

# TRAINING ON COURT CASES

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- An Affidavit is a written statement for use of evidence in the Court Sworn on oath to be true.
- N.B.A : A Notice before admission is given to show cause why the O.A or W.P should not be admitted
- O.A = Original Application : Andhra Pradesh Administrative Tribunal
- W.P = Writ Petition : Andhra Pradesh High Court
- Complaint : AP Lokayukta and Upalokayukta
- Consumer Dispute (C.D) : District Consumer Forum
- Forum Appeal (F.A) : A.P State Consumer Forum
- Original Suit (O.S) : Civil Courts
- Suit Appeal (S.A) : Civil Courts

## **What is Law**

Law is a system of Rules, enforces through a set of Institutions. Law is a body of principles and it is recognized and applied by the State in the Administration of Justice – SOLMOND

# Analysis

- 1) Law consist of principles / rules
- 2) Those rules which are recognized and applied by State alone can be called Law.
- 3) To ascertain true nature of Law one should got to the Court and not to the  
Legislature
- 4) Law pre supposes the existence of State.
- 5) The Purpose of Law is to secure Justice
- 6) Law is the means where as the Justice is end.

## **Justice : Its Meaning**

Justice consists in giving to every man or woman, what he/she is entitled to get under the law.

## **State :**

The law pre supposes the existence of State which has chiefly four ingredients

i) Population ii) Territory iii) Government iv) Sovereignty

## **Sanction :**

Sanction is an element of Law. It is the nature of penalty for disobedience

Sanctions are means to enforce obedience to Law

## **Administration of Justice :**

An administration of Justice is the most essential function of the State. This power is exercised by the State True Judiciary to enforce rights and to punish wrongs. It involves two parties.

1) PLAINTIFF AND DEFENDANT : In Civil Cases

2) Complaint and Accused (OR)  
Prosecution and accused in Criminal Cases

**Judicial Process involves : A**

right claimed or a wrong complained by one party against the other.

a) Hearing the parties by the Court

b) Judgement of the Court

delivered at the end of the trial

c) Execution of the operative part of the Judgement.

# FUNDAMENTAL RIGHTS

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination. The Fundamental Rights are meant for promoting the ideal of Political Democracy. They prevent the establishment of an authoritarian and despotic rule in the country and protect the liberties and freedoms. Originally, the Constitution provided for seven Fundamental Rights.

- 1) Right to Equality (Art. 14-18)
- 2) Right to Freedom (Art.19-22)
- 3) Right against exploitation (Art 23-24)
- 4) Right to freedom of religion (Art.25-28)
- 5) Cultural and Educational Rights (Art.29-30)
- 6) Right to property (Art.31)
- 7) Right to Constitutional remedies (Art.32)

However, the right to property was deleted from the list of Fundamental Rights by the 44<sup>th</sup> Amendment Act, 1978. It is made a legal right under Article 300-A in Part XII of the Constitution.



**DEFINITION OF STATE** : Article 12 has defined the term for the purposes of Part III. According to it, the State includes the following.

- a) Government and Parliament of India.
- b) Government and Legislature of State
- c) All local authorities that is municipalities, panchayats, district boards, improvement trusts...etc.
- d) All other authorities, that is statutory or non statutory authorities like LIC, ONGC, SAIL...etc

**The term 'Law' in Art.13 includes the following :**

- a) Permanent laws enacted by the Parliament or the State Legislature
- b) Temporary laws like ordinances issued by the president or the State Governors.
- c) Statutory instruments in the nature of delegated legislation (executive legislation) like order, bye-law, rule.

# **The Indian Judiciary System of Courts in India :**

In India three types of Courts are existing.

- 1) At National Level Apex Court = Supreme Court of India – A124
- 2) At State Level : High Courts – 214
- 3) Sub ordinate courts = At District Level and lower level – 233

# **Supreme Court has the following powers and functions**

**:**

- 1) Power of Judicial Review
- 2) It is the court of record A-129
- 3) It has original Jurisdiction A - 131
- 4) It is the Highest Court of Appeal A-132, 133, 134 and Special Leave Petition - 136
- 5) It has writ Jurisdiction on A-32, 139.
- 6) Law declared by the S.C binding on all courts in India A-141

