits and depositions as the trial progresses
- Issue -wise notes
- Create a table for issues or points for determination
- Take help from the advocates; ask questions

Writing judgments: after the hearing

- Set a schedule with timeframes and stick to it
- Gather together your notes and other all the papers necessary for you to write your judgment.
- Set aside sufficient undisturbed time on a daily basis to write your judgment
- Take periodic breaks. Do not work at a stretch.
- Complete the first draft of your judgment

Framework of a judgment

Write down a framework for your judgment

- Technical aspects (name of the court, case number, parties, provision of law)
- Introduction
- body of the judgment (detailed reasoning and analysis)
- operative portion (your disposition, the final result)

Framework of a judgment contd.

- Introduction: be brief in your introduction. Deal with each party's case seamlessly. Do not reproduce the charge sheet or the pleadings in a civil matter do not write on contested issues in your introduction. Give an example where the time of the crime is contested
- Body of the judgment: start with the issues and address each issue in detail reproducing arguments of counsel is not recommended. This results in duplication.
- Operative portion: need for clarity

Re-write your judgment

- Re-write your first draft;
- Re-write your second draft;
- Take a printout of your third draft and proof read for typographical errors. Keep aside the corrected third draft for at least 24 hours
- Attack your fourth draft as the losing side's lawyer in the appellate court
- The fifth revision will be your final version for release
- Hard writing: easy reading
- Easy writing: hard reading

Improvement is a never ending journey

- Improve yourself every year and over the years
- Take your best judgment of 2021. Keep it aside
- When 2022 is over, take your best judgment of 2022. Compare this with you 2021 judgment. There must be an improvement