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Weekly Legal Current Affairs

15–21 June 2026

This week at a glance

- A five-year-old killed where there was no footpath. The Court turns that loss into a new fundamental right: the right to walk, and an enforceable duty to build footpaths.
- A state told an accused his sanction file was off-limits, calling its anti-corruption wing an 'intelligence' body. The Court tested the rule on its own and struck it down.
- A dismissed engineer said the wrong officer fired him. The Court parses 'subject to any regulation that may be made' and holds 'may be' looks only forward, so the Commissioner was right.

In this issue

1	Maniyar Iliyaz @ Shaik Riyaz vs P. Ayyappan	Constitution
2	Special Police Establishment vs Kamta Prasad Mishra	Constitution
3	Rajesh Sharma vs North Delhi Municipal Corporation	Service / Admin
4	Rajat Kumar and Ors. vs S.D. Adarsh Jain Kanya Maha Vidyalaya	Civil / CPC
5	S. Senthil Kumaran Bose vs The State of Tamil Nadu	Service / Admin

Judgments of the week

1. Maniyar Iliyaz @ Shaik Riyaz vs P. Ayyappan Constitution

2026 INSC 647 · Pamidighantam Sri Narasimha, J. and Atul S. Chandurkar, J. (judgment authored by Pamidighantam Sri Narasimha, J.) · 19 June 2026

Facts. A father had just dropped his five-year-old son near a neighbourhood school when a tanker struck the boy from behind and killed him; there was no footpath and no pedestrian crossing on the road. The MACT awarded Rs. 7,82,000, but in cross-appeals the High Court cut the compensation to Rs. 4,70,000. The father's appeal gave the Court occasion to look past the accident to the missing infrastructure that caused it.

Issue. Whether the right to walk on a demarcated footpath is a fundamental right, what correlative duty it casts on civic authorities, and what remedy a citizen has when that right is denied; and whether the High Court erred in reducing the motor-accident compensation.

Held. The Court declared the right to walk a fundamental right under Article 19(1)(d), read with Articles 19(1)(a), (b), (c) and 21, and held it carries within it the right to demarcated footpaths, which are primary and have priority over movement by motorised vehicles. This right casts an enforceable, correlative duty on urban development authorities, municipal corporations, municipalities and panchayats to demarcate, build and maintain footpaths wherever a road exists. The Motor Vehicles Act, 1988 was held to be vehicle-centred and not the statute that protects pedestrians, so a citizen whose right is violated may seek a restitutionary remedy under the Constitution or under Sections 38-40 of the Specific Relief Act, 1963, independent of any claim under the Motor Vehicles Act. The Court directed the Registry to send the judgment to the Ministries concerned and the Law Commission to consider a statutory framework and a regulator, and renumbered the matter as a petition under Article 32 titled 'Re: Fundamental Right to Walk and Footpath'. Applying Karuna Parmar v. Prakash Sinha, it recomputed and enhanced the compensation to Rs. 11,44,628.

> ***Why it matters.*** *The novelty is the source: the right to walk is anchored in Article 19(1)(d) free movement, not just Article 21, and the enforcement route is Sections 38-40 of the Specific Relief Act against civic bodies, not a Motor Vehicles Act claim.*

Provisions: Article 19(1)(d), read with Articles 19(1)(a), (b), (c) and 21, Constitution of India; Sections 38-40, Specific Relief Act, 1963; Motor Vehicles Act, 1988; Article 32, Constitution of India

2. Special Police Establishment vs Kamta Prasad Mishra Constitution

2026 INSC 644 · J.K. Maheshwari, J. and Atul S. Chandurkar, J. (judgment authored by Atul S. Chandurkar, J.) · 15 June 2026

Facts. A Town Inspector facing a Prevention of Corruption Act trap case sought, under the RTI Act, details of how sanction for his prosecution was granted. The State Information Commission refused, citing Section 8(1)(h), but the Madhya Pradesh High Court directed disclosure since the investigation was complete. Before the Supreme Court the State relied on a 2011 notification issued under Section 24(4) RTI Act exempting the M.P. Special Police Establishment (SPE) of the Lokayukt Organisation from the Act.

Issue. Whether a court may suo motu examine the validity of a subordinate legislation that was not specifically challenged, and whether the SPE assisting the Lokayukt is an 'intelligence and security' organisation entitled to exemption from the RTI Act under Section 24(4).