## **High Courts : There are 24 High Courts in India (Art.214)**

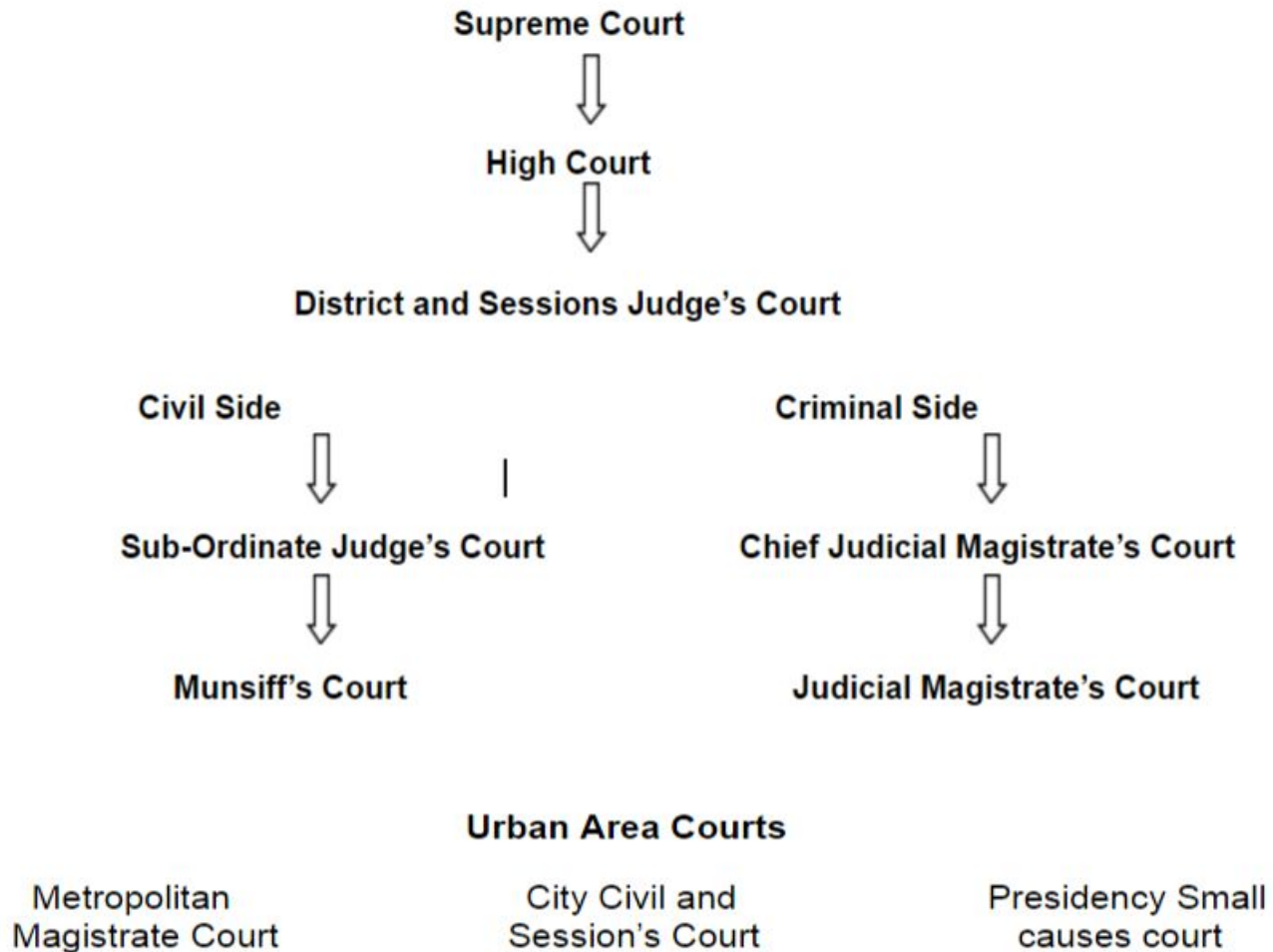
At present, a high court enjoys the following jurisdiction and powers.

- 1) Original Jurisdiction
- 2) Writ Petition
- 3) Appellate Jurisdiction
- 4) Supervisory Jurisdiction
- 5) Control over Sub-Ordinate Courts
- 6) A Court of Record
- 7) Power of Judicial Review.

# **SUB ORDINATE COURTS**

**Constitutional Provisions** : Articles 233 to 237 in Part VI of the Constitution make provisions to regulate the organization of subordinate courts and to ensure their independence from the executive.

