

Weekly Judiciary Digest

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Current & Conceptual Weekly

3rd - 10th March, 2025

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1. Supreme Court Upholds Dharavi Redevelopment Project

Case Name: Dharavi Redevelopment Project Case

Court: Supreme Court of India

Bench: Chief Justice Sanjiv Khanna, Justice B.R. Gavai, Justice Vikram Nath

Legal Topic: Urban Development, Property Law

Summary: The **Supreme Court of India**, in a recent judgment, **upheld the continuation of the Dharavi Redevelopment Project**, dismissing challenges related to its awarding process. This project, **granted to Adani Properties in 2022**, is one of the most ambitious urban rehabilitation initiatives in India, aiming to **transform Dharavi, one of Asia's largest slums, into a modern, sustainable, and well-planned residential and commercial hub**. The Court's ruling reaffirmed **the legality of the bidding process** and emphasized **the government's prerogative in undertaking large-scale infrastructure projects that serve public welfare**.

From a legal perspective, the judgment touches upon several crucial aspects of **urban development and property law**. The decision reinforces **the doctrine of judicial review**, where courts assess the fairness of government decisions while maintaining a hands-off approach when **no procedural irregularities or mala fides are found**. The Court also reiterated **the importance of balanced economic planning and social justice**, ensuring that urban redevelopment initiatives **do not violate the fundamental rights of affected residents**. It underscored **the role of the government in exercising its executive and policy-making functions** in matters of urban planning, provided **due process is followed and constitutional mandates are upheld**.

2. Supreme Court to Hear Challenges on GM Mustard Cultivation

Case Name: *Gene Campaign & Anr. v. Union of India & Ors., Writ Petition (Civil) No. 115 of 2004.*

Court: Supreme Court of India.

Bench: Justice Abhay S. Oka, Justice Sudhanshu Dhulia, and Justice Ujjal Bhuyan.

Date: The hearing has been rescheduled to April 15 and 16, 2025.

Legal Topic: Environmental Law, Agricultural Biotechnology.

Summary: The Supreme Court of India is scheduled to hear a set of petitions challenging the **commercial cultivation of genetically modified (GM) mustard**, a significant development in **environmental law and agricultural biotechnology**. Environmental activists and public interest groups have expressed concerns regarding **biosafety risks, ecological consequences, and the adequacy of regulatory scrutiny** in approving GM mustard for large-scale agricultural use. The petitioners argue that the Genetic **Engineering Appraisal Committee (GEAC) and the Ministry of Environment, Forests and Climate Change (MoEFCC)** granted approval without sufficient **long-term impact assessments, stakeholder consultations, or adherence to the precautionary principle**, a key component of **environmental jurisprudence**.

At the heart of this legal battle is the **constitutional and statutory obligation of regulatory bodies** to safeguard biodiversity and public health while promoting scientific advancements. The case will test the **doctrine of sustainable development**, which seeks to balance economic progress with environmental protection, ensuring that growth does not come at the cost of irreversible ecological damage. The judiciary's approach to this matter will also bring into focus the **Polluter Pays Principle, Precautionary Principle, and Intergenerational Equity**, as established in landmark cases like *Vellore Citizens' Welfare Forum v. Union of India* (1996) and *M.C. Mehta v. Union of India* (1987).

3. Government Proposes Reduction in States' Share of Federal Taxes

Legal Topic: Fiscal Federalism, Constitutional Law

Summary: The Indian government, under the leadership of Prime Minister Narendra Modi, has proposed a reduction in the **share of federal tax revenues allocated to states**, decreasing it from **41% to at least 40%** starting from the **fiscal year 2026-27**. This decision is rooted in the need to address **increased federal spending requirements**, particularly in areas such as **infrastructure development, national security, and welfare schemes**. However, the proposal has sparked concerns regarding **fiscal federalism**, a fundamental principle embedded in the **Indian Constitution under Part XII**, which governs the distribution of financial resources between the **Union and the States**.

The financial devolution of tax revenues to states is determined by the **Finance Commission**, a constitutional body established under **Article 280 of the Constitution**. The **Fifteenth Finance Commission (2021-26)** had previously recommended that **41% of the net proceeds of central taxes** should be shared with the states, ensuring that subnational governments have adequate resources to fulfill their governance and welfare responsibilities. A reduction in this share could **significantly impact the fiscal autonomy of states**, particularly affecting their ability to **finance social infrastructure, including healthcare, education, and rural development programs**.