Held. The Court held that the absence of a specific prayer challenging a subordinate legislation does not bar a constitutional court from testing its validity, provided the concerned authority is first given a full opportunity to defend it (following Bihar Rajya Dafadar Chaukidar Panchayat and Bharathidasan University). Since a pure question of interpretation arose and the State had been heard, the Court examined the 2011 notification. It reiterated that subordinate legislation enjoys less immunity than a statute and may be struck down where it fails to conform to, or exceeds the authority of, the parent Act (Indian Express Newspapers; P. Krishnamurthy). Section 24(4) RTI Act exempts only 'intelligence and security' organisations established by the State; the SPE, confined to investigating offences under the Prevention of Corruption Act, 1988 and Sections 409, 420 and Chapter XVIII of the Penal Code while assisting the Lokayukt, is not such an organisation. The notification was therefore held excessive and bad in law to that extent and struck down, with the High Court's disclosure direction upheld.

> ***Why it matters.*** *Two exam-points in one ruling: a court may test the vires of a rule even without a formal challenge (after hearing the State), and Section 24(4) RTI exemption is reserved for genuine intelligence/security bodies, not every state investigating agency.*

Provisions: Sections 8(1)(h) and 24(4), Right to Information Act, 2005; Section 3, Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981; Madhya Pradesh Special Police Establishment Act, 1947; Prevention of Corruption Act, 1988

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3. Rajesh Sharma vs North Delhi Municipal Corporation Service / Admin

2026 INSC 646 · Sanjay Karol, J. and Manoj Misra, J. (judgment authored by Manoj Misra, J.) · 17 June 2026

Facts. An Executive Engineer with the Corporation was convicted under the Prevention of Corruption Act and the IPC and dismissed by the Commissioner. He argued that under the 1959 Regulations the disciplinary authority for his Category 'A' post was the 'Corporation', not the Commissioner, so the dismissal was void. The respondents relied on substituted clause (d) of Section 59 of the Delhi Municipal Corporation Act, 1957 (inserted by Act 67 of 1993), which made the Commissioner the disciplinary authority 'subject to any regulation that may be made in this behalf'.

Issue. Whether a provision brought in by substitution relates back to the original enactment, and whether the phrase 'subject to any regulation that may be made in this behalf' in substituted Section 59(d) refers to the existing 1959 Regulations or only to regulations made after the substitution.

Held. Surveying the law on amendment by substitution (Shamarao Parulekar, Bhagat Ram Sharma, Property Owners Association v. State of Maharashtra), the Court held that mere use of the word 'substitution' does not make a provision relate back; whether it is retrospective turns on legislative intent, and substituted Section 59(d) came into force only on 01.10.1993. Construing 'subject to any regulation that may be made in this behalf', it held, following Stroud's Judicial Dictionary and Vijay Kumar Shukal, that 'may be' points to the future, so the clause is subject only to regulations framed after the substitution, not the existing 1959 Regulations; reading it otherwise would render the words 'may be made' redundant. Section 24 of the General Clauses Act did not save the 1959 Regulations as they were inconsistent with the re-enacted provision, and there was no real conflict with Section 95(1), which merely specifies punishments while Section 59(d) names the disciplinary authority. The Commissioner was therefore the competent disciplinary authority and the dismissal was valid; the contrary High Court view in G.S. Matharoo was overruled and the appeal dismissed.

> ***Why it matters.*** *A clean statutory-interpretation set-piece: 'substitution' is not automatically retrospective, and the tense of 'may be made' decides whether a saving clause looks backward or forward. Pair it with the pen-and-ink theory of Shamarao Parulekar.*

Provisions: Section 59(d), Delhi Municipal Corporation Act, 1957 (as substituted by Act 67 of 1993); Sections 92, 95(1) and 98, Delhi Municipal Corporation Act, 1957; Section 24, General Clauses Act, 1897; Delhi Municipal Corporation Service (Control and Appeal) Regulations, 1959

In brief — also on the docket this week

4 Rajat Kumar and Ors. vs S.D. Adarsh Jain Kanya Maha Vidyalaya Civil / CPC

2026 INSC 648 · S.V.N. Bhatti, J. and Atul S. Chandurkar, J. (judgment authored by Atul S. Chandurkar, J.) · 19 June 2026

Issue. Whether a High Court, in a second appeal, may set aside concurrent decrees for mandatory injunction (removal of an encroaching wall and a lintel) and instead compel the decree-holders to accept money compensation they never prayed for, and whether it may do so without framing and answering a substantial question of law.

