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Weekly Legal Current Affairs

6–12 July 2026

This week at a glance

- Banks cannot blacklist an advocate for a wrong legal opinion; the IBA Caution List is for fraud, and Bar Councils alone judge professional conduct.
- Registered will of an illiterate testator fails: attestation under s.63 is only step one; unexplained suspicious circumstances still sink the will.
- A child tells her headmistress she was raped; the school 'verifies' instead of reporting. What counts as 'knowledge' under Section 19 POCSO?
- Bank merger under the Banking Regulation Act is still 'parting with possession' — the landlord evicts under s.14(1)(b), Delhi Rent Control Act.

In this issue

Judgments of the week

1. Ajay Vijh v. Indian Banks Association & Ors. Constitution

2026 INSC 670 · Justice Pamidighantam Sri Narasimha, Justice Alok Aradhe · 07 July 2026

Facts. A panel advocate of Canara Bank gave a title opinion in 2015 that missed sale deeds executed three years earlier over land mortgaged for a Rs. 2 crore facility. The bank removed him from its panel and, from 05.02.2020, had his name entered in the IBA Caution List titled 'Third Party Entities Involved in Fraud' with a remark of wrong legal opinion and negligent search. The Allahabad High Court dismissed his writ petition, holding the IBA is not State under Article 12.

Issue. Whether a writ under Article 226 lies against the IBA over Caution List entries, and whether banks or the IBA can list an advocate for mere negligence when discipline of advocates vests in Bar Councils under the Advocates Act, 1961.

Held. Writ maintainable: Article 226 reaches 'any person or authority' performing a public duty, and the sector-wide Caution List, rooted in RBI directions under s.35A of the Banking Regulation Act, 1949, has a public law character affecting the Article 19(1)(g) right to practise; the High Court's reliance on Kishor S. Bhat was misplaced, and Andi Mukta v. V.R. Rudani, Zee Telefilms and S. Shobha v. Muthoot Finance were applied. On merits, the 2009 RBI Circular, the 2016 Fraud Directions and the 2024 Master Directions confine the Caution List to fraud, which requires mens rea; an erroneous opinion or negligent search cannot be elevated to fraud, so listing the appellant solely for negligence is illegal. Professional misconduct of advocates falls within the exclusive jurisdiction of State Bar Councils and the BCI under ss.35-38 of the Advocates Act, 1961, following Supreme Court Bar Association v. Union of India; a bank may de-panel an advocate but cannot broadcast his incompetence to the industry. The Court further directed the BCI to conduct a performance audit of its disciplinary machinery, institutionalise Continuing Legal Education, and explore a National Legal Academy, listing the matter on 31.08.2026.

> ***Why it matters.*** *Article 226 turns on the function test, not the Article 12 label; pair this with Andi Mukta and remember Article 12 matters only for Article 32.*

Provisions: Constitution of India, Art. 226; Constitution of India, Art. 12; Constitution of India, Art. 19(1)(g); Banking Regulation Act 1949, s.35A; Advocates Act 1961, ss.35-38

2. Sardari Lal v. Bishan Dass Evidence

2026 INSC 669 · Justice Manoj Misra, Justice K.V. Viswanathan · 06 July 2026

Facts. Chhajju Ram, an illiterate agriculturist, died issueless in 1992; his widow sued for declaration as sole owner of his estate. The defendants, non-relatives, set up a registered will of 06.11.1974 in their favour, on which mutation had been made. Trial court and first appellate court discarded the will as shrouded in suspicion, but the Himachal Pradesh High Court in second appeal (RSA No.475/2003) reversed and dismissed the suit, holding execution proved by the attesting witness.

Issue. Whether proof of attestation under Section 63 of the Succession Act read with Section 68 of the Evidence Act is enough when suspicious circumstances shroud a will, and whether the High Court could upset concurrent findings on such circumstances under Section 100 CPC.

Held. Proving execution under Section 63 of the Succession Act by the mode in Section 68 of the Evidence Act, 1872 is only the first step; the propounder must also satisfy the Court's judicial conscience that the testator signed with free will and full understanding, and where suspicious circumstances exist the onus is on the propounder to explain them (Rani Purnima Debi, H. Venkatachala Iyengar, Shivakumar followed). Here the will disinherited the sole Class I heir, a caring wife, in favour of non-relatives, contained recitals found false, and bore uninitialled cuttings replacing 'Laxmi Kant Bassi' with 'Chhajju' in the Sub-Registrar's endorsement, so the presumption from registration under the Registration Act, 1908 was unavailable. An alternative plea of fraud or undue influence does not amount to admitting execution, and non-examination of the plaintiff was immaterial since her title stood admitted by non-traverse under Order VIII Rule 5 CPC and Section 58 of the Evidence Act. Whether suspicious circumstances stand explained is a question of fact, so the High Court exceeded its Section 100 CPC jurisdiction; appeal allowed and the trial court decree restored.