The proposal also raises concerns regarding the **principle of cooperative federalism**, which emphasizes collaboration between the Centre and the States in governance and financial matters. In landmark cases such as **S.R. Bommai v. Union of India (1994)**, the Supreme Court reinforced that **federalism is a part of the "basic structure" of the Constitution**, and any attempt to disrupt the financial balance between the Union and the States must be carefully examined. If implemented, this reduction could lead to **increased dependency of states on central grants**, thereby limiting their discretion in formulating and implementing policies tailored to regional needs.

4. Supreme Court Rejects Review Petition on Same-Sex Marriage Verdict

Case Name: *Supriyo @ Supriya Chakraborty & Anr. v. Union of India, Writ Petition (Civil) No. 1011 of 2022, decided on October 17, 2023*

Court: Supreme Court of India

Bench: Chief Justice D.Y. Chandrachud, Justice Sanjay Kishan Kaul, Justice S. Ravindra Bhat, Justice Hima Kohli, Justice P.S. Narasimha

Legal Topic: Constitutional Law, LGBTQ+ Rights

Summary: The **Supreme Court of India** unanimously rejected a review petition challenging its landmark **October 2023 verdict in *Supriyo @ Supriya Chakraborty & Anr. v. Union of India***, which declined to recognize same-sex marriage under Indian law. In reaffirming its earlier decision, the Court maintained that **any legal recognition of same-sex unions must be determined by Parliament and not the judiciary**, emphasizing the **separation of powers doctrine** as a fundamental constitutional principle.

The original judgment, delivered by a **five-judge Constitution Bench**, held that while **LGBTQ+ individuals have the right to form relationships and seek legal protections**, the right to

marry is not a fundamental right under the Constitution. The petitioners had argued that denying marriage rights to same-sex couples violates **Articles 14 (Equality), 19 (Freedom of Expression), and 21 (Right to Life and Dignity)**. However, the Court ruled that **marriage, as a legal institution, is governed by personal laws and statutory enactments such as the Special Marriage Act, 1954, and therefore falls within the legislature's domain**. The ruling also pointed out that recognizing same-sex marriages would require **wide-ranging legal amendments**, impacting laws related to adoption, succession, inheritance, and taxation, making it a matter best suited for legislative debate rather than judicial intervention.

By rejecting the review petition, the Supreme Court **reaffirmed the doctrine of judicial restraint**, where courts defer to the legislature on matters involving complex socio-legal policy changes. This principle was previously upheld in cases like **M.P. Sharma v. Satish Chandra (1954)** and **Divisional Manager, Aravali Golf Club v. Chander Hass (2007)**, where the judiciary clarified that it cannot assume the role of the legislature in making or rewriting laws.

5. India Seeks Renegotiation of Indus Waters Treaty

Legal Topic: International Law, Water Sharing Agreements

Summary: The Indian government officially notified Pakistan of its intent to renegotiate the **Indus Waters Treaty (IWT)**, 1960, citing concerns that certain provisions of the agreement are no longer aligned with its original objectives and the evolving hydro-political landscape of the region. The treaty, brokered by the **World Bank**, has governed the **distribution of the Indus River system's waters between India and Pakistan for over six decades**, ensuring that India controls the eastern rivers (Sutlej, Beas, and Ravi) while Pakistan has rights over the western rivers (Indus, Jhelum, and Chenab). However, India has increasingly raised concerns over **Pakistan's repeated objections to Indian hydropower projects in Jammu & Kashmir and Ladakh**, delays in dispute resolution, and the **need for a modernized agreement that reflects contemporary environmental and economic realities**.

The **Indus Waters Treaty is a crucial subject**, as it embodies key principles of **international law, treaty obligations, and transboundary water governance**. Under **Article 12 of the IWT**, any modifications to the treaty require mutual consent, meaning that unilateral amendments are not legally permissible. India's move to seek renegotiation raises significant legal questions about the **doctrine of rebus sic stantibus (fundamental change of circumstances)** in international law, which allows treaties to be modified or terminated if significant changes occur in the conditions under which they were originally signed. This doctrine has been discussed in cases before the **International Court of Justice (ICJ)**, particularly in disputes involving long-standing international agreements.

