National Judicial Academy

Orientation Programme for Newly Appointed District Judges
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The National Judicial Academy (NJA) organized a two-day **Orientation Programme for Newly Appointed District Judges** on **12 – 13 September**, at **NJA, Bhopal.** The participants were newly appointed district judges nominated by the respective High Courts. The orientation programme aimed to discuss the role of district court in the administration of justice focussing on key areas including bar and bench relations, inspection of courts and improving capacity building of staff. The orientation programme also focused on key areas in appellate powers of district judges in civil justice administration and criminal justice administration. The programme involved deliberations on interlocutory and final reliefs in civil law including injunction and enforcement of contracts.

Session 1: Role of District Court in Administration of Justice

The session commenced with issues related to planning in judiciary and various aspects of planning for ICT enablement of the judiciary were discussed. The background of introducing technology in courts was discussed and Phase I of the E-Court Project was explained. The initiation of the National Court Management System (NCMS) and National Framework for Court Excellence was highlighted and details regarding the initial planning in this regard was discussed with participants. The discussion then focussed on court room decorum and the conduct of judges expected by other stakeholders of the justice delivery system. It was stated that other stakeholders of the justice delivery system respond according to decorum, discipline and punctuality maintained by the presiding judge in the court. The judge is expected to be a role model for other stakeholders in the justice delivery system. It was opined that a judges is also required to act as manager and leader of the court apart from dispensing the judicial work. The importance of planning and review meetings was highlighted and it was stated that a judge should keep his communication clear, short and simple. The importance of skills, knowledge and ethics was highlighted and it was stated that the judge should keep strengthening his knowledge base. On interpersonal communication, it was stated that a judge should never take things personally and should tackle all issues in a courteous and formal manner. The importance of coordination among all stakeholders was emphasised and it was stated that a judge should build a positive and strong image. The strategies to strengthen coordination among stakeholders were discussed. The judges should be aware of the needs of staff members and should communicate with them on their concerns about court and its functions. The strategies to deal with unprepared arguments and unnecessary adjournments were discussed and judgments *Shiv Cotex v. Tirgun Auto Plast (P) Ltd*., (2011) 9 SCC 678 and *Vinod Kumar v. State of Punjab*, (2015) 3 SCC 220 were discussed in this regard.

Deliberations were done on the bar and bench relationship and issues including building trust, identification of the problem of the bar and steps to solve the problem were highlighted. It was stated that legal profession cannot be equated with any other traditional professions and it is not commercial in nature, and it is essentially a service oriented noble profession. It was further added that the judges should be fearless and independent and should be in a position to lead the stakeholders with mutual coordination. The judgment *Harish Uppal v. Union of India*, (2003) 2 SCC 45, *Yatin Narendra Oza v. Khemchand Rajaram Koshti*, (2016) 15 SCC 236 and *Mahabir Prasad Singh v. Jacks Aviation (P) Ltd.*, (1999) 1 SCC 3 were discussed in this regard. The session was concluded with discussion on issues related to co-ordination with administration.

Session 2: Civil Justice Administration: Appellate Powers of District Judge

The session was commenced by highlighting the main features of appeal and it was stated that appeal is a creation of a statute and right to appeal is not inherent. The right to appeal is a substantive right and it is a continuation of suit. The judgment *Ganga Bai v. Vijay Kumar*, (1974) 2 SCC 393 was referred in this regard. Section 96, CPC dealing with appeal from original decree was discussed. Section 97, Section 104, Section 105, Rule 58 and Rule 103, CPC were also discussed. Various issues regarding right to appeal were discussed and judgments *Garikapati Veeraya v. Subbiah Choudhry*, (1957) 1 SCC 180 and *Hoosein Kasam Dada (India) Ltd. v. State of M.P.*, (1953) 1 SCC 299 were referred. The procedure regarding admission of an appeal was highlighted and the format and memorandum of appeal were explained. Order XLI Rule 1 & 2, CPC were discussed in this regard. The process of summary disposal under Order 41 Rule 11, CPC was discussed and grounds for dismissal of appeal were highlighted. It was stated that Order 41 Rule 11, CPC has been enacted by the legislature for the appellate court and Order 7 Rule 11, CPC is enacted for the trial court and judgments *Shyam Prasad Mishra v. Vijay Pratap Singh*, 2005 SCC OnLine All 945], U.P. Avas Evam Vikas Parishad v. Sheo Narain Kushwaha, (2011) 6 SCC 456 and Mahender Pal Chabra v. Subhash Aggrawal, (2024) 14 SCC 767 were referred in this regard.