> ***Why it matters.*** *Don't confuse registration with proof — a registered will still fails if the propounder cannot dispel suspicion; pair this with H. Venkatachala Iyengar.*

Provisions: Indian Succession Act 1925, s.63; Indian Evidence Act 1872, s.68; Indian Evidence Act 1872, s.58; Code of Civil Procedure 1908, s.100; Code of Civil Procedure 1908, O.VIII r.5; Registration Act 1908, ss.32, 34, 35, 52, 58, 59, 60

3. AAA v. Linda Sema & Ors. Criminal Law

2026 INSC 675 · Justice Manoj Misra, Justice K.V. Viswanathan · 09 July 2026

Facts. An 8-year-old boarder at an Arunachal Pradesh school was sexually assaulted by a Class VIII student in November 2019. She told her sister, a friend, the Head Girl, and headmistress Linda Sema, who inspected the child privately, found redness and a sticky substance, and told her to stay silent; the school kept watch on the two students, decided nothing had happened, and never informed the police or parents. The mother learnt of it months later by overhearing her daughters; the Trial Court discharged all seven school staff under Sections 176/201/120B IPC and Section 21(2) POCSO Act, and the Gauhati High Court affirmed.

Issue. Does 'knowledge that such an offence has been committed' in Section 19(1) of the POCSO Act require direct perception, or does credible information received from the child victim suffice to trigger the duty to report under Section 21?

Held. The Court held that 'knowledge' in Section 19(1) of the POCSO Act includes awareness based on receipt of credible information, and information received directly from a victim capable of communicating is deemed credible; confining it to what a person perceives through his own senses would defeat the Act. A recipient of the child's complaint cannot conduct a private verification exercise and decide not to report — investigation must follow reporting, not precede it, since prompt reporting is a sine qua non under Sections 19(6) and 27. Linda Sema, who received the complaint directly from the victim, faced grave suspicion warranting charge under Section 21 POCSO Act and Section 176 IPC; her discharge was set aside. Other teachers who received no direct complaint were rightly discharged, and the minor recipients (sister, friend, Head Girl) are exempt under Section 21(3); the conspiracy and Section 201 IPC charges failed for want of material.

> ***Why it matters.*** *Pair this with Dr. Maroti (2023) 4 SCC 298 and distinguish Tessy Jose (2018) 18 SCC 292: the duty to report arises on the child's word alone, no medical confirmation needed.*

Provisions: Protection of Children from Sexual Offences Act 2012, s.19(1); Protection of Children from Sexual Offences Act 2012, s.21; Protection of Children from Sexual Offences Act 2012, s.27; Indian Penal Code 1860, s.176; Indian Penal Code 1860, s.201; Indian Penal Code 1860, s.120B; Indian Penal Code 1860, s.26; Protection of Children from Sexual Offences Rules 2012, r.4

4. British Motor Car Company (1939) Ltd. v. M/s Hindustan Commercial Bank Ltd. Property / TPA

2026 INSC 671 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 09 July 2026

Facts. In 1947 the appellant let out premises in Connaught Circus, New Delhi to Hindustan Commercial Bank (HCB). In 1986, HCB was amalgamated with Punjab National Bank under a scheme framed by the RBI under Section 45 of the Banking Regulation Act, 1949, and PNB came into possession. The landlord sought eviction under Section 14(1)(b) of the Delhi Rent Control Act, 1958 for sub-letting/assignment without written consent; the Delhi High Court, treating the merger as an involuntary statutory act, set aside the eviction decree.

Issue. Does the amalgamation of a tenant bank with another bank, effected under a scheme framed under Section 45 of the Banking Regulation Act, 1949, attract the eviction ground in Section 14(1)(b) of the Delhi Rent Control Act, 1958?

Held. Yes. Following Parasram Harnand Rao v. Shanti Parsad Narinder Kumar Jain and Singer India Ltd. v. Chander Mohan Chadha, the Court held that Section 14(1)(b) turns on the factual occurrence of sub-letting, assignment or parting with possession without the landlord's written consent; whether the transfer was voluntary or involuntary is wholly irrelevant. On amalgamation, HCB ceased to exist and its tenancy rights and possession vested in PNB without the landlord's consent, so both ingredients stood satisfied. Relying on K.I. Shephard v. Union of India and New Bank of India Employees' Union v. Union of India, the Court held a scheme under Section 45 of the BR Act is administrative, not legislative, so it cannot override Section 14(1)(b); the High Court's reliance on Asha Rohtagi (a Section 9 Acquisition Act case, which is legislative) was misplaced. Eviction decree restored; time to vacate till 31 January 2027.

> ***Why it matters.*** *Don't confuse the two bank statutes: a s.45 BR Act scheme is administrative (K.I. Shephard), but a s.9 Acquisition Act 1980 scheme is legislative (New Bank of India Employees' Union).*

Provisions: Delhi Rent Control Act 1958, s.14(1)(b); Banking Regulation Act 1949, s.45; Banking Companies (Acquisition and Transfer of Undertakings) Act 1980, s.9

In brief — also on the docket this week

5 M/s. Levitate Mobile Technologies Pvt. Ltd. v. M/s. Standard Chartered Bank Civil / CPC

2026 INSC 674 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 09 July 2026

Issue. Whether leave to file additional documents in a commercial suit can be granted when the plaintiff, without reasonable cause, seeks to produce documents already in its possession after its own witness's evidence is over.

