

2021(1) APEX COURT JUDGMENTS

IMPORTANT DECISIONS

Accident - Contributory negligence - Deceased were travelling in a horse cart along with other passengers to a religious congregation - Neither deceased no.1 was driving horse cart nor was owner of same - No contributory negligence. (2021(1) Apex Court Judgments 448 (S.C.)

Accident - Enhancement of compensation - Just compensation assessed by High Court cannot be declined on the ground of non filing of cross appeal by appellant as in Motor Accident Claims as Court should not take hyper technical approach. (2021(1) Apex Court Judgments 276 (S.C.)

Agreement to sell - Does not by itself create any right in the property, except the right of obtaining sale deed on that basis. (2021(1) Apex Court Judgments 645 (S.C.)

Anticipatory bail - Does not comes to an end with filing of charge-sheet. (2021(1) Apex Court Judgments 229 (S.C.)

Anticipatory bail - Granted subject to deposit of Rs.41 lakhs in Court - Dispute pertains to agreement to sell and amount of Rs.41 lakhs is alleged to be paid to accused - Direction is in the nature of recovery in a civil suit - Condition to deposit Rs.41 lakhs deleted. (2021(1) Apex Court Judgments 727 (S.C.)

Appeal against acquittal - Conviction by High Court - High Court was of the view that PW 2, 3 and 5 can be believed - Unless it is held that view taken by trial Court disbelieving the witnesses is not a possible view, High Court ought not to have interfered with the acquittal recorded by trial Court - Accused acquitted. (2021(1) Apex Court Judgments 136 (S.C.)

Arbitration - Arbitration agreement - Unable to conclude as to whether an arbitration agreement exists between the parties - Left to be decided by the Arbitrator - Sole arbitrator appointed, who will determine as a preliminary issue as to whether an Arbitration agreement exists between the parties and go to decide the merits of case only if it is first found that such an agreement exists. (2021(1) Apex Court Judgments 115 (S.C.)

Arbitration - Limitation for filing an application for appointment of Arbitrator is governed by Art.137 Limitation Act, which begin to run from the date when there is failure to appoint an arbitrator. (2021(1) Apex Court Judgments 336 (S.C.)

Arbitration award - A party cannot file a petition u/s 34 for setting aside or u/s 36 for

enforcement of a dissenting opinion. (2021(1) Apex Court Judgments 779 (S.C.)

Arbitration award - Period of limitation for filing objections have to be reckoned from date on which signed copy of award was made available to parties. (2021(1) Apex Court Judgments 779 (S.C.)

Bank locker - Banks cannot wash off their hands and claim that they bear no liability towards their customers for the operation of the locker - Banks should not have liberty to impose unilateral and unfair terms on the consumers - RBI to lay down comprehensive directions mandating the steps to be taken by Banks with respect to locker facility/safe deposit facility management. (2021(1) Apex Court Judgments 598 (S.C.)

Bank locker - Consumer complaint - Breaking open of locker by Bank for non payment of rent dues - However, Rent dues were cleared before breaking open locker - Gold ornaments alleged to be missing - Appellant to file a civil suit and to seek relief by proving that said items were actually in the custody of bank. (2021(1) Apex Court Judgments 598 (S.C.)

Bank locker - Consumer complaint - Breaking open of locker by Bank for non payment of rent dues - However, Rent dues were cleared before breaking open locker - Gross negligence in service - Costs of Rs.5 lakhs imposed on Bank. (2021(1) Apex Court Judgments 598 (S.C.)

Bank locker - Proper procedure for operating and allotting lockers - Analysed. (2021(1) Apex Court Judgments 598 (S.C.)

Building tax - Exemption - Object for exempting buildings which are used principally for religious, charitable or educational purposes would be for core religious, charitable or educational activity as well as purposes directly connected with religious activity. (2021(1) Apex Court Judgments 096 (S.C.)

Clean hands - Supreme Court will deny any relief to a litigant who attempts to pollute the stream of justice by coming to it with unclean hands. (2021(1) Apex Court Judgments 316 (S.C.)