From a **constitutional law perspective**, India's action highlights the executive's role in **foreign policy and treaty negotiation**, which is vested in the **Union government under Article 253 of the Constitution**. While **treaties do not automatically become law unless incorporated through domestic legislation**, as established in cases like **Maganbhai Ishwarbhai Patel v. Union of India (1970)**, they play a crucial role in shaping **India's diplomatic and strategic interests**. The renegotiation effort also involves aspects of **environmental law and natural**

resource management, as climate change and water scarcity increasingly affect the availability and flow of the Indus River system.

6. Uttarakhand Implements Uniform Civil Code

Legal Topic: Personal Law, Constitutional Law

Summary: The **Uttarakhand Legislative Assembly** passed the **Uniform Civil Code of Uttarakhand Act, 2024**, making it the **first Indian state to implement a uniform set of personal laws applicable to all citizens, irrespective of religion**. This legislative move is a landmark development in **Indian legal history**, as it seeks to **standardize laws governing marriage, divorce, inheritance, adoption, and succession**, replacing the **current system of religion-based personal laws**. The primary objective of the Act is to **promote equality, gender justice, and national integration**, in line with the constitutional directive under Article 44, which encourages the state to enact a **Uniform Civil Code (UCC)** for all citizens.

This development is significant from a **constitutional law perspective**, as it revives the long-standing debate on the **implementation of a UCC at the national level**. While the **Constituent Assembly** had debated the idea extensively, successive governments refrained from enacting a UCC due to **concerns over religious freedom under Article 25** and the potential impact on cultural and minority rights. The **Supreme Court**, in various cases such as **Shah Bano v. Union of India (1985)** and **Sarla Mudgal v. Union of India (1995)**, has emphasized the necessity of a **UCC to ensure uniformity in personal laws and prevent gender-based discrimination**.

The **Uttarakhand UCC has sparked intense debates**, particularly regarding its **impact on religious and cultural autonomy**. While proponents argue that a **common legal framework will eliminate gender inequalities present in certain religious personal laws**, critics contend that it infringes upon the **rights of religious minorities and their freedom to practice personal laws based on faith traditions**. The Act's compatibility with **Articles 14, 25, and 26 of the Constitution**—which deal with equality, religious freedom, and the autonomy of religious institutions—may be tested in the courts if challenged on constitutional grounds.

7. Supreme Court Directs Reforms in Criminal Sentencing

Legal Topic: Criminal Law, Judicial Reforms

Summary: The **Supreme Court of India** has directed the **Ministry of Law and Justice** to propose comprehensive reforms aimed at **curbing arbitrary sentencing in criminal cases**, emphasizing the need for a **more standardized and proportionate sentencing framework**. This directive underscores the judiciary's recognition of the **inconsistencies in sentencing practices across various courts**, where similar offenses often receive vastly different punishments due to **judicial discretion, lack of clear sentencing guidelines, and varying interpretations of aggravating and mitigating factors**. The initiative is part of broader efforts to **enhance fairness, uniformity, and predictability in the criminal justice system**, ensuring that **punishments are proportionate to the severity of offenses while upholding constitutional principles of justice and equality**.

The issue of **arbitrary sentencing** has been a subject of judicial concern for several years. In cases such as **Bachan Singh v. State of Punjab (1980)**, the Supreme Court laid down the “**rarest of rare**” doctrine for capital punishment, emphasizing that sentencing must consider the **circumstances of both the crime and the offender**. However, subsequent rulings have highlighted the absence of a structured sentencing policy in India, leading to disparities in punishments for similar offenses. The lack of statutory sentencing guidelines often results in judicial subjectivity, where punishments can vary based on factors such as **personal biases, regional differences, and interpretations of precedent**.

From a constitutional perspective, this reform aligns with Article 14 (Right to Equality) and Article 21 (Right to Life and Personal Liberty), as arbitrary sentencing can lead to unequal treatment of convicts and potential miscarriages of justice. The principle of proportionality, which requires that punishments must be commensurate with the nature and gravity of the offense, is a well-established legal doctrine in criminal jurisprudence. The Supreme Court’s directive reinforces the need for a **structured approach** similar to the **sentencing guidelines followed in jurisdictions like the United States and the United Kingdom**, where sentencing commissions have established **comprehensive frameworks to ensure consistency and fairness**.