Held. The Supreme Court dismissed the appeal. Under Order XI Rule 1(4) CPC as amended by the Commercial Courts Act, 2015, the plaintiff must file all documents in its possession with the plaint and may seek leave for additional documents only on establishing reasonable cause, as clarified in Sudhir Kumar v. Vinay Kumar G.B., (2021) 13 SCC 71. Though the High Court wrongly applied the 'sufficient cause' standard instead of 'reasonable cause', no justification emerged even on the lower threshold: all documents were in LMT's possession at filing, one round of additional evidence had already been allowed, and voluminous evidence 'is entirely an uninspiring ground'. The Court also held, relying on Section 15 CCA, that the Act's procedures apply to pending suits transferred to commercial courts, the only exception being cases where judgment is reserved.

6 Bejla Oraon v. Kali Das Oraon & Ors. Evidence

2026 INSC 672 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 09 July 2026

Issue. Whether the alleged customs (a daughter's share, an uncle-in-law's power to adopt a ghardamad, and a nephew's exclusion) were proved as required by law, and whether concurrent findings of fact barred interference under Article 136.

Held. The Court restated the rules for proving custom: he who alleges it must prove it, by long usage and general evidence of the community, and Section 48 of the Evidence Act, 1872 lets in opinions of persons likely to know of it; citing Abdul Hussein Khan v. Bibi Sona Dero and Aliyathammuda Beethathebiyyappura Pookoya v. Pattakal Cheriyakoya. Only the custom of a ghardamad taking his father-in-law's property was proved; it was nowhere established that an uncle-in-law could adopt his niece's husband as ghardamad, and the trial court misread S.C. Roy's work on the Oraons, under which the nearest male agnate inherits absent male heirs. The High Court, having framed a substantial question under Section 100 CPC, could not leave it unanswered merely because the findings were concurrent; saying the contrary custom is not disproved is no answer. Applying Ramachandran v. Vijayan on when Article 136 permits disturbing concurrent findings, the Court set aside all three judgments and decreed the plaintiff's suit.

7 Bihar State Financial Corporation v. Bhushan Singh Service / Admin

2026 INSC 673 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 09 July 2026

Issue. Can concurrent findings setting aside a Section 29 SFC Act auction sale, mainly for absence of a valuation report, be sustained where the borrowers were persistent defaulters who never matched the offered terms?

Held. The Supreme Court allowed the appeals and restored the auction sale. Relying on Haryana Financial Corpn. v. Jagdamba Oil Mills (2002) 3 SCC 496 and Karnataka State Industrial Investment & Development Corpn. Ltd. v. Cavalet India Ltd. (2005) 4 SCC 456, it held that fairness is not a one-way street: interference with Section 29 action lies only for statutory violation or unreasonable conduct, and the borrowers, having sought to retain the property on the very tender terms, could not later plead that the missing valuation report alone vitiated the sale. Citing Celir LLP v. Sumati Prasad Bafna, 2024 SCC OnLine SC 3727, a confirmed auction is not set aside absent material irregularity, fraud or collusion, and the purchaser's three decades of possession could not be unsettled. The Court, however, affirmed that the suit was barred neither by res judicata nor by Section 69(2) of the Indian Partnership Act, 1932, as the auction's validity was never directly in issue in the earlier writs.

8 The Director General, Council of Scientific and Industrial Research v. Anil Earnest Service / Admin

2026 INSC 677 · Justice Manoj Misra, Justice Manmohan · 10 July 2026

Issue. Whether Para 3(b) of the CSIR Circular dated 01.06.2011, which requires assessment 'based on the Annual Performance/PMS and Work Report', mandates averaging the APR/PMS marks with the Work Report marks to determine fitness for promotion.

Held. Para 3(b) requires consideration of APRs/PMS and the Work Report but is silent on how marks are awarded; reading in a mandatory average amounts to adding words to a provision, which is impermissible save for narrow exceptions recognised in Surjit Singh Kalra v. Union of India, (1991) 2 SCC 87 and Hameedia Hardware Stores v. B. Mohan Lal Sowcar, (1988) 2 SCC 513. Consideration of APRs/PMS is already built into the two-stage process, since the Internal Screening Committee shortlists on APRs/PMS before the Assessment Committee examines the Work Report. Absent rules on weightage, suitability must be left to the domain experts on the Assessment Committee, and the rule is not arbitrary under Article 14 for want of an averaging formula. CAT and High Court orders set aside; O.A. dismissed.

Statutes, appointments & policy

APPOINTMENTS & INSTITUTIONS

- **Officiating Chairperson, National Company Law Appellate Tribunal (NCLAT):** Justice Yogesh Khanna (former Judge, Delhi High Court; Judicial Member, NCLAT since 19 February 2024) — The Ministry of Corporate Affairs notified Justice Yogesh Khanna as Officiating Chairperson of NCLAT with effect from 5 July 2026, for three months or until a regular Chairperson is appointed. He steps in after Justice Ashok Bhushan (former SC judge) demitted office on 4 July 2026 on attaining the statutory age limit of 70 years. **— 8 July 2026 · scconline.com**
- **Senior Advocates, Delhi High Court:** 85 advocates designated under Section 16(2), Advocates Act, 1961 — At its Full Court meeting on 9 July 2026, the Delhi High Court designated 85 advocates as Senior Advocates under Section 16(2) of the Advocates Act, 1961, read with the High Court of Delhi Designation of Senior Advocates Rules, 2024 — one of the largest single-batch designations by the court. **— 9 July 2026 · scconline.com**