## The Organizational Structure of Indian Judiciary



## **Authorized Legal Counsels / Law Officers on behalf of Government**

At District Level :

- 1) Asst. Public Prosecutor Grade – I (Govt. Officials) for Criminal Matters.
- 2) Asst. Public Prosecutor Grade – II (Govt. Officials) Lower Courts
- 3) i) Public Prosecutor  
ii) Additional Public Prosecutor, Private Advocates appointed for specific term.
- 4) Special Public Prosecutor for criminal matters in the Dist. Court /Additional Dist. Court
- 4) Government Pleader Private advocates appointed for a specific term for civil matters
- 5) Asst. Govt. Pleader in the Dist. Courts; Lower Courts respectively



## **At State Level**

- vi) Government Pleader at High Court : Private Advocates appointed for a specific term
- vii) APAT Govt. Pleader at High Court: Private Advocates appointed for specific term for all depts. state service matters
- viii) Public Prosecutor at High Court : Private Advocates appointed for specific term for all depts. criminal matters
- xi) Advocate General at High Court : Private Advocates appointed for a specific term both for civil / criminal matters at High Court of AP at Hyd.

## Procedure to be adopted while Drafting Affidavit

- 1) An affidavit is a declaration as to facts made in writing and sworn before a person  
having authority to administer oath. Affidavit includes.  
Affirmation and declaration in the case of persons by law allowed affirming or declaring  
instead of swearing.
- 2) The Text of an affidavit may reflect the personal knowledge to the deponent touching  
the facts of. It may be drawn on the strength of information passed on from authentic  
source having credibility.
- 3) The contents may reflect the knowledge of the deponent with reference to records.
- 4) The Heading of the Affidavit should define the name of the court, the no. of proceeding;  
names of parties followed by the full description of the deponent (Father's name,  
Husband's name, Age, Occupation, Residence)

- 5) The very first sentence of the Affidavit should trace its identity as a party in the suit
- 6) After the conclusion of the Affidavit, the signature of the deponent must find place in all pages at the foot.
- 7) Finally the Affidavit to be sworn by a person on having authority to administer the oath.
- 8) The Affidavit is drafted in the first person in contrast, the plaint is drafted by a third person.

## **SUIT :**

- 1) A plaint contains the narration of claim giving cause of action for the suit and ending with prayer seeking the relief
- 2) It in a suit instituted the parties may desire to seek interim relief for protecting the property in dispute or move the court seeking assistance for progress of the trial of the suit every such relief can be a subject matter of a petition and such petition must be supported by an Affidavit.
- 3) The orders passed thereon by the Court will be in force until the disposal of the suit as ordered by the Court.

## **Procedures and Principles to be followed in Drafting Counter Affidavits and further follow up Actions :**

In all the cases of Writ Petitions against the Government and other departmental offices where affidavits are communicated with a notice, counter affidavits have to be filed rebutting/ disproving/denying contradicting the contents raised by the petitioner basing on the available recorded evidence.

Normally the High Court will communicate a copy of the writ petition along with a notice directing the respondent to appear personally or by advocate on the appointed day and time to show cause. Why the Writ Petition should not be complied by filing the counter Affidavit.

Immediately the concerned officer should address the Govt. Pleader to enter appearance in the court and take long adjournment for filing counter and simultaneously parawise remarks should be prepared without undue delay and the same should be sent for the Govt Pleader along with concerned Assistant in case of urgency /Emergency.

On this the Govt Pleader will prepare the draft counter affidavit and send the same to the concerned officer i.e., Respondent.

The respondent who will after approving it get it fair typed on both sides of thick white paper in double line spacing with 1 ½ margin on all sides and duly singed and sworn at the end of each page by both the attesting and swearing officers with their designation stamps and to send it to the Govt. Pleader with five extra copies along with original for being filed in the High Court.

It should be born in the mind that fair counter should be accompanied by all the attested copies of documents referred to in the counter affidavit.

Fair counter copies should be prepared in strict conformity with the above guidelines s otherwise the court will refuse to accept.

Finally the concerned officer (Respondent) after getting the counter affidavit filed in the court by the Govt. Pleader watch the stage of the case by pursuing action with Govt. Pleader till the disposal of the Writ Petition and communication of the order/Judgement.

The procedure as indicated above with regard to the drafting of counter Affidavit should be followed in respect of drafting of Affidavit of all Judicial Courts including A.P.A.T.