8. Extension of Ban on Derivatives Trading for Certain Commodities

Legal Topic: Securities Law, Commodity Trading

Summary: The **Securities and Exchange Board of India (SEBI)** has extended the **suspension of derivatives trading for specific agricultural commodities**, including **rice, wheat, and soybeans, until the end of March 2025**. This regulatory measure aims to **curb speculative trading, prevent excessive price volatility, and stabilize agricultural markets** amid concerns over **food inflation and supply chain disruptions**. SEBI, as the **statutory regulator of the securities and commodity markets under the SEBI Act, 1992**, has the authority to **impose restrictions on trading practices that may adversely affect economic stability and public interest**. The continuation of this suspension reflects the government’s **precautionary approach to managing food security concerns while ensuring that financial markets do not contribute to artificial price surges**.

The suspension of **derivatives trading in essential food commodities** is a significant intervention in **commodity market regulation**, raising important questions about **the role of financial instruments in influencing agricultural prices**. Derivative contracts, particularly **futures trading**, allow traders to **hedge against price fluctuations and manage risks in the agricultural sector**. However, unchecked speculative trading in food commodities can lead to **price distortions, market manipulation, and hoarding, ultimately impacting consumer prices and food affordability**. By extending the suspension, SEBI aims to **strike a balance between maintaining market efficiency and protecting essential goods from excessive financial speculation**.

From a **constitutional and legal perspective**, SEBI’s decision aligns with **government policies on food security and price regulation**, which are guided by the **Essential Commodities Act, 1955, and the Forward Contracts (Regulation) Act, 1952**. The Supreme Court has previously

upheld the government's power to regulate financial markets in public interest, as seen in cases like **SEBI v. Sahara India Real Estate Corp Ltd. (2012)**, where the Court reinforced SEBI's regulatory mandate to prevent market manipulation and safeguard investor interests.

9. Legal Challenges Against Border Fencing in Northeast India

Legal Topic: Constitutional Law, Indigenous Rights

Summary: The **Supreme Court of India** is currently hearing a petition filed by the residents of **Longwa village in Nagaland**, challenging the construction of a border fence along the **Indo-Myanmar boundary**. The petitioners, predominantly members of the **Konyak Naga tribe**, have argued that the fencing would **severely disrupt their traditional cross-border movement, impacting their cultural, economic, and familial ties with their kin on the Myanmar side of the border**. Given that the **Konyak Nagas historically inhabit territories on both sides of the border**, they have long relied on **free movement across the boundary for trade, social interactions, and religious practices**. The Supreme Court has issued a **notice to the Union Government**, seeking clarification on the **rationale behind the fencing, its legal justification, and its implications for indigenous rights**.

This case raises **critical constitutional questions on indigenous rights, freedom of movement, and India's border policies**. The petitioners are expected to argue that the border fence **violates their fundamental rights under Article 19(1)(d) (Right to Freedom of Movement) and Article 21 (Right to Life and Personal Liberty) of the Indian Constitution**. Additionally, they may invoke **Article 29**, which guarantees **protection of cultural and linguistic minorities**, highlighting how the fencing would threaten their **way of life, customary practices, and centuries-old socio-political structures**. The legal challenge also touches upon the **Fifth and Sixth Schedules of the Constitution**, which grant special protections to tribal populations, particularly those residing in the **Northeast and autonomous district councils**.

10. U.S. Supreme Court Limits EPA's Authority Over Water Pollution

Case Name: *City and County of San Francisco v. Environmental Protection Agency*

Court: Supreme Court of the United States

Bench: Chief Justice John Roberts, Justice Samuel Alito, Justice Clarence Thomas, Justice Neil Gorsuch, Justice Brett Kavanaugh, Justice Amy Coney Barrett, Justice Sonia Sotomayor, Justice Elena Kagan, Justice Ketanji Brown Jackson

Date: March 4, 2025

Legal Topic: Environmental Law, Administrative Law

Summary: The **U.S. Supreme Court**, in a **5-4 decision**, ruled that the **Environmental Protection Agency (EPA)** exceeded its authority under the **Clean Water Act (CWA)** by imposing **vague and broadly defined restrictions** in a wastewater discharge permit issued to **San Francisco's**

wastewater treatment facility. The Court held that the **EPA must provide specific, clearly defined limitations** for permit holders rather than relying on open-ended **and ambiguous water quality standards** that leave excessive room for subjective enforcement. This ruling emphasizes the necessity for **regulatory agencies to establish well-defined guidelines** when enforcing **environmental laws**, ensuring that compliance requirements are both **clear and legally enforceable**.