POLICY & JUSTICE ADMINISTRATION

- **BCI announces disciplinary audit committee and National Legal Academy after SC directions.** Acting on the Supreme Court's 7 July 2026 judgment in Ajay Vijh v. Indian Banks Association (Justices P.S. Narasimha and Alok Aradhe), the Bar Council of India issued a press release on 8 July 2026 announcing a Disciplinary Performance Audit Committee to review complaint disposal and timelines, a proposal for a National Legal Academy modelled on the National Judicial Academy, and a structured national framework for Continuing Legal Education and mentoring of advocates. **— 8 July 2026 · scconline.com**
- **Staggered leg of 2nd National Lok Adalat 2026 held in AP, Gujarat and Karnataka.** Under NALSA's 2026 calendar, Andhra Pradesh, Gujarat and Karnataka held their National Lok Adalat sittings on 11 July 2026 — a staggered leg of the 2nd National Lok Adalat (the all-India round on 9 May 2026 had settled 2.07 crore cases for Rs 3,440.81 crore). Benches sat at High Courts, district courts, tribunals and permanent Lok Adalats; in Andhra's West Godavari district alone, DLSA had identified 10,003 compoundable cases for settlement. **— 11 July 2026 · deccanchronicle.com**

Clear Concepts — textbook revision of two core concepts

Writs Against Private Bodies: Article 12 'State' and the Article 226 Function Test

Constitution

Articles 12, 32 and 226, Constitution of India

Fundamental rights bind the 'State', which Article 12 defines inclusively: the Government and Legislatures of the Union and the States, and all local or other authorities. Article 226, however, empowers a High Court to issue writs to 'any person or authority' for enforcing fundamental rights and 'for any other purpose'. Every writ against a non-governmental body therefore raises two distinct questions: is the body 'State' under Article 12, and even if it is not, does it perform a public function or owe a public duty that Article 226 can reach?

Article 12: from 'other authorities' to instrumentality.

- Rajasthan Electricity Board v. Mohan Lal rejected ejusdem generis: a statutory body with power to make binding rules is an 'other authority' even if it carries on trade or commerce.
- Sukhdev Singh v. Bhagatram brought statutory corporations within Article 12 where they discharge important State functions under pervasive governmental control.
- R.D. Shetty and Ajay Hasia supplied the instrumentality factors: entire share capital held by the State, State-conferred monopoly, governmental functions, a transferred government department, deep financial assistance and statutory duties.
- Pradeep Kumar Biswas settled that these factors are not a rigid checklist; the body must be financially, functionally and administratively dominated by the Government, and the control must be pervasive, not merely regulatory.

Article 226: 'any person or authority'.

- Article 226 is textually wider than Article 32: writs issue to 'any person or authority' and lie 'for any other purpose', not only to enforce fundamental rights.
- Praga Tools v. C.A. Imanual held that the person on whom a statutory duty is imposed need not be a public official or an official body.
- Andi Mukta made the nature of the duty decisive: mandamus lies against a body, whatever its form, that owes a positive obligation of a public nature to the affected party.
- No writ lies against a purely private body for a private or contractual wrong; there must be a public law element in the action challenged.

The function test in action: BCCI to the IBA.

- Zee Telefilms held that BCCI is not 'State' under Article 12, yet the aggrieved may still invoke Article 226 when the Board exercises public functions.
- BCCI v. Cricket Association of Bihar (2016) then held BCCI amenable to writ jurisdiction under Article 226 because its duties in regulating cricket are clearly public functions.
- S. Shobha v. Muthoot Finance (2025) cautioned against labelling bodies 'amenable' or 'not amenable'; apply the function test to the particular action, and only to that extent.
- Ajay Vijh v. Indian Banks' Association (SC, 7 July 2026) held a writ maintainable against the IBA's advocate Caution List, an industry-wide measure with statutory backing affecting Article 19(1)(g), even though the IBA is not 'State'.

Leading cases.

- Rajasthan Electricity Board v. Mohan Lal (1967) — 'other authorities' in Article 12 are not ejusdem generis with government; statutory bodies with rule-making power are State.
- R.D. Shetty v. International Airport Authority (1979) — instrumentalities and agencies of government fall within Article 12 even if they are not departments.
- Ajay Hasia v. Khalid Mujib (1981) — a society can be State; what matters is the shareholding, monopoly, function, finance and control factors, not the corporate form.
- Pradeep Kumar Biswas v. IICB (2002) — the control must be particular to the body and pervasive; mere regulatory control does not make a body State.
- Andi Mukta Sadguru v. V.R. Rudani (1989) — under Article 226 the form of the body is not relevant; the nature of the public duty and the positive obligation owed are.

Exam tip. Keep the two gates separate: Article 12 status decides who the fundamental rights bind, while Article 226 maintainability turns on the function performed, which is why the IBA and BCCI answer to writs without being 'State'.