The powers of appellate court were discussed and Section 107, CPC dealing with powers of appellate court was explained. Section 99 and Section 99A, CPC were also discussed. The issues regarding judgment of appellate court was discussed and Section 31, CPC dealing with contents, date and signature of judgment was referred. Judgments *Kurian Chacko v. Varkey Ouseph*, 1968 SCC OnLine Ker 101, *Santosh Hazari v. Purushottam Tiwari*, (2001) 3 SCC 179, *Jagannath v. Arulappa*, (2005) 12 SCC 303, *B.V. Nagesh v. H.V. Sreenivasa Murthy*, (2010) 13 SCC 530, *Malluru Mallappa v. Kuruvathappa*, (2020) 4 SCC 313, *Shasidhar v. Ashwini Uma Mathad*, (2015) 11 SCC 269, *Vinod Kumar v. Gangadhar*, (2015) 1 SCC 391 and *Madhukar v. Sangram*, (2001) 4 SCC 756 were discussed in this regard. The issues related to cross objection under Order 41 Rule 22, CPC were highlighted and judgments *Dheeraj Singh v. Greater Noida Industrial Development Authority*, (2023) 19 SCC 214, *Superintending Engineer v. B. Subba Reddy*, (1999) 4 SCC 423. *V.N.A.S. Chandran v. S. Venila*, 2026 SCC OnLine SC 1462 and *Banarsi v. Ram Phal* (2003) 9 SCC 606 were referred in this regard. The issues related to additional evidence under Order 41 Rule 27, CPC and the scope of revision according to Section 115, CPC were also discussed.

Session 3: Criminal Justice Administration: Appellate Powers of the Sessions Judge

The session was commenced with discussion on the nature of right to appeal and five doctrinal markers in this regard were explained. The statutory framework for criminal appeals was discussed and comparison was drawn between BNSS, 2023 (Chapter XXXI Sections 413 to 435) and Cr.P.C. 1973 (Chapter XXIX Sections 372 to 394). The issue that whether a criminal appeal be decided when no one appears for the accused was discussed and it was stated that in such situation the appellate court must appoint an amicus curiae from the criminal side of the Bar and then hear the appeal on merits. The judgments *Mohd. Sukur Ali v. State of Assam* (2011) 4 SCC 729 and *K. Muruganandan v. State, through DSP* (2021) 20 SCC 642 were referred in this regard. The standard of review was highlighted and issues related to appeal from conviction and appeal from acquittal were discussed. The judgment *Basheera Begam v. Mohd. Ibrahim* (2020) 11 SCC 174 was discussed in this regard. The issues related to additional

evidence during appeal were discussed and Section 432, BNSS was referred. The judgments *Bir Singh v. State of UP* (1977) 4 SCC 420, *Ashok Tshering Bhutia v. State of Sikkim* 2011 Cr LJ 1770 (SC), and *State of NCT of Delhi v. Pankaj Chaudhary* (2019) 11 SCC 575 were referred in this regard.

The right of appeal vis-à-vis victim was highlighted and Section 413, BNSS was discussed. It was stated that the victim has a right to prefer an appeal against any order passed by the court. The victim can challenge order of acquittal of accused, order of conviction for a lesser offence and inadequate compensation. The definition of victim was discussed and the judgment *Khem Singh v. State of Uttaranchal* 2025 SCC Online SC 1778 was referred in this regard. The issue that whether a victim can file an appeal for enhancement of sentence was highlighted and the judgment *Parvinder Kansal v. State (NCT of Delhi)* (2020) 19 SCC 496 and *Khem Singh v. State of Uttaranchal* SCC OnLine SC 1778 were referred. The issues related to appellate acquittal were discussed and the judgment *Asian Paints Ltd. v. Ram Babu & another* (2025) 10 SCC 372 was referred. The judgment *Dinubhai Bogabhai Solanki v. State of Gujarat* AIR 2017 SC 5690 was discussed where the Apex Court emphasized the duty of courts to give equal importance to victim and accused. The issues related to victim centric prosecution were highlighted and the judgment *Rekha Murarka v. State of W.B.* (2020) 2 SCC 474 was referred. It was stated that the public prosecutor occupies a prime position by virtue of the increased responsibilities shouldered in the conduct of a criminal trial. The judgment *Jagjeet Singh v. Ashish Mishra* AIR 2022 SC 1918 was also referred.