Held. The Court held the High Court's order unsustainable. The original plaintiff had sought only mandatory and permanent injunctions and never any compensation, and his legal heirs did not consent to monetary relief; a court cannot grant relief not prayed for and compel a party to accept compensation at the cost of an operating decree in its favour. Once the trial-court decrees were set aside, there was no decree for the Executing Court to value, so directing it to assess the wall's worth was an exercise unsupported by Order XXI CPC. The High Court had also repeated the very error this Court had earlier corrected on remand and had proceeded on the factually wrong premise that the wall was 'common'. Crucially, a second appeal under Section 100 CPC cannot be decided without a substantial question of law being framed and answered; the impugned judgment did neither. The decrees were restored to the extent of setting aside the High Court order, and the second appeals were remitted for fresh decision on merits under Section 100.

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5 S. Senthil Kumaran Bose vs The State of Tamil Nadu (Service / Admin)

2026 INSC 645 · J.K. Maheshwari, J. and Atul S. Chandurkar, J. (judgment authored by Atul S. Chandurkar, J.) · 15 June 2026

Issue. Whether, in a long-running recruitment for Motor Vehicle Inspector posts, candidates excluded for want of workshop experience could be denied consideration despite retrospective renewal of workshop approvals, and whether candidates already in a revised select list acquire a vested right that bars a fresh, level-playing-field selection.

Held. The Court upheld the High Court's direction that the State decide on retrospective renewal of approval to the concerned workshops and redo the selection accordingly. Since the workshops were always shown as approved and candidates were not at fault for the pendency of renewal applications, denying them on that basis was arbitrary, and retrospective approval (since carried out, with re-verified experience reports submitted to the TNPSC) entitled the affected candidates to be considered. Mere placement in a revised select list confers no vested right to appointment, especially where the right to participate in the fresh process is preserved; a fresh process providing a level playing field serves the larger public interest in selecting more meritorious candidates. The Court also affirmed that a Tamil-medium certificate issued by the Head of the Institution sufficed for the PSTM quota where the notification prescribed no further requirement, and that disclosure of marks of candidates outside the zone of consideration could be directed in the public interest.

Clear Concepts — textbook revision of two core concepts

Second Appeal and the 'Substantial Question of Law' — Section 100, CPC

CPC

Section 100, Code of Civil Procedure, 1908 (substituted by the CPC (Amendment) Act, 1976)

A second appeal to the High Court lies, after the 1976 amendment, only if the case involves a substantial question of law; a pure question of fact, or even an ordinary question of law, is not enough. The High Court must be satisfied that such a question is involved, formulate it, and decide the appeal on that question alone, the appeal being heard on the question so framed. The object is finality: concurrent findings of fact are not to be disturbed in a third round of litigation.

Statutory scheme of Section 100. What the section requires:

- S.100(1)-(3): a second appeal lies only where the High Court is satisfied the case involves a SUBSTANTIAL question of law; the memorandum must precisely state it.
- S.100(4): if so satisfied, the High Court shall FORMULATE that question.
- S.100(5): the appeal is heard on the question so formulated (respondent may argue it is not involved), though the Court may, for reasons recorded, hear it on any other substantial question not formulated, if satisfied it is involved.
- S.103 lets the High Court determine an issue of fact necessary for disposal where the lower courts have not, or have wrongly, decided it.

What is a 'substantial question of law'.

- It must be debatable, not previously settled, and must materially affect the decision of the case (Sir Chunilal Mehta v. Century Spg. & Mfg. Co.).
- A finding of fact, howsoever erroneous, is NOT a substantial question of law; the High Court cannot reappreciate evidence in second appeal.
- But a finding based on NO evidence, or on irrelevant material, or perverse, gives rise to a question of law.
- The question must be FORMULATED; deciding a second appeal without framing one vitiates the judgment (Rajat Kumar v. S.D. Adarsh Jain Kanya Maha Vidyalaya, 2026 INSC 648; Santosh Hazari).

Limits on the High Court's power.

- Concurrent findings of fact by the trial and first appellate courts are ordinarily binding and not to be reopened.
- The High Court cannot, in second appeal, grant relief not claimed or substitute a new cause of action (Rajat Kumar, supra).
- Interference is justified only where findings are perverse, based on inadmissible evidence, or ignore material evidence.
- Where the first appellate court (the final court of fact) has not recorded findings on a material issue, s.103 may be invoked rather than a remand, in a fit case.

Leading cases.