Second Appeal under Section 100 CPC: The Substantial Question of Law

Civil Procedure (CPC)

Sections 100–103, Order XLII, Code of Civil Procedure 1908

Since the 1976 Amendment, a second appeal lies to the High Court only if the case involves a substantial question of law; the High Court is not a third court of facts, and the first appellate court is ordinarily the final court of fact. The memorandum of appeal must precisely state the question (s.100(3)), the High Court must formulate it if satisfied one exists (s.100(4)), and the appeal is heard on that question alone (s.100(5)). Both of this week's rulings (Sardari Lal; Bejla Oraon) turn on these limits.

What makes a question of law 'substantial'.

- It must be of general public importance or directly and substantially affect the parties' rights, and be open in the sense that it is not finally settled by the Supreme Court, Privy Council or Federal Court, is not free from difficulty, or calls for discussion of alternative views.
- It need not be of general importance; a question confined to the parties suffices if it bears on the final outcome, while one arising only incidentally or collaterally does not.
- A question already settled, or involving mere application of settled principles to facts, is not substantial; it must be debatable and one the court feels needs deciding.
- Misconstruction of a document of title, or wrong application of a legal principle in construing it, raises a question of law fit for s.100.

Concurrent findings of fact: the narrow openings. Re-appreciation of evidence is barred, but the bar is not absolute.

- Interference is permitted where findings are perverse, based on no evidence, ignore material evidence, misread the record, or rest on a wrongly cast burden of proof.
- The High Court cannot reverse merely because another view of the facts is possible, nor substitute its opinion unless the conclusion is contrary to mandatory law, contrary to Supreme Court rulings, or based on inadmissible or no evidence.
- Where both courts below misdirected themselves in appreciating evidence or placed the onus on the wrong party, interference is justified, but only after framing a substantial question.
- Framing a vague question and then re-assessing the whole evidence is impermissible; the court must pinpoint the exact legal error.

The statutory scheme around s.100.

- S.101 permits no second appeal except on the s.100 ground, and s.102 (as substituted in 2002) bars it altogether in money-recovery suits not exceeding Rs 25,000.
- S.103 lets the High Court itself decide an issue of fact, if the evidence on record is sufficient, where the courts below left it undetermined or determined it wrongly because of the very legal error under s.100.
- Under Order XLII r.2, the question is formulated at admission (O.41 r.11 stage), and the appellant cannot urge other grounds without leave under the s.100(5) proviso.
- Framing is mandatory: the High Court cannot reverse the courts below without formulating and answering the substantial question, though it may dismiss at admission without framing one.

Leading cases.

- Sir Chunilal V. Mehta v Century Spinning (AIR 1962 SC) — substantial question: of general public importance or substantially affecting parties' rights, not finally settled, not free from difficulty, or calling for alternative views
- Santosh Hazari v Purushottam Tiwari (2001) — the question must be debatable, not previously settled, and must have a material bearing on the decision
- Kondiba Dagadu Kadam v Savitribai Sopan Gujar (AIR 1999 SC) — no substitution of opinion unless the finding is contrary to mandatory law, Supreme Court precedent, or rests on inadmissible or no evidence
- Hero Vinoth v Seshammal (AIR 2006 SC) — misdirection in appreciating evidence or wrongly placed onus justifies interference after framing the question
- Nazir Mohamed v J Kamala (AIR 2020 SC) — concurrent findings touchable only where material evidence is ignored, law wrongly applied, burden wrongly cast, or evidence does not support the finding

Exam tip. Prelims favourites: s.100 requires the memorandum to 'precisely state' the question, s.102's Rs 25,000 money-suit bar, and s.103 as the only route by which the High Court decides facts in second appeal.

Revision capsule — one-line recap of every ruling

- **Ajay Vijh:** A writ under Article 226 lies against the Indian Banks' Association over its Caution List — the list is confined to fraud, and mere negligence cannot put an advocate on it; advocate discipline belongs to the Bar Councils alone.

- **Sardari Lal:** Attestation under s.68 Evidence Act is only step one — the propounder must also dispel suspicious circumstances, and registration of a will is no substitute for that judicial-conscience test.
- **AAA:** 'Knowledge' under s.19(1) POCSO includes credible information received from the child; a school cannot privately verify and sit on the complaint instead of reporting.
- **British Motor Car Company (1939) Ltd.:** Bank amalgamation under s.45 Banking Regulation Act is still 'parting with possession' without the landlord's consent, attracting eviction under s.14(1)(b) Delhi Rent Control Act.
- **M/s. Levitate Mobile Technologies Pvt. Ltd.:** Additional documents in a commercial suit need 'reasonable cause' under Order XI Rule 1(4) CPC; documents already in the plaintiff's possession at filing get no second bite after evidence.
- **Bejla Oraon:** He who alleges a custom must prove it (s.48 Evidence Act), and a High Court cannot leave a framed s.100 CPC question unanswered merely because the findings below are concurrent.
- **Bihar State Financial Corporation:** A confirmed auction under s.29 SFC Act is not set aside absent statutory violation, fraud or material irregularity — least of all at the instance of persistent defaulters who never matched the offer.
- **The Director General, Council of Scientific and Industrial Research:** Courts cannot read an averaging formula into a promotion circular; how marks are weighted, absent express rules, is for the expert assessment committee, and such a rule is not arbitrary under Article 14.