The Clean Water Act, enacted in 1972, grants the EPA the authority to regulate pollutants discharged into navigable waters through the National Pollutant Discharge Elimination System (NPDES) permit program. However, in this case, the Court found that the EPA's permit conditions imposed on San Francisco's wastewater facility were too vague, lacking precise numerical limits on pollutants and instead relying on generalized expectations for water quality improvement. The ruling underscores the importance of administrative law principles, particularly the non-delegation doctrine, which mandates that regulatory agencies must issue clear, predictable, and legally binding rules rather than imposing discretionary conditions that create uncertainty for regulated entities.

Prelims Q&A

1. The Bharatiya Nyaya Sanhita (BNS), 2023, which replaces the Indian Penal Code, 1860, introduces new provisions on which of the following?

- Terrorism and Organized Crime
- Sedition Law Reforms
- Mob Lynching and Hate Crimes
- All of the Above

Answer: d. All of the Above

Explanation: The **Bharatiya Nyaya Sanhita (BNS), 2023**, which replaces the **Indian Penal Code, 1860**, introduces **significant reforms in criminal law** to address **modern-day challenges**. The law includes **new provisions on terrorism, organized crime, and mob lynching**, reflecting **India's evolving legal landscape**.

1. Terrorism & Organized Crime:

- o The **definition of terrorism has been broadened**, with stricter penalties.
- o **Organized crime laws have been strengthened** to curb activities of criminal syndicates.

2. Sedition Law Reforms:

- o The controversial **Section 124A (Sedition) of the IPC has been repealed** and replaced with a **new provision criminalizing acts endangering sovereignty, unity, and integrity of India**.
- o The change aims to balance free speech with national security.

3. Mob Lynching & Hate Crimes:

- o The new law **criminalizes mob lynching and introduces stricter punishments for hate crimes**, an area previously **not explicitly covered under the IPC**.



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2. The Bharatiya Sakshya Adhinyam (BSA), 2023, which replaces the Indian Evidence Act, 1872, introduces which key changes in handling electronic evidence?

- Digital and Electronic Records are now primary evidence
- Artificial Intelligence-generated evidence is admissible in court
- Hearsay evidence in digital form is now fully admissible
- Only certified physical copies of electronic evidence are admissible

Answer: a. Digital and Electronic Records are now primary evidence

Explanation: The **Bharatiya Sakshya Adhinyam (BSA), 2023**, which replaces the **Indian Evidence Act, 1872**, brings **key changes in the admissibility and handling of electronic evidence**, aligning with the **digital era**.

1. **Recognition of Digital and Electronic Records as Primary Evidence:**

- Under the new law, **electronic records and digital evidence (such as emails, WhatsApp chats, blockchain data, CCTV footage, and social media records)** are considered **"primary evidence,"**

provided they meet authenticity standards.

- This differs from the **Indian Evidence Act, 1872**, where electronic records needed **additional certification under Section 65B.**

2. **Admissibility of Artificial Intelligence-Generated Evidence:**

- While the Act acknowledges digital evolution, **AI-generated evidence is still subject to reliability tests and may not yet be considered conclusive proof** in all cases.

3. **Hearsay Evidence in Digital Form:**

- The new law does **not completely allow hearsay evidence** but provides a framework where **verified digital evidence can be admissible.**

3. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaces the Code of Criminal Procedure (CrPC), 1973, introduces which major reform in the arrest and bail process?

- A new provision for community service as an alternative punishment
- Stricter bail provisions for repeat offenders and organized criminals
- Introduction of online FIR filing for all offenses
- Judges can now sentence convicts without conducting a trial

Answer: b. Stricter bail provisions for repeat offenders and organized criminals

Explanation: The **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, which replaces the **Code of Criminal Procedure (CrPC), 1973**, brings **major reforms in criminal procedure**. One of its most significant changes involves **the bail process and arrest provisions.**

1. Stricter Bail Provisions for Repeat Offenders and Organized Criminals:

- o The new law makes it more difficult for repeat offenders, gang members, and those involved in organized crime to obtain bail easily.
- o Courts are required to assess the risk of reoffending and potential threats to society before granting bail.

2. Community Service as an Alternative Punishment:

- o For certain minor offenses, the law introduces community service as an alternative to imprisonment, reducing the burden on prisons.

3. Online FIR Filing for Certain Offenses:

- o While online FIR filing is being expanded, it is not available for all offenses, particularly heinous crimes.