Consent decree - Family settlement by a Hindu female with her nephews (brothers sons) - Such family settlement is not with strangers to the family - Consent decree passed on basis of family settlement, upheld. (2021(1) Apex Court Judgments 702 (S.C.)

Consent decree - Not an estoppel, where compromise was vitiated by fraud, misrepresentation or mistake. (2021(1) Apex Court Judgments 210 (S.C.)

Consent decree - Relating to subject matter of suit - Does not require registration. (2021(1) Apex Court Judgments 702 (S.C.)

Consumer - Apartment Buyer's Agreement - Incorporation of one sided and unreasonable clauses in Apartment Buyer's Agreement constitute an unfair trade practice. (2021(1) Apex Court Judgments 738 (S.C.)

Consumer - Applicability of Consumer Protection Act after provisions of RERA Act came into force - An allottee may elect or opt for one out of remedies provided by law for redressal of its injury or grievance and in which event he loses right to simultaneously exercise other for same cause of action. (2021(1) Apex Court Judgments 738 (S.C.)

Contract - Acceptance with a variation - When acceptor puts in a new condition while accepting the contract already signed by the proposer, contract is not complete until the proposer accepts that condition. (2021(1) Apex Court Judgments 483 (S.C.)

Criminal Laws - Amicable settlement is a relevant factor for the purpose of reduction in the

quantum of sentence. (2021(1) Apex Court Judgments 216 (S.C.)

Criminal trial - Informant himself the investigator - Merely for this reason investigation is not vitiated. (2021(1) Apex Court Judgments 567 (S.C.)

Default bail - Application for default bail filed on expiry of stated period - The fact that appellant filed yet another application for default bail subsequently would not mean this application would wipe out the effect of earlier application that had been wrongly decided. (2021(1) Apex Court Judgments 793 (S.C.)

Default bail - Can be cancelled u/s 439(2) Cr.P.C. (2021(1) Apex Court Judgments 539 (S.C.)

Default bail - Charge sheet filed for offence under IPC and Arms Act - Second charge sheet for offence under Unlawful Activities filed after two days of filing application by accused u/s 167 Cr.P.C. and beyond 180 days - Accused is entitled to default bail. (2021(1) Apex Court Judgments 509 (S.C.)

Default bail - Filing of charge sheet by itself is not a ground for cancellation of bail granted u/s 167 Cr.P.C. (2021(1) Apex Court Judgments 075 (S.C.)

Default bail - Where application for grant of default bail is made on expiry of period of 90 days (Which application need not even be in writing) before a charge sheet is filed, right to default bail becomes complete. (2021(1) Apex Court Judgments 793 (S.C.)

Delay - Condonation of 502 days - Moving of file from one place to the other and that too with long interludes - Looking to the period of delay and casual manner in which application is worded, costs of Rs.25,000/- imposed - Petition dismissed. (2021(1) Apex Court Judgments 262 (S.C.)

Delay - Condonation of delay of 176 days - Delay cannot be said to be an inordinate delay, more so when matter relates to first appeal. (2021(1) Apex Court Judgments 555 (S.C.)

Dishonour of cheque - Joint liability - Cheque issued by husband - Prosecution of husband and wife - Wife cannot be convicted with aid of S.141 of NI Act as S.141 of the act relate to offence by companies and it cannot be made applicable to individuals - A person might have been jointly liable to pay the debt, but if such a person who might have been liable to pay the debt jointly, cannot be prosecuted unless the bank account is jointly maintained and that he was a signatory to the cheque - Complaint against wife quashed. (2021(1) Apex Court Judgments 001 (S.C.)

Dishonour of cheque - Plea of issuance of blank cheque and signed blank papers - Once signatures are admitted then it has to be presumed that cheque was issued as consideration for a legally enforceable debt. (2021(1) Apex Court Judgments 020 (S.C.)

Dishonour of cheque - Presumption - Rebuttal - Issuance of blank cheque and signed blank papers - Considering the fact that parties had business relationship, defence raised by accused that there was no legally enforceable liability on the date of issuance of cheque and that blank papers were misused by complainant, does not inspire confidence or meet the standard of 'preponderance of probability' - In the absence of any other relevant material, High Court rightly discarded defence raised by accused. (2021(1) Apex Court Judgments 020 (S.C.)