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

Q1. A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father. If no evidence were given on either side, B would be entitled to retain his possession. Applying Section 102 of the Indian Evidence Act:

1. the burden of proof is on A
2. the burden of proof is on B
3. the burden of proof is on C
4. none of these

> **Ans: A.** This is the illustration to Section 102 IEA itself: the burden lies on the person who would fail if no evidence at all were given on either side. Here B, in possession, would retain the land if neither side led evidence, so A — who asserts title under C's will — must prove his case. The burden of proof is on A. Old: s.102 Indian Evidence Act, 1872 → New: s.105 Bharatiya Sakshya Adhiniyam, 2023 (text unchanged). **[Gujarat Judiciary Prelims 2019]**

Q2. Situation: Application was filed under O 21 R. 90 r/w S. 47, CPC for setting aside a court auction-sale. Order dismissing the application was though appealable but no appeal was filed and sale was confirmed under O 21 R. 92(1), and confirmation of sale was not questioned whereby auction purchase attained finality. The Supreme Court of India examined this situation recently. What was the response of the Court in this matter? Specify out of the following options:

1. By virtue of R. 92 (3) applicant/objector would not be barred from bringing fresh suit to set aside sale on same ground.
2. By virtue of R. 92 (3) applicant/objector would be barred from bringing fresh suit to set aside sale on same ground.
3. By virtue of R. 92 (4) applicant/objector would be barred from bringing fresh suit to set aside sale on same ground.
4. By virtue of R. 92 (4) applicant/objector would not be barred from bringing fresh suit to set aside sale on same ground.

> **Ans: B.** Order XXI Rule 92(3) CPC expressly provides: "No suit to set aside an order made under this rule shall be brought by any person against whom such order is made." Once the R.90 objection is dismissed, no appeal is filed and the sale stands confirmed under R.92(1), the confirmation attains finality and a fresh suit on the same ground is barred. R.92(4) deals with a different situation — a third party challenging the judgment-debtor's title against the auction-purchaser. The CPC continues unchanged — judicial review of auction sales remains a live theme in the Supreme Court this week too. **[Himachal Pradesh Judiciary Prelims 2018]**

Q3. An advocate's name is included in the 'Caution List' of the Indian Banks' Association (IBA) with remarks casting aspersions on his professional integrity. The High Court dismisses his writ petition solely on the ground that the IBA is not 'State' within the meaning of Article 12 of the Constitution. In an appeal decided this week, the Supreme Court held that:

1. The High Court was right — a writ under Article 226 lies only against 'State' as defined in Article 12
2. The advocate's remedy lies exclusively in a civil suit, since empanelment by banks is purely contractual
3. The writ petition is maintainable — Article 226 extends to 'any person or authority' performing a public duty; what matters is the nature of the function, not the formal status of the body
4. The writ petition is maintainable only under Article 32 before the Supreme Court

> **Ans: C.** In Ajay Vijh v. Indian Banks Association (2026 INSC 670, decided 7 July 2026), the Supreme Court held the writ maintainable: Article 226 is not confined to statutory authorities or instrumentalities of the State under Article 12 — the expression 'any person or authority' receives a liberal meaning, and the focus has shifted from who the respondent is to the nature of the function performed and its effect on legally protected rights (here, Article 19(1)(g)). The Court relied on Andi Mukta v. V.R. Rudani (1989), Zee Telefilms (2005) and S. Shobha v. Muthoot Finance (2025). Constitutional provisions — no old/new code mapping applicable. **[This week's ruling: Ajay Vijh v. Indian Banks Association]**

Q4. Appeal under section 100 can be entertained which –

1. Involve questions of fact
2. Involve ordinary questions of law
3. Involves physical ascertaining and demarcation of property if not done before the trial Court
4. Involves substantial questions of law

> **Ans: D.** Section 100 CPC permits a second appeal to the High Court from an appellate decree only if the High Court is satisfied that the case involves a substantial question of law — which must be formulated at admission (s.100(4), and Order XLII Rule 2). Neither questions of fact nor ordinary questions of law suffice. The CPC, 1908 continues unchanged. Notably, this very week the Supreme Court in Sardari Lal v. Bishan Dass (2026 INSC 669) set aside a High Court judgment for exceeding its jurisdiction under s.100 by interfering with concurrent findings of fact. **[Assam Judiciary Prelims 2022]**

Q5. As per Section 68 of the Indian Evidence Act, 1872 if a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution. This rule is subject to the proviso that such proof is needed in the case of a duly registered document if its execution by the person by whom it purports to have been executed is specifically denied. Which document is excluded from the said proviso?

1. Mortgage
2. Will
3. Gift
4. Sale

> **Ans: B.** The proviso to s.68 dispenses with calling an attesting witness for a registered document 'not being a will' unless execution is specifically denied. A will is expressly excluded: even a registered will must be proved by examining at least one attesting witness (s.63 Indian Succession Act, 1925 requires attestation by two or more witnesses; H. Venkatachala Iyengar v. B.N. Thimmajamma, AIR 1959 SC 443). Old: s.68 Indian Evidence Act, 1872 → New: s.67 Bharatiya Sakshya Adhiniyam, 2023 (rule and the will-exclusion retained). **[Kerala Judiciary Prelims 2023]**

Q6. X has been illegally detained by the police authorities. His father has been advised to file a writ petition before the High Court. Which Writ should be prayed for in such a petition ?