# **Administrative Tribunal :**

[www.apat.ap.gov.in](http://www.apat.ap.gov.in)

## **Website APAT – Home Page**

1) Home 2) Contacts 3) Judicial Notifications 4) Cause Lists 5) Case Status 6) Display Board 7) Cav cases 8) Judgments 9) Judicial Index 10) Dept wise pendency 11) Advocate wise pendency 12) GPS/SCS 13) Photo Gallery

General Information : 1) Case Status information 2) Display Board 3) Calendar 4) Judicial Directory Service 5) Dist and Subordinate Courts Judges Library : Profiles, C.J and Sitting Judges  
S.C : Court NIC, e – Courts Projects, Judgments.  
Updates : i) e mail updating form for advocates.  
ii) Applications form for SMS Alert for Advocates.



## **RIGHTS TO CONSTITUTIONAL REMEDIES :**

Article 32 confers the right to remedies for the enforcement of the fundamental rights of an aggrieved citizen. This makes the fundamental rights real.

- a) The right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights is guaranteed.
- b) The Supreme Court shall have the power to issue directions or orders or writs for the enforcement of any of the fundamental rights. The writs issued may include habeas corpus, mandamus, prohibition, certiorari and quo-warranto.

## **Writs – Types and Scopes :**

The Supreme Court (under Article 32) and the High Court (under Article 226) can issue the writs of habeas corpus, mandamus, prohibition, certiorari and quo-warranto. Further, the Parliament (under Article 32) can empower any other court to issue so far, only the Supreme Court and the High Courts can issue the writs and not any other courts. Article 226 now empowers all the high court's to issue the writs.

## **Habeas Corpus :**

It is a Latin term which literally means 'to have the body of'. It is an order issued by the court to person who has detained another person, to produce the body of the latter before it. The court then examines the cause and legality of detention. It would set the detained person free, if the detention is found to be illegal.

## **Mandamus :**

It literally means 'we command'. It is a command issued by the court to a public official asking him to perform his official duties that he has failed or refuse to perform.

## **Prohibition :**

Literally it means 'to forbid'. It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess.

## **Certiorari :**

In the literal sense, it means 'to be certified' or 'to be informed'. It is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in the case.

## **Quo - Warranto :**

In the literal sense, it means 'by what authority or warrant'. It is issued by the court to enquire into the legality of claim of a person to public office. Hence it prevents illegal usurpation of public office by a person.

To  
The Government Pleader for Land Acquisition.  
A.P. High Court,  
Hyderabad.

Sir,  
Sub:- Submission – Parawise Remarks for  
correction – To prepare fair counter – By R.D.O,  
Guntur, Guntur Dist. – Reg

Ref :- W.P.No.24533 of 2008 dt.04.11.2008 of  
High Court of A.P, Hyderabad filed by  
Sri.Ch.Yagna Narayana and two others of  
Gorantla Village, Guntur Mandal, Guntur  
Dist.

## Brief History of the Case

The three petitioners Chaluvadi Yanga Narayana S/o Veeriah, Chaluvadi Prasad S/o Raghavaiah , Chaluvadi Sanjeeva Rao, S/o Venkata Swamy filed a Writ Petition in the ref. 1<sup>st</sup> cited.

The petitioners fathers by name Late Veeraiah, Late Raghavaiah and Late Venkata Swamy are brothers and sons of Late China Ramaiah. They own and possess Ac.20.9 cents and 1.78 cents of wet land respectively. The lands are being cultivated by paddy crop. The land is in S.No.172 of Mutluru Village, Vatticherukuru Mandal, Guntur Divn.

In this connection the first respondent here in issued a notification in his proceedings Rc.No.1112/08/01 dt.28.03.08 under section 4(1) of the Land Acquisition Act by proposing to acquire Ac.5.84 cents of land belongs to the petitioners to provide house sites to house less poor persons of Mutluru Village to construct houses by the Housing Corporation under Indiramma Scheme.



The 1<sup>st</sup> respondent District Collector appointed the 2<sup>nd</sup> respondent to perform the functions of the Collector under Sec. 5 (A) of L.A. Act. Pursuant to the same the 2<sup>nd</sup> respondent R.D.O, Guntur issued notice under Sec.5 (A) dt.30.04.2008 giving 15 days time for filing the objections to the Acquisition and fixing the date for enquiry on 16.05.2008

Pursuant to the same the petitioners filed objections to the acquisition through their Lairs notice dt.15.05.2008 stating that they are all small farmers and the income from these lands is the main source of income for their livelihood. They also stated that there are several lands in the vicinity belonging to the big farmers, Govt. Lands and Endowments Lands and requested to drop the Land Acquisition Proceedings.