- Sir Chunilal V. Mehta & Sons v. Century Spg. & Mfg. Co., AIR 1962 SC 1314 — classic test: a question is 'substantial' if it is debatable, not finally settled, and of general importance or directly and substantially affecting the parties' rights.
- Santosh Hazari v. Purushottam Tiwari, (2001) 3 SCC 179 — explains 'substantial question of law'; the High Court must formulate it and the first appellate court must record reasons on each issue of fact.
- Hero Vinoth v. Seshammal, (2006) 5 SCC 545 — restates the principles; a finding of fact may be open to challenge only if perverse or based on no evidence.
- Kondiba Dagadu Kadam v. Savitribai Sopan Gujar, (1999) 3 SCC 722 — a second appeal cannot be decided on equitable grounds or by reappreciating evidence; the existence of a substantial question of law is the sine qua non.
- Rajat Kumar v. S.D. Adarsh Jain Kanya Maha Vidyalaya, 2026 INSC 648 — a High Court cannot dispose of a second appeal without framing a substantial question of law, nor grant a relief (compensation) never prayed for in place of an operating decree.

Exam tip. Second appeal = substantial question of law ONLY (s.100), and the High Court MUST formulate it (s.100(4)); concurrent findings of fact are sacrosanct unless perverse or based on no evidence. Remember s.103 lets the High Court itself decide an undecided/ wrongly-decided issue of fact in a fit case.

Right to Information and the Section 24 Exemption (intelligence & security organisations)

Constitution

Sections 8 and 24, Right to Information Act, 2005

The RTI Act, 2005 operationalises the citizen's right to information, itself a facet of the freedom of speech and expression under Article 19(1)(a) (S.P. Gupta; Raj Narain). The right is not absolute: Section 8 exempts certain categories of information, and Section 24 wholly excludes notified intelligence and security organisations. But an exemption clause is read narrowly, and a notification under Section 24(4) is subordinate legislation that must conform to the parent Act.

The right and its exemptions (Sections 3, 6, 8). Scheme of access and refusal:

- S.3 recognises every citizen's right to information; S.6 prescribes how a request is made; S.7 governs disposal.
- S.8(1) lists exemptions, including s.8(1)(h): information that would impede the process of investigation, apprehension or prosecution of offenders.
- Exemptions are construed strictly and the burden of justifying refusal is on the public authority (s.19(5)).
- Even exempt information may be disclosed if public interest in disclosure outweighs the harm (s.8(2)).

Section 24 — exempt organisations.

- S.24(1): the Act does not apply to the 'intelligence and security' organisations established by the Central Government and listed in the Second Schedule.
- S.24(4): a State Government may, by gazette notification, similarly exempt 'intelligence and security' organisations it has established.
- Both provisos preserve access to information on allegations of CORRUPTION and HUMAN RIGHTS VIOLATIONS, which can never be wholly excluded.
- Only genuine intelligence/security bodies qualify; an ordinary investigating agency does not become exempt merely by notification (SPE v. Kamta Prasad Mishra, 2026 INSC 644).

Challenging the notification (subordinate legislation).

- A notification under s.24(4) is delegated legislation and enjoys less immunity than a statute; it can be struck down for exceeding or not conforming to the parent Act (Indian Express Newspapers; State of T.N. v. P. Krishnamurthy).
- A constitutional court may test its validity even without a specific challenge, after giving the State a full opportunity to defend it (Bihar Rajya Dafadar Chaukidar Panchayat; SPE v. Kamta Prasad Mishra).
- An organisation confined to investigating corruption/penal offences (e.g. a Lokayukt's Special Police Establishment) is not 'intelligence and security' under s.24(4).
- A notification exempting such a body is excessive and void to that extent.

Leading cases.

- State of U.P. v. Raj Narain, AIR 1975 SC 865 — the people have a right to know; foundation of the right to information in a democracy.
- S.P. Gupta v. Union of India, AIR 1982 SC 149 — right to know is implicit in the right to free speech and expression under Article 19(1)(a); open government is the rule.
- Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, (1985) 1 SCC 641 — subordinate legislation may be questioned on the grounds available against plenary law, and additionally for non-conformity with the parent statute.
- State of Tamil Nadu v. P. Krishnamurthy, (2006) 4 SCC 517 — catalogues the grounds for challenging delegated legislation: lack of competence, violation of FRs/Constitution, non-conformity with or excess of the enabling Act, repugnancy, manifest arbitrariness.
- Special Police Establishment v. Kamta Prasad Mishra, 2026 INSC 644 — the SPE assisting the Lokayukt, limited to corruption and specified penal offences, is not an 'intelligence and security' organisation; a Section 24(4) notification exempting it is bad in law and struck down.

Exam tip. RTI exemptions are read narrowly: s.8(1)(h) protects ongoing investigation, and s.24 excludes only TRUE 'intelligence and security' bodies, with corruption/human-rights information always disclosable. A s.24(4) notification is subordinate legislation and can be struck down (even suo motu, after hearing the State) if it exceeds the parent Act.