1. Habeas Corpus
2. Certiorari
3. Quo Warranto
4. Mandamus

> **Ans: A.** Habeas corpus ('have the body') is the remedy against illegal detention: the High Court under Article 226 (or the Supreme Court under Article 32) directs the detaining authority to produce the detenu and justify the detention. It can be sought by the detenu or by any person on his behalf — here, the father. Certiorari quashes judicial/quasi-judicial orders, quo warranto tests authority to hold a public office, and mandamus compels performance of a public duty. Constitutional provision — unchanged. **[Gujarat Judiciary Prelims 2020]**

Q7. A school student tells her Headmistress that she has been sexually assaulted by a senior student. The Headmistress physically examines the child, finds no visible signs of assault, questions the alleged offender (who denies it), and decides not to inform the Special Juvenile Police Unit or the local police. As per the Supreme Court's ruling this week on mandatory reporting under the POCSO Act, the Headmistress:

1. Commits no offence, since culpability for non-reporting depends on 'knowledge', and her own verification revealed no signs of assault
2. Commits no offence, because the duty to report under Section 19(1) arises only after a medical report confirms the assault
3. Is protected by Section 19(7) of the POCSO Act, as she acted in good faith
4. Can be prosecuted under Section 21 read with Section 19(1) of the POCSO Act — once directly informed by the victim, she could not substitute her own verification for the mandatory duty to report

> **Ans: D.** In this week's POCSO ruling (2026 INSC 675, decided 9 July 2026), the Supreme Court partly allowed the victim's mother's appeal and set aside the discharge of the Headmistress under s.21 r/w s.19(1) POCSO and s.176 IPC: the victim had directly informed her of the assault, yet she 'in her own wisdom' undertook a verification exercise and decided not to report — a course the statute does not permit. Discharge of the other teachers, to whom the victim never directly reported and to whom 'knowledge' could not be imputed, was upheld. Section 19(7) protects a person who gives information in good faith — not one who fails to report. POCSO Act, 2012 unchanged; Old: s.176 IPC → New: s.211 BNS, 2023. **[This week's ruling: Aaa v. Linda Sema]**

Q8. In which judgement it was held that if landlord being State within the meaning of Article 12 of the Constitution is required to prove fairness and reasonableness on its part in initiating proceeding, it is for it to show how its prayer meets the constitutional requirements of Article 14 of the Constitution:

1. Ashoka Marketing Ltd. v. Punjab National Bank
2. New India Assurance Company Ltd. v. Nusli Neville Wadia
3. Narendra Kumar Maheshwari v. Union of India
4. None of the above

> **Ans: B.** In New India Assurance Co. Ltd. v. Nusli Neville Wadia (2008) 3 SCC 279, eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Supreme Court held that although a tenant of public premises gets no rent-act protection, the landlord being 'State' under Article 12 must act fairly and reasonably — its action must satisfy Article 14 and it must lead evidence to establish its bona fide need. Ashoka Marketing (1990) decided the different point that the Public Premises Act overrides the Rent Control Act. Constitutional/PP Act provisions — unchanged. **[Assam Judiciary Prelims 2023]**

Q9. Order IX Rule 13 of the Code of Civil Procedure, 1908, provides grounds:

1. For reopening of evidence
2. For filing written statement
3. For setting aside ex parte decree
4. For issuing summons afresh

Ans: C. Order IX Rule 13 CPC empowers the court, on the defendant's application, to set aside a decree passed ex parte against him if he satisfies the court that the summons was not duly served, or that he was prevented by sufficient cause from appearing when the suit was called on for hearing. The CPC, 1908 continues unchanged under the new criminal-code regime (only IPC/CrPC/IEA were replaced). **[Telangana Judiciary Prelims 2023]**

Q10. On dismissal of a suit for non-compliance with an order for discovery under order XI, Rule 21 of the Civil Procedure Code 1908, the plaintiff:

1. Can bring a fresh suit on the same cause of action as a matter of right
2. Can bring a fresh suit on the same cause of action only with the leave of the court
3. Can bring a fresh suit on the same cause of action only if the court dismissing the suit has granted liberty to file a fresh suit
4. Cannot bring any fresh suit on the same cause of action

Ans: D. Order XI Rule 21(2) CPC (inserted in 1976) expressly provides that where a suit is dismissed under sub-rule (1) for non-compliance with an order to answer interrogatories or for discovery or inspection, 'the plaintiff shall be precluded from bringing a fresh suit on the same cause of action.' Courts treat dismissal under this rule as a last resort for wilful default (Babbar Sewing Machine Co. v. Trilok Nath Mahajan, AIR 1978 SC 1436). Note: for commercial disputes, the Commercial Courts Act, 2015 substitutes a stricter, self-contained Order XI (disclosure and discovery of documents) — an area the Supreme Court revisited this week. CPC otherwise unchanged. **[Himachal Pradesh Judiciary Prelims 2017]**

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

Mains Q1. — Assam Judicial Service Mains, 2023 · Constitution — Amending Power under Article 368 and the Basic Structure Doctrine

Briefly explain the power of the Parliament to amend the Constitution and the Basic Structure Doctrine.