The 1<sup>st</sup> respondent passed orders in Rc.No.1112/2008/G1 dt.19.10.2008 rejecting our objections stating that all the land owners are financially strong, that there no Govt. or assigned lands in Mutluru Village and it is inevitable to acquire the said lands. The same was served to the petitioners by the 3<sup>rd</sup> respondent Tahsildar, Vatticherkuru.

The first respondent issued Draft Declaration under sec.6 of the L.A Act in his proceedings Rc.No.112/08/G1 dt.19.10.2008 deciding to acquire the above said lands.

In this connection the petitioners questioning the D.N., D.D and the endorsement of 5 (A) enquiry they filed a writ petition in High Court of AP in ref.1<sup>st</sup> cited.

The 2<sup>nd</sup> respondent R.D.O received affidavit in Writ Petition No.24533 of 2008 with a notice to appear before the Honorable High Court in person or through Govt. Pleader to defend his case.

# SMS ALERT SERVICES

The Hon'ble Sri Justice Dilip B. Bhosale, the Acting Chief Justice, High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh has launched on 15<sup>th</sup> August, 2015 the SMS alerts service system which was developed by the NIC, Hyderabad for sending SMS alerts in respect of the cases filed in the High Court and also for knowing the hearing status of cases in the Court Halls for the benefit of the advocates and parties-in-person. Through said SMS alerts, the status of cases filed, returned, represented and assignment of main case numbers will be informed to the

advocates and parties-in-person, who have registered their mobile numbers with the High Court.

The text of SMS alerts for the cases filed, returned, represented and registered will be as under:

*WPSR <Number> is allotted to the case of <name of the petitioner> filed on <date>.*

*WPSR <Number> returned with objections on <date> for compliance.*

*WPSR <Number> has been re-presented on <date> and will be processed for scrutiny.*

*WPSR <Number> is scrutinized and numbered as WP <number> on <date>.*

Further, SMS alerts on case hearing status in the Court Halls to advocates and parties-in-person will also be provided through the aforesaid application. Initially, this facility will be provided from two court halls namely Court Hall Nos 25 and 26 on trial basis.

The following is the feature of the SMS alerts:

For example, if item No.1 is being heard in court hall No.26, SMS will be sent to the advocate having case at Serial No.7 and another SMS to the advocate having case at Serial No.4.

The text of the SMS alert will be as follows:

1. Item No.1 is taken up in Court Hall No.26. Your case is listed at item No.7.

***(this message will be sent to the advocate having case at serial No.7)***

2. Item No.1 is taken up in Court Hall No.26. Your case is listed at item No.4.

***(this message will be sent to the advocate having case at serial No.4).***

Steps are being taken to provide more such services in future to the advocates and parties-in-person by using the advances made in

## Parawise Remarks

Para 1 : No remarks

Para 2 : No remarks

Para 3 : They are not small farmers. The income from these lands is not the main source of their lively hoods. The big ryots lands far away from the habitation of the village.

Para 4 : There are not the small farmers. They are also having lands in other Villages.

Para 5 : The family members are having other source of income by other Works and business.

Para 6 : They are not a Joint Family. They are not living in the Mutluru Village. The income from the land is not the main source of living to the family.

Para 7 : They are not a Joint Family. They are not living in the Mutluru Village. The income from the land is not the main source of living to the family

Para 8 : As there are no other suitable lands to provide house sites to weaker sections nearby the habitation of the village its is inevitable to take the above said land. Notices were issued to the petitioners under 5 (A) of L.A. Act to attend the enquiry and file objections as mentioned by the petitioner in para no.3. though the opportunity was given they have not turned up.

Para 9 : There are no Govt. Lands, Assigned Lands and Endowments Dept Lands in the Village. Though it is a wet land it is nearer to the Village and fit land for habitation.

Para 10 : No remarks

Para 11 : The above said land was acquired for public purpose to provide

House Sites to poor houseless weaker sections people to construct

Houses under Indiramma Scheme by the Govt. Therefore i pray that

the Honorable Court may be pleased to dismiss the Writ Petition.

In view of the above I pray this Honorable court may be pleased to vacate the interim stay orders and the writ petition may be dismissed, and also to pass such orders in interest of Justice.

Yours faithfully,

Sd/-xxxxxx

Revenue Divisional Officer,  
Guntur, Guntur Dist. A.P