Revision capsule — one-line recap of every ruling

- **Maniyar Iliyaz @ Shaik Riyaz:** The Court declared the right to walk a fundamental right under Article 19(1)(d), read with Articles 19(1)(a), (b), (c) and 21, and held it carries within it the right to demarcated footpaths, which are primary and have priority over movement by motorised vehicles.
- **Special Police Establishment:** The Court held that the absence of a specific prayer challenging a subordinate legislation does not bar a constitutional court from testing its validity, provided the concerned authority is first given a full opportunity to defend it (following Bihar Rajya Dafadar Chaukidar Panchayat and Bharathidasan University).

- **Rajesh Sharma:** Surveying the law on amendment by substitution (Shamarao Parulekar, Bhagat Ram Sharma, Property Owners Association v.
- **Rajat Kumar and Ors.:** The Court held the High Court's order unsustainable.
- **S. Senthil Kumaran Bose:** The Court upheld the High Court's direction that the State decide on retrospective renewal of approval to the concerned workshops and redo the selection accordingly.

Prelims Q&A — real past questions, with old→new code mapping

Q1. On the reversal of a decree, which section imposes an obligation on the party who received an unjust benefit of the erroneous decree to make restitution to the other party for what he has lost?

1. Section 141, CPC
2. Section 142, CPC
3. Section 143, CPC
4. Section 144, CPC

> **Ans: D.** Section 144 CPC embodies the doctrine of restitution: where a decree is varied or reversed in appeal/review, the court that passed it must, on application, place the parties in the position they would have occupied but for the erroneous decree, including refund of costs and mesne profits. (Cf. Rajat Kumar v. S.D. Adarsh Jain Kanya Maha Vidyalaya, 2026 INSC 648, where the Court stressed an Executing Court cannot value/execute where the underlying decree has fallen.) The CPC, 1908 is unchanged by the 2023 criminal-law overhaul, so no old-new code mapping applies. **[Jharkhand 2018]**

Q2. By the Amendment Act of 2005, Section 6 of the Hindu Succession Act, 1956 was:

1. Amended
2. Substituted
3. Repealed
4. None of these

> **Ans: B.** The Hindu Succession (Amendment) Act, 2005 SUBSTITUTED Section 6, conferring on daughters of a coparcener the same coparcenary rights by birth as a son (later read prospectively-yet-applicable in Vineeta Sharma v. Rakesh Sharma, 2020). 'Substitution' (not mere amendment or repeal) is the operative description. The Hindu Succession Act, 1956 is unchanged by the 2023 criminal-law reforms, so no old-new code mapping applies. **[Odisha 2019]**

Q3. Under Section 100 of the Civil Procedure Code, 1908, a second appeal lies to the High Court from every decree passed in appeal by a subordinate court if it involves:

1. Question of Law
2. Question of Fact
3. Mixed Question of Law and Fact
4. Substantial Question of Law

> **Ans: D.** Section 100 CPC (as amended in 1976) permits a second appeal only where the case involves a SUBSTANTIAL question of law, which must be precisely framed; a second appeal cannot be decided on facts or on an ordinary question of law. This is exactly the defect the Supreme Court corrected in Rajat Kumar v. S.D. Adarsh Jain Kanya Maha Vidyalaya (2026 INSC 648), where the High Court decided a second appeal without framing any substantial question of law. The CPC, 1908 is unchanged by the 2023 reforms; no old-new mapping applies. **[Chhattisgarh 2020]**

Q4. Devilal Modi vs. Sales Tax Officer, AIR 1965 SC 1150, is a leading case on which topic?

1. Stay of suit
2. Place of suit
3. Constructive res judicata
4. Interlocutory orders

> **Ans: C.** Devilal Modi is the leading authority on constructive res judicata (Explanation IV to Section 11 CPC): a plea that 'might and ought' to have been raised in an earlier proceeding against the same party, but was not, cannot be agitated later. It is a tool to prevent piecemeal litigation and secure finality. The CPC, 1908 is unchanged by the 2023 criminal-law overhaul, so no old-new code mapping applies. **[Uttar Pradesh 2023]**

Q5. A foreign judgment:

1. can never be conclusive
2. can be conclusive as to any matter indirectly adjudicated upon between the same parties
3. can be conclusive as to any matter directly adjudicated upon between the same parties if it has not been pronounced by a court of competent jurisdiction
4. can be conclusive as to any matter directly adjudicated upon between the same parties if it has been pronounced by a court of competent jurisdiction

> **Ans: D.** Under Section 13 CPC, a foreign judgment is conclusive as to any matter directly adjudicated upon between the same parties, provided it was pronounced by a court of competent jurisdiction and does not fall within the six exceptions in clauses (a)-(f) (e.g., not on merits, founded on an incorrect view of international law, opposed to natural justice, obtained by fraud, sustaining a breach of Indian law). Hence (d). The CPC, 1908 is unchanged by the 2023 reforms; no old-new mapping applies. **[Jharkhand 2018]**