4. Judicial Trials Remain Mandatory for Conviction:

- o Judges cannot impose sentences without due process and a trial, ensuring fair trial principles are upheld.

4. Under which Article of the Indian Constitution does the Finance Commission recommend the devolution of tax revenues between the Centre and the States?

- a. Article 266
- b. Article 280
- c. Article 282
- d. Article 300

Answer: b. Article 280

Explanation: The Finance Commission of India, constituted under Article 280, is responsible for recommending how the net

proceeds of central taxes should be distributed between the Union and the States. The Fifteenth Finance Commission (2021-26) had recommended 41% devolution to states, but the Central Government has now proposed reducing it to 40% from 2026-27, citing increased federal spending needs. This has sparked debates on fiscal federalism and state financial autonomy.

5. The Supreme Court's recent judgment on GM Mustard primarily involves which fundamental principle of environmental law?

- a. Polluter Pays Principle
- b. Precautionary Principle
- c. Sustainable Development
- d. Public Trust Doctrine

Answer: b. Precautionary Principle

Explanation: The Supreme Court is hearing petitions on the commercial cultivation of genetically modified (GM) mustard, challenging its environmental safety. The petitioners argue that India's regulatory framework lacks rigorous biosafety assessments, invoking the Precautionary Principle, which states that where scientific uncertainty exists, precautionary measures should be taken to prevent harm to the environment and human health. The principle is internationally recognized under the Rio Declaration, 1992.

6. Under the Arbitration and Conciliation Act, 1996, which of the following statements regarding interim measures by courts and arbitral tribunals is correct?

- a. Only courts can grant interim relief before the commencement of arbitration proceedings.
- b. An arbitral tribunal has no power to grant interim relief once arbitration has begun.
- c. Courts and arbitral tribunals have concurrent powers to grant interim

relief after arbitration has commenced.

- d. An arbitral tribunal can grant interim relief, but its orders are unenforceable unless confirmed by a court.

Answer: c. Courts and arbitral tribunals have concurrent powers to grant interim relief after arbitration has commenced.

Explanation: The Arbitration and Conciliation Act, 1996 provides for interim relief under Sections 9 and 17.

- **Before the commencement of arbitration**, parties can approach the courts under Section 9 for interim measures, such as preservation of assets, securing the amount in dispute, or preventing irreparable harm.
- **After the arbitral tribunal is constituted**, the tribunal has **exclusive jurisdiction to grant interim relief under Section 17**, unless exceptional circumstances require court intervention.
- The **2015 Amendment Act** clarified that orders passed under **Section 17 by an arbitral tribunal are enforceable as if they were orders of a court**, strengthening the tribunal's authority.

7. Which of the following recent amendments to the Arbitration and Conciliation Act, 1996 aims to promote institutional arbitration and reduce judicial intervention?

- The Arbitration and Conciliation (Amendment) Act, 2015
- The Arbitration and Conciliation (Amendment) Act, 2019
- The Arbitration and Conciliation (Amendment) Act, 2021
- None of the above

Answer: b. The Arbitration and Conciliation (Amendment) Act, 2019

Explanation: The Arbitration and Conciliation (Amendment) Act, 2019 was introduced to improve the efficiency of arbitration in India

and reduce court intervention. The key changes include:

1. Establishment of the Arbitration Council of India (ACI):

- o The Act introduced **Part 1A**, creating an **independent body to promote institutional arbitration, accredit arbitral institutions, and set professional standards.**

2. Time Limits for Arbitration Proceedings:

- o The 2019 Amendment prescribed **12 months for completion of arbitration from the date of completion of pleadings** (excluding international arbitration).

3. Changes to Appointment of Arbitrators (Section 11):

- o The power to **appoint arbitrators** was shifted from courts to **designated arbitral institutions**, reducing delays.

8. Which of the following correctly describes the principle of "Competence-Competence" in arbitration?

- Only courts have the power to decide on the validity of an arbitration agreement.
- An arbitral tribunal has the authority to rule on its own jurisdiction, including objections to the existence or validity of an arbitration agreement.
- Parties to an arbitration agreement must first approach the court to determine the tribunal's jurisdiction before proceeding with arbitration.
- The arbitral tribunal's jurisdiction is always subject to judicial review before rendering an award.

Answer: b. An arbitral tribunal has the authority to rule on its own jurisdiction, including objections to the existence or validity of an arbitration agreement.