Dishonour of cheque - Presumption - Rebuttal - Statement of accused recorded u/s 313 Cr.P.C. is not a substantive evidence of defence. (2021(1) Apex Court Judgments 384 (S.C.)

Dishonour of cheque - Proceedings u/s 138 of the Act are quasi criminal in nature. (2021(1)

Apex Court Judgments 384 (S.C.)

Document - Deed of undertaking - Plea of issuing blank signed papers alleged to be misused - Held, bald denial regarding genuineness of Deed of undertaking despite admitting signatures does not cast any doubt on the genuineness of said document. (2021(1) Apex Court Judgments 020 (S.C.)

Dowry death - Death within seven years of marriage - Forcible poisoning - Accused acquitted - No marks of injury on the person of deceased - Cause of death not established unnatural - Demand appears to be riddled with irreconcilable contradictions - Neither post mortem nor Forensic Lab Report shows any poisoning - No poison recovered from the house of appellants - From vomiting of deceased prosecution not able to prove presence of poison. (2021(1) Apex Court Judgments 394 (S.C.)

Expression 'Deemed University' is not excluded from ambit of term 'University'. (2021(1) Apex Court Judgments 494 (S.C.)

Fraud - When fraud is alleged, the same is required to be pleaded and established by leading evidence - Mere allegation that there was fraud is not sufficient. (2021(1) Apex Court Judgments 149 (S.C.)

Gift - Acceptance - Can be ascertained from the surrounding circumstances such as taking into possession the property by the donee or by being in possession of the gift deed itself. (2021(1) Apex Court Judgments 373 (S.C.)

Govt.Land/Panchayat land - Persons in illegal occupation of Government Land/Panchayat land cannot as a matter of right claim regularisation - Regularisation of illegal occupation of Government land/Panchayat land can only be as per policy of State Government and conditions stipulated in Rules. (2021(1) Apex Court Judgments 087 (S.C.)

Hindu Marriage Act, 1955, S.13(1)(ia) — Divorce - Mental cruelty - Wife made several defamatory complaints to husbands superiors - Husband suffered adverse consequences in his life and career on account of allegations made by wife - Husbands career and reputation suffered - Legal consequences must follow and those cannot be prevented only because, no Court has determined that allegations were false. (2021(1) Apex Court Judgments 556 (S.C.)

Injunction - Trespasser in established possession can obtain injunction. (2021(1) Apex Court Judgments 615 (S.C.)

Jurisdiction - Objection thereto - Court should decide question of jurisdiction before passing any interim orders - However, a mere objection to jurisdiction does not instantly disable Court from passing any interim orders - Order so passed is effective till Court decides jurisdiction and such orders will come to an end if Court decided that it has no jurisdiction - Such interim order has to be obeyed and their violation can be punished even after question of jurisdiction is decided against plaintiff, provided violation is committed before decision of the Court on the question of jurisdiction. (2021(1) Apex Court Judgments 453 (S.C.)

Limitation - Extension of limitation due to COVID-19 pandemic - Order dated 15.03.2020 extending limitation in filing petitions/applications/suits/appeals/all other proceedings was extended from time to time - Since order dated 15.03.2020 has served its purpose as such extension of limitation will come to an end - Directions issued. (2021(1) Apex Court Judgments 367 (S.C.)

Matrimonial - Second application for transfer of petition - Change of circumstances - Dismissal of petition for transfer does not operate as res judicata when a fresh petition is filed on change of

circumstances. (2021(1) Apex Court Judgments 326 (S.C.)

Matrimonial - Transfer of divorce petition filed by husband - Transfer sought by wife on the ground that she is unemployed and she has no independent source of income - Husband offered to bear expenses for the travel of wife - However, wife may have to travel a distance of more than 1000 km. every time - Considering fact that marriage was also solemnized in Delhi, transfer petition filed by wife deserve to be allowed - Divorce petition transferred from Pune to Delhi. (2021(1) Apex Court Judgments 258 (S.C.)