Q6. Expiry of the period of limitation:

1. extinguishes the debt
2. renders the debt unenforceable
3. extinguishes the debt and renders it unenforceable
4. None of these

> **Ans: B.** The Limitation Act, 1963 bars the REMEDY, not the RIGHT (except where Section 27 extinguishes the right to property on lapse of the suit period). So on expiry the debt subsists but the judicial remedy to recover it is barred, making it merely unenforceable; this is why a time-barred debt can still found a fresh promise to pay under Section 25(3) of the Contract Act, or be revived by a written acknowledgement under Section 18 of the Limitation Act. The Limitation Act, 1963 is unchanged by the 2023 criminal-law reforms; no old-new mapping applies. **[Odisha 2019]**

Q7. A suit for possession of immovable property under Section 6 of the Specific Relief Act, 1963 can be filed within:

1. 6 months of dispossession
2. 1 year of dispossession
3. 3 years of dispossession
4. 12 years of dispossession

> **Ans: A.** Section 6 of the Specific Relief Act, 1963 gives a summary remedy to a person dispossessed without consent and otherwise than in due course of law: he may sue to recover possession, notwithstanding any other title, but only within SIX months of dispossession (and not against the Government). No appeal/review lies (Section 6(3)), but Section 6(4) preserves a fresh suit on title under Section 5. The Specific Relief Act, 1963 is unchanged by the 2023 reforms; no old-new mapping applies. (Cf. Maniyar Iliyaz v. P. Ayyappan, 2026 INSC 647, locating the restitutionary footpath remedy in Sections 38-40 SRA.) **[Chhattisgarh 2020]**

Q8. Which Article of the Constitution provides for the establishment of the Goods and Services Tax Council?

1. Article 269A
2. Article 270
3. Article 279A
4. Article 279

> **Ans: C.** Article 279A, inserted by the Constitution (101st Amendment) Act, 2016, empowers the President to constitute the Goods and Services Tax Council, a joint forum of the Centre and the States chaired by the Union Finance Minister, to make recommendations on GST. (Article 269A deals with levy and apportionment of IGST on inter-State trade.) The Constitution is unchanged by the 2023 criminal-law overhaul; no old-new mapping applies. **[Uttar Pradesh 2023]**

Q9. Inherent powers of the Civil Court are exercised:

1. to make such orders as may be necessary for the ends of justice
2. to make such orders as may be necessary to prevent abuse of the process of the court
3. Both (A) & (B)
4. None of the above

> **Ans: C.** Section 151 CPC preserves the inherent power of a civil court to make such orders as may be necessary for the ends of justice OR to prevent abuse of the process of the court, hence BOTH (a) and (b). It is residuary, exercisable only where the Code is silent, and cannot override express provisions (Manohar Lal Chopra v. Seth Hiralal). The CPC, 1908 is unchanged by the 2023 criminal-law reforms; no old-new mapping applies. **[Jharkhand 2018]**

Q10. Which of the following cases upheld the right against solitary confinement?

1. Sunil Batra Case
2. Ramesh Thapar Case
3. Prem Shankar Shukla Case
4. None of these

> **Ans: A.** Sunil Batra v. Delhi Administration (AIR 1978 SC 1675) read Articles 14, 19 and 21 into prison administration and held that solitary confinement is a severe measure that cannot be imposed casually; it severely curtailed the practice and laid down due-process safeguards for prisoners. (Prem Shankar Shukla dealt with handcuffing; Ramesh Thappar with free speech and pre-censorship.) The Constitution is unchanged by the 2023 reforms; for the related penal cap, Old: s.73-74 IPC (solitary confinement) maps to New: s.11-12 BNS, 2023. **[Odisha 2019]**

Mains Q&A — real state mains questions, with model answers

Mains Q1. — **UP Civil Judge (Jr Div) Mains, Law Paper I, 2023 · Constitution**

"The principle of basic structure is judicial creation. It has nowhere been mentioned in the Constitution." Explain with the help of decided cases. Discuss the principle of basic structure.

It is true that the words 'basic structure' appear nowhere in the text of the Constitution; the doctrine is a judicial construct, evolved to answer a question the Constitution left open, namely whether the amending power in Article 368 is unlimited. That it is judge-made does not make it illegitimate, for it is drawn out of the scheme and spirit of the Constitution itself rather than imposed from outside.