Explanation: The principle of "**Competence-Competence**" is codified in **Section 16 of the Arbitration and Conciliation Act, 1996**, which states that:

- The **arbitral tribunal has the power to determine its own jurisdiction**, including objections related to the **existence or validity of the arbitration agreement**.
- If a party challenges jurisdiction, the tribunal must decide before proceeding further.
- A tribunal's decision on jurisdiction **can be challenged only after the final arbitral award** under **Section 34**, preventing unnecessary judicial interference at the preliminary stage.

This principle was upheld in **Kvaerner Cementation India Ltd. v. Bajranglal Agarwal (2012)**, where the **Supreme Court held that courts should not interfere in jurisdictional issues unless arbitration proceedings are complete**.

9. Under the Special Marriage Act, 1954, what is the minimum notice period that a couple must give to the Marriage Officer before solemnizing their marriage?

- a. 15 days
- b. 30 days
- c. 45 days
- d. 60 days

Answer: b. 30 days

Explanation: Under **Section 5 of the Special Marriage Act, 1954**, couples intending to marry under this Act must give a **notice of intended marriage** to the Marriage Officer of the district where at least one of them has resided for **at least 30 days prior to the notice**.

- The **notice is then published for 30 days** to allow for any objections under **Section 7**.

- If no valid objections are raised within this period, the marriage can be solemnized.
- The Act applies to **interfaith and inter-caste marriages**, allowing people from **different religions to marry without converting**.

10. Under the Muslim law of divorce, which of the following statements is correct regarding the Triple Talaq (Talaq-e-Bid'ah) practice in India?

- a. It is still legally valid in India if given in a single sitting
- b. It has been declared unconstitutional and criminalized by law
- c. It is allowed only if followed by reconciliation efforts
- d. It is valid only if pronounced before a magistrate

Answer: b. It has been declared unconstitutional and criminalized by law

Explanation: The practice of instant Triple Talaq (Talaq-e-Bid'ah) was declared **unconstitutional by the Supreme Court of India** in the landmark case **Shayara Bano v. Union of India (2017)**. Subsequently, the **Muslim Women (Protection of Rights on Marriage) Act, 2019**, made it a **punishable offense with up to three years of imprisonment**.

- **Talaq-e-Bid'ah (instant talaq) was previously practiced** in some Muslim communities, allowing a husband to divorce his wife by pronouncing "talaq" three times in one sitting, without any waiting period or reconciliation attempts.
- The **2019 Act criminalized this practice**, ensuring that **Muslim women have legal protection from arbitrary divorce**.
- **Talaq-e-Ahsan and Talaq-e-Hasan**, which involve **waiting periods and reconciliation efforts**, remain valid forms of divorce under Muslim law.

Mains Q&A

Question:

Order II of the Code of Civil Procedure, 1908, lays down rules regarding the Frame of Suit to ensure that all matters in dispute between the parties are effectively decided in one suit, thereby preventing multiplicity of litigation. Discuss the significance and implications of Order II, Rule 2, particularly focusing on the consequences of omitting a claim or relief in an earlier suit. Support your answer with relevant case laws.

Marks: 10

Word Limit: 500 Words)

Model Answer:

Introduction

The **Code of Civil Procedure, 1908 (CPC)** provides a comprehensive framework for civil litigation in India. **Order II of CPC deals with the frame of suits**, ensuring that a lawsuit is structured in a way that allows for a **final decision on all related matters** and prevents **multiplicity of litigation**. **Order II, Rule 2** is a key provision that mandates the plaintiff to include the **whole of the claim** arising from the **same cause of action** in one suit.

Order II, Rule 2 - Suit to Include the Whole Claim

1. **Rule 2(1)** - Inclusion of Entire Claim: A plaintiff must include the whole of the claim arising from a single cause of action in one suit. However, the plaintiff may relinquish a portion of the claim to bring the suit within the jurisdiction of a lower court.
2. **Rule 2(2)** - Bar on Omitted or Relinquished Claims: If a plaintiff omits or intentionally relinquishes any part of the claim, they cannot file a subsequent suit for the omitted portion.
3. **Rule 2(3)** - Omission of One of Several Reliefs: If a plaintiff is entitled to more than one relief in respect of the same cause of action, they must claim all reliefs in one suit. If they omit any relief (except with the leave of the court), they cannot claim it in a later suit.