Motive - Attempt to murder - Not necessary to establish motive when firing had taken place and there were eye witnesses to firing. (2021(1) Apex Court Judgments 277 (S.C.)

Mutation entries - Do not by themselves confer title which has to be established independently in a declaratory suit. (2021(1) Apex Court Judgments 778 (S.C.)

NRI landlord - There is no bar for a Non-resident Indian to get a building of choice vacated. (2021(1) Apex Court Judgments 161 (S.C.)

Official acts - There shall be presumption that all official acts have been regularly performed - Onus lies on the person who disputes the same to prove otherwise. (2021(1) Apex Court Judgments 145 (S.C.)

Order - Pronounced but delay in passing reasoned judgment - Reasoned judgment be made available to litigating parties positively within a period of two months. (2021(1) Apex Court Judgments 537 (S.C.)

Partition suit - Suit for partition is maintainable without seeking declaration against agreement to sell. (2021(1) Apex Court Judgments 645 (S.C.)

Pleading - In the absence of pleading, any amount of evidence will not help the party. (2021(1) Apex Court Judgments 184 (S.C.)

Probation - Benefit of probation is not excluded by provisions of mandatory minimum sentence prescribed for an offence. (2021(1) Apex Court Judgments 676 (S.C.)

Rape - False promise to marry - No allegation that promise to marry was false at the inception - Charge sheet quashed. (2021(1) Apex Court Judgments 164 (S.C.)

Rejection of plaint - Suit for cancellation of sale deed for non payment of entire sale consideration - Suit is vexatious, meritless and does not disclose a right to sue - Plaint is liable to be rejected. (2021(1) Apex Court Judgments 681 (S.C.)

Rejection of plaint - Cause of action - Entitlement to sue or locus standi is an integral part of cause of action. (2021(1) Apex Court Judgments 109 (S.C.)

Rejection of plaint - Plea of accrual of cause of action whether genuine and legitimate, is a mixed question of fact and law - Order rejecting plaint cannot be sustained. (2021(1) Apex Court Judgments 026 (S.C.)

Rent & Eviction - High Court cannot interfere with finding of fact in revisional jurisdiction unless there is perversity or misappreciation of evidence by Appellate Authority. (2021(1) Apex Court Judgments 220 (S.C.)

Second appeal - Formulation of substantial question of law or reformulation of the same arises only if there are some questions of law and not in the absence of any substantial question of law - High Court is not obliged to frame substantial question of law, in case, it finds no error in the findings

recorded by First Appellate Court. (2021(1) Apex Court Judgments 771 (S.C.)

Secondary evidence - An application is not required to be filed if foundation for leading secondary evidence is there either in plaint or in evidence. (2021(1) Apex Court Judgments 415 (S.C.)

Service - Extension of retirement - Benefit not available to an employee who had already retired. (2021(1) Apex Court Judgments 545 (S.C.)

Settlement - Private out of Court settlement by parties during pendency of appeal - Appellant is entitled to refund of Court fee. (2021(1) Apex Court Judgments 425 (S.C.)

Specific performance - Once suit for specific performance is filed, any delay as a result of Court process cannot be put against plaintiff. (2021(1) Apex Court Judgments 043 (S.C.)

Specific performance - Subsequent purchaser can challenge readiness and willingness on the part of plaintiff. (2021(1) Apex Court Judgments 735 (S.C.)

Specific performance - Conduct of plaintiff is very crucial in a suit for specific performance. (2021(1) Apex Court Judgments 080 (S.C.)

Specific performance - Mere escalation of land prices after date of filing of suit cannot be sole ground to deny specific performance. (2021(1) Apex Court Judgments 043 (S.C.)

Suppression of material facts - Amounts to abuse of process of Court which shall be dealt with a heavy hand. (2021(1) Apex Court Judgments 316 (S.C.)

Will - Some of the natural heirs not even mentioned in the Will - Plea that Will is surrounded by suspicious circumstances, not tenable. (2021(1) Apex Court Judgments 415 (S.C.)