The controversy began with the reach of Article 368. In Shankari Prasad v. Union of India and Sajjan Singh v. State of Rajasthan the Court held that Parliament could amend any part of the Constitution, including the Fundamental Rights, since an amendment was not 'law' within Article 13. That position was reversed in Golak Nath v. State of Punjab, where a majority held Fundamental Rights to be beyond the amending power. Parliament answered with the Twenty-fourth Amendment, inserting Article 368(1) and Article 13(4) to declare its constituent power supreme.

The decisive moment came in Kesavananda Bharati v. State of Kerala, where a thirteen-Judge Bench overruled Golak Nath and held that while Parliament may amend any provision, it cannot so amend as to damage or destroy the 'basic structure' of the Constitution. Supremacy of the Constitution, the rule of law, separation of powers, judicial review, federalism, secularism and the democratic form of government have since been recognised as facets of that structure, though the Court has deliberately refrained from drawing up an exhaustive list, leaving content to be worked out case by case.

The doctrine was promptly applied. In Indira Nehru Gandhi v. Raj Narain a constitutional amendment validating the Prime Minister's election was struck down as destroying free and fair elections and judicial review. In Minerva Mills v. Union of India the Court invalidated clauses (4) and (5) of Article 368 inserted by the Forty-second Amendment, holding the limited amending power and judicial review to be themselves basic features; harmony between Fundamental Rights and Directive Principles was also treated as part of the structure. Waman Rao v. Union of India confined the doctrine prospectively to amendments made after 24 April 1973, and later decisions such as I.R. Coelho extended its discipline even to laws placed in the Ninth Schedule.

The settled position, therefore, is that the basic structure doctrine is a creative reading of the Constitution that preserves its identity against majoritarian erosion: Parliament may amend or even abridge any individual provision, but it may not, in the guise of amendment, alter the fundamental framework on which the Constitution rests.

Mains Q2. — **Jharkhand Civil Judge (Jr Div) Mains, Law Paper I, 2019 · Civil Procedure**

'A' filed a suit against 'B' for declaration of title to land. The suit was dismissed by the Trial Court and the Appellate Court on the ground that 'A' has no possession of the land. 'A' moved an application for amendment of pleadings seeking the relief of possession also, in second appeal. Can the amendment be allowed, although the relief for possession on the date of the application for amendment of pleadings was barred? Decide.

The problem brings together two strands of the Code of Civil Procedure, 1908: the liberal power to amend pleadings under Order VI Rule 17, and the discipline of a second appeal under Section 100, which lies only on a substantial question of law. The proviso to Order VI Rule 17, inserted in 2002, bars amendment after the trial has begun unless the court is satisfied that despite due diligence the party could not have raised the matter earlier; this caution applies with even greater force when amendment is sought for the first time in second appeal.

The true difficulty here is not delay alone but limitation. Courts have a wide discretion to allow amendments to bring the real questions in controversy to trial, but that discretion is exercised sparingly where the amendment seeks to introduce a relief that has, in the meantime, become barred by limitation. The reason is that a defendant acquires a valuable right when a claim against him becomes time-barred, and an amendment that defeats that accrued right will ordinarily be refused. The leading authority is L.J. Leach & Co. v. Jardine Skinner & Co., where the Court held that although amendment introducing a time-barred claim is generally not allowed, the rule is not inflexible and the court may permit it to avoid injustice where the facts are already on record. Pirgonda Patil v. Kalgonda Patil reaffirmed that amendments should be allowed liberally unless they cause injustice or take away a vested right, and Revajeetu Builders later restated the governing factors, including whether the amendment is necessary to determine the real controversy and whether it causes injustice to the other side.

Applied here, 'A' sued only for declaration and was non-suited in two courts precisely because he lacked possession, the very deficiency the proposed amendment now tries to cure by adding a prayer for possession. Two considerations weigh against him. First, the relief of possession had become barred by limitation by the date of the application, so allowing it would resurrect a dead claim and extinguish 'B''s accrued defence. Second, the request comes at the second-appeal stage, where the court is confined to substantial questions of law and is not meant to receive a fresh, fact-dependent cause of action.

The sound conclusion is that the amendment should be refused. Permitting it would convert a concluded declaratory suit into a possessory one, defeat a vested right of limitation, and stretch Section 100 beyond its purpose.

Mains Q3. — **Odisha Judicial Service Mains, Law of Property, 2019 · Specific Relief**

"Justice demands that a person wrongfully dispossessed of property should recover it." Explain how the Specific Relief Act, 1963 operates for this purpose.

The Specific Relief Act, 1963 gives effect to the principle that no person may be turned out of property except in due course of law, and it does so through two distinct and complementary routes for a dispossessed holder of immovable property.