Session 4: Interlocutory Reliefs in Civil Law: Injunction

The session was commenced by explaining the definition of interlocutory orders and it was stated that any relief granted pending proceedings subject to the final outcome are called interlocutory reliefs. Various kinds of interim reliefs such as prohibit or mandate, attachment before judgement or to furnishing security, appointment of commissioner, appointment of receiver and rendition of accounts were discussed. The triple test regarding grant or refusal of injunction was discussed and its various elements were highlighted. The purpose of interlocutory orders was highlighted and it was stated that preservation of subject matter, preventing irreparable harm, ensuring fair trial and facilitating judicial process are main purposes of injunction. The discussion then focussed on different kinds of injunction order and Mareva injunction, Anton Piller injunction, John Doe injunction, Anti Suit injunction, Dynamic injunction, Anti-Arbitration injunction and Super injunction were discussed. The *Quia Timet Action* was discussed and it was stated that it is a type of civil proceeding that allows an individual or entity to seek an injunction to prevent a perceived future harm and unlike traditional actions that address past grievances, quia timet focuses on the apprehension of injury before it materialises. The judgment *Kuldip Singh v. Subhash Chander Jain*, (2000) 4 SCC 50 was referred in this regard.

Various challenges in the application of *Quia Timet Action* were highlighted including high risk of abuse, unfettered judicial discretion and heavy burden of proof. The Norwich Pharmacal order was discussed and the judgment *Norwich Pharmacal Co. and Others v. Customs and Excise Commissioners*, House of Lords, 1974 was explained. The application of the principles laid down in the Norwich Pharamcal order in Indian courts was discussed and it was stated that a Norwich Pharmacal order may be sought from Indian courts after proceedings have commenced, seeking information or documentation from a third party that may be in a position to assist the court in the IP suit. The discussion then focussed on injunction in different kinds

of suits including partition suits, administration suits, suits upon loans, suits against municipality, suits in the rent court, suits for accounts, suits for specific performance/ recession, suits between neighbours, suits for intellectual property rights, suits against dispossession, suits for recovery of possession, suits by parents / senior against children, suits under guardians and wards act, suits for recovery of monies lent, suits against construction, suits of commercial contracts and application for protection of possession of matrimonial home by a wife.

Session 5: Final Reliefs in Civil Law: Enforcement of Contracts

The session was commenced with definition and meaning of equitable remedies and it was stated that equitable remedies are judicial orders granted to ensure fairness and justice wherever monetary compensation payable under law is not sufficient. It is a discretionary relief hence it is flexible and he who seeks equity must do equity. Whoever claims equitable relief must come with clean hands. The provisions of the Specific Relief Act dealing with equitable remedies were discussed and it included Section 5 dealing with recovery of immovable property, Section 6 dealing with repossession of immovable property, if found disposed within 6 months and Section 7 and 8 dealing with recovery of movable property. The discussion then focussed on specific performance of contract and damages in breach of contract. It was stated that specific performance and damages are two different remedies for breach of contract and if a person upon whom a contractual obligation rests, fails to discharge it, other party has a right to sue either for literal enforcement of the terms of contract or for compensation for non-performance of the terms of contract. The general rule and exception regarding damages were discussed and it was stated that the general rule is that damages under Section 73 can only be granted for the loss suffered and not for the loss of profits. One exception to this general rule is illustration (j) to Section 73 of the Act. To claim damages for the loss of expected profit, prior knowledge is mandatory. It was further added that the liquidation of damages is not a bar to specific performance and as per Section 23(1), a contract otherwise specifically enforceable, may be enforced, though a sum is mentioned as an amount to be paid in case of its breach. However, sub-section (2) restricts the court from passing decree both for specific performance and for the liquidated damages mentioned in the contract. The judgment *Universal Petro Chemicals Ltd. v. B.P. PLC & Ors.* was referred where the Supreme Court has asserted that damages in lieu of specific performance under Section 21(5) of the Specific Relief Act, 1963 cannot be granted, unless specifically claimed in the plaint. However amendment to the relief can be sought at any point of time.

The discussion then focussed on the impact of Specific Relief (Amendment) Act, 2018 and it was stated that prior to amendment, the grant of relief of specific performance was a discretionary and equitable relief and post amendment, there is a shift from discretionary remedy to performance-oriented one, making specific performance a mandatory relief under certain conditions and removing the "inadequacy test". Various issues related to the effects of 2018 amendment were discussed. Then issues related to restitution and unjust enrichment were discussed and it was stated that Section 144 of CPC envisages the legal process for restitution in cases where a court's decree or order has been reversed or modified. This section ensures that the parties involved are restored to their original position or as close to them as possible, after a correction of the erroneous decision. The judgment *Karnataka rare-earth and anr -vs- Senior Geologist, Dept of Mines and Geology and other* (2004) 2 SCC 783 was referred in this regard.