Objective and Legal Principle

The primary purpose of **Order II, Rule 2** is to prevent **multiple suits on the same cause of action**, which could lead to **delays, judicial inefficiency, and harassment of the defendant**. This provision is based on the **doctrine of constructive res judicata**, ensuring that a plaintiff is **not allowed to litigate piecemeal**.

Judicial Pronouncements

1. **Saral Chand v. Mobun Bibi (1898)**
 - o The court held that **all matters arising from the same transaction should be decided in one suit** to avoid unnecessary litigation.
2. **State of Maharashtra v. National Construction Co. (1996)**
 - o The Supreme Court reiterated that **Order II, Rule 2** is based on the principle that **a party should not be vexed twice for the same cause**.
3. **Deva Ram v. Ishwar Chand (1995)**

- o The plaintiff must **combine all claims arising from the same cause of action**. If a relief is omitted **without leave of the court**, the subsequent suit for that relief is barred.
4. **State Bank of India v. Gracure Pharmaceuticals Ltd. (2014)**
- o The **Supreme Court clarified that if the cause of action remains the same, all claims must be included in one suit**. Splitting claims results in the **plaintiff being barred from future claims** on the same cause of action.

Exceptions to the Rule

1. **Different Causes of Action:** If the second suit is based on a **new and distinct cause of action**, it is not barred under **Order II, Rule 2** (Arunachalam v. Velamma, AIR 1968).
2. **Continuous and Recurring Claims:** If a claim is based on **recurring obligations**, it is not barred (Bengal Waterproof Ltd. v. Bombay Waterproof Mfg. Co., 1997).
3. **Leave of Court:** If the plaintiff obtains prior leave of the court to file a separate suit for some relief, the bar does not apply (Rathnavati v. Kavita Ganshamedas, 2015).

Illustration

If A lets out a house to B, and B fails to pay rent for three consecutive years, but A sues only for rent due in the second year, A is barred from later suing for rent due for the first and third years. This demonstrates the rigid application of Order II, Rule 2.

Conclusion

Order II, Rule 2 is a crucial provision aimed at avoiding multiplicity of litigation and ensuring finality in adjudication. It prevents piecemeal litigation and obligates the plaintiff to bring all claims related to the same cause of action in one suit. However, courts have narrowly construed this rule to prevent undue hardship to plaintiffs. Understanding its application is essential for judicial aspirants and practicing lawyers.

11. Clear Concepts

Key Concept in Agency Law: Doctrine of Undisclosed Principal

Definition and Importance

The **doctrine of undisclosed principal** is a fundamental concept in **Agency Law**, where an agent acts on behalf of a principal without disclosing the principal's identity to a third party. This doctrine ensures that even if the agent contracts in their own name, the **principal retains rights and liabilities under the contract**.

This principle is essential for **Judicial Services Aspirants**, as it relates to commercial transactions, contract enforcement, and the **scope of an agent's authority**.

Legal Framework Under Indian Law

The doctrine is codified in **Sections 226 and 231 of the Indian Contract Act, 1872:**

- **Section 226:** Contracts entered into by an agent on behalf of the principal have the **same legal effect as if the principal had directly entered into the contract**.
- **Section 231:** A third party can sue both the agent and the undisclosed principal unless the agent has been expressly held liable.

Landmark Case Laws Illustrating the Doctrine

- 1. Keighley Maxsted & Co v. Durant (1901) AC 240 (HL)**
 - o The House of Lords held that an undisclosed principal cannot intervene in a contract unless the agent acted within their authority.
- 2. Syed Abdul Khader v. Rami Reddy (1979 AIR 553, SC)**
 - o The Supreme Court of India ruled that an undisclosed principal is liable for obligations undertaken by the agent, provided the agent acted within their authority.
- 3. Watteau v. Fenwick (1893) 1 QB 346**
 - o The principal was held liable for unauthorized acts of the agent, reinforcing that a third party can enforce a contract against the principal.

Practical Implications

- For Businesses: Companies frequently operate through agents who may or may not disclose the principal's identity.
- For Courts: The judiciary determines liability based on whether the agent acted within authority and in whose name the contract was made.
- For Contract Law: If an undisclosed principal later asserts rights under the contract, courts must assess whether the third party was prejudiced.

Conclusion

The doctrine of undisclosed principal is a crucial element of Agency Law, ensuring that principals can enforce contracts even when their identity is initially hidden. Understanding when liability shifts from the agent to the principal is fundamental for judiciary aspirants, as it impacts contractual enforcement, business transactions, and legal representation.