The first is the ordinary suit based on title under Section 5, which declares that a person entitled to possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908. Here the plaintiff succeeds on the strength of his own title, whether by ownership or by prior possession, the law leaning, by the maxim qui prior est tempore potior est jure, in favour of the earlier possessor (Nair Service Society v. K.C. Alexander). Even a person with a mere possessory title, good against all but the true owner, may recover under this section (Perry v. Clissold). Such a suit is governed by the Limitation Act, 1963, Article 65 where the claim rests on title (twelve years from when the defendant's possession becomes adverse) and Article 64 where it rests on prior possession (twelve years from dispossession).

The second route, Section 6, is special and summary. Where a person in settled possession is dispossessed without his consent and otherwise than in due course of law, he may sue to recover possession 'notwithstanding any other title that may be set up', provided he comes within six months of dispossession. Its object is to discourage people from taking the law into their own hands, however good their title; even the true owner cannot forcibly evict one in settled possession (Lallu Yeshwant Singh v. Rao Jagdish Singh; Krishna Ram Mahale v. Shobha Venkat Rao). The court enquires only into prior possession and dispossession, not into title.

The section carries three statutory limits. No suit lies after six months or against the Government; and under Section 6(3) no appeal or review lies from such a decree, the aggrieved party's recourse being a revision under Section 115 CPC, or a writ where the Government is concerned. Crucially, Section 6(4) preserves the right to sue afresh on title, so a Section 6 decree is no bar to a later suit under Section 5.

The two remedies are therefore cumulative, not exclusive. Section 6 restores possession quickly to deter self-help and vindicate the rule of law, while Section 5 ultimately settles the question of right, the speed of restitution never being allowed to foreclose the eventual adjudication of title.

Mains Q4. — Chhattisgarh Civil Judge (Jr Div) Mains, 2016 · Limitation

A trader Alok Jain (resident of Raipur) lent Rs. 20,000 to Sohanlal Gupta (resident of Bilaspur) at Raipur on 1.1.2012 against a promissory note. When Alok Jain demanded the money by a letter dated 1.10.2014, Sohanlal replied assuring payment within two years, citing financial difficulty. Alok Jain sued at Raipur on 1.1.2016. Sohanlal pleaded that the Raipur court had no territorial jurisdiction and that the suit, filed more than three years after the transaction, was time-barred. Decide.

Two questions arise: the limitation point and the jurisdiction point, and on the facts both are answered in favour of the plaintiff.

The limitation question turns on acknowledgement. A suit for money lent on a promissory note is governed by Article 34 (read with the Article for money payable on a contract) of the Schedule to the Limitation Act, 1963, the period being three years from the date the loan was made or, where the note is payable on demand, from its date. Reckoned from 1.1.2012, the ordinary three-year period would expire on 1.1.2015, and a suit filed on 1.1.2016 would prima facie be barred. But Section 18 of the Act provides that where, before the expiration of the prescribed period, the party liable makes a written and signed acknowledgement of liability in respect of the right, a fresh period of limitation is computed from the time the acknowledgement was signed. The acknowledgement need not promise payment or specify the amount; it suffices that it admits a present, subsisting jural relationship of debtor and creditor (Shapoor Freedoom Mazda v. Durga Prosad Chamaria; Tilak Ram v. Nathu).

Here, Sohanlal's reply of 1.10.2014 'assuring that the amount in question will be paid' is a clear written admission of subsisting liability, made within the original period (which ran until 1.1.2015). It therefore restarts limitation, a fresh three years running from 1.10.2014 and expiring on 1.10.2017. The suit filed on 1.1.2016 is comfortably within time. His plea of a two-year indulgence does not help him; an acknowledgement that admits the debt saves limitation regardless of the time he sought to pay.

The jurisdiction point is governed by Section 20 CPC, under which a suit may be instituted where the defendant resides or where the cause of action, wholly or in part, arises. The loan was advanced at Raipur and the promissory note executed there, so a material part of the cause of action arose at Raipur, which is also the plaintiff's place of business. The defendant's residence at Bilaspur gives him no exclusive forum; the plaintiff was entitled to sue at Raipur where part of the cause of action arose.

Both objections therefore fail. The Raipur court has territorial jurisdiction, and by virtue of the written acknowledgement of 1.10.2014 under Section 18 of the Limitation Act the suit is within time and must proceed on its merits, subject to the presumption under Section 118 of the Negotiable Instruments Act once execution of the note is established.

Prelims answer key: 1-D 2-B 3-D 4-C 5-D 6-B 7-A 8-C 9-C 10-A