Article 368 vests in Parliament a constituent power, distinct from its ordinary legislative power under Articles 245-246, to amend the Constitution by way of addition, variation or repeal of any provision, in accordance with the procedure the Article itself prescribes. A Constitution Amendment Bill must be passed in each House by a majority of the total membership and a majority of not less than two-thirds of the members present and voting; where the amendment touches the federal fabric, such as the manner of election of the President, the extent of the executive power of the Union and the States, the Supreme Court and the High Courts, the distribution of legislative powers, the representation of States in Parliament, or Article 368 itself, the proviso additionally requires ratification by the legislatures of not less than half the States. Since the 24th Amendment, the President is bound to give assent to such a Bill.

Whether this power reaches the Fundamental Rights produced a long constitutional dialogue. In Shankari Prasad v. Union of India (AIR 1951 SC 458) the Supreme Court held that a constitutional amendment is not 'law' within Article 13(2) and may therefore abridge Part III. Golak Nath v. State of Punjab (AIR 1967 SC 1643) reversed course, a majority of six judges out of eleven holding the Fundamental Rights beyond the amending power. Parliament answered with the 24th Amendment Act, 1971, inserting clause (4) in Article 13 and declaring the power under Article 368(1) to be 'constituent power'.

The present position was settled in Kesavananda Bharati v. State of Kerala (AIR 1973 SC 1461), where a thirteen-judge Bench, by seven to six, upheld the 24th Amendment and overruled Golak Nath, yet held that the very word 'amend' imports an implied limitation: Parliament may amend every provision, including Article 368, but cannot destroy or abrogate the basic structure or identity of the Constitution. The doctrine was applied in Indira Nehru Gandhi v. Raj Narain (AIR 1975 SC 2299) to strike down clause (4) of Article 329-A.

When the 42nd Amendment inserted clauses (4) and (5) in Article 368 to exclude judicial review of amendments altogether, Minerva Mills v. Union of India (AIR 1980 SC 1789) invalidated them, reasoning that the limited nature of the amending power and judicial review are themselves basic features, and the donee of a limited power cannot convert it into an unlimited one. I.R. Coelho v. State of Tamil Nadu ((2007) 2 SCC 1) confirmed that even with 'constituent power' Parliament remains a body under a controlled Constitution, so laws placed in the Ninth Schedule after 24 April 1973 are open to basic-structure review, while M. Nagaraj v. Union of India ((2006) 8 SCC 212) explained the doctrine as resting on constitutional identity: one cannot legally use the Constitution to destroy itself.

Courts have deliberately declined to close the catalogue of basic features, but supremacy of the Constitution, secularism, federalism, separation of powers, free and fair elections, judicial review and the balance between Fundamental Rights and Directive Principles stand acknowledged. The settled position, therefore, is that Parliament's amending power under Article 368 is plenary as to every provision but limited in depth; it may reshape the Constitution, never efface its identity.

Mains Q2. — Gujarat Judicial Service Mains, 2017 · Contract — Doctrine of Frustration (Section 56)

Explain 'The doctrine of frustration' according to the Contract Act with illustrations.

The doctrine of frustration is the Indian law's statutory answer to the question of what happens when supervening events overtake a bargain. Section 56 of the Indian Contract Act, 1872 states it in three limbs: an agreement to do an act impossible in itself is void; and a contract to do an act which, after the contract is made, becomes impossible, or by reason of some event which the promisor could not prevent becomes unlawful, becomes void when the act becomes impossible or unlawful. The provision codified the English retreat from the rule of absolute obligation in Paradine v. Jane, begun in Taylor v. Caldwell (1863), where a music hall hired for concerts was destroyed by fire, and carried forward in Krell v. Henry, where rooms taken to view the coronation procession lost their purpose once the King fell ill and the procession was cancelled.

The authoritative Indian exposition is Satyabrata Ghose v. Mugneeram Bangur & Co. (AIR 1954 SC 44), arising from wartime requisition of land agreed to be sold in plots. Mukherjea J. held that 'impossible' in Section 56 is used in its practical and not literal sense: performance may not be physically impossible, yet be impracticable and useless from the point of view of the object and purpose the parties had in view, and if an untoward event totally upsets the very foundation upon which the parties rested their bargain, the contract stands frustrated. Two refinements follow. Section 56 lays down a positive rule of law and does not depend on the intention of the parties or any implied term, unlike the English construction theory; and where the contract itself, expressly or impliedly, provides for the supervening contingency, the case falls under Section 32 governing contingent contracts and is outside Section 56 altogether. Dissolution, when it occurs, is automatic and not at the election of either party.

Supervening illegality is illustrated by Boothalinga Agencies v. V.T.C. Poriaswami Nadar (AIR 1969 SC 110), where the Imports (Control) Order, 1955 barred sale of imported chicory, rendering a contract that was lawful when made void under Section 56. In Naihati Jute Mills Ltd. v. Khyaliram Jagannath (AIR 1968 SC 522), on refusal of an import licence, the Supreme Court reiterated that Indian courts must look primarily to Sections 32 and 56 rather than English theories.

The doctrine has firm limits. Commercial hardship is not impossibility; that performance has become more onerous or expensive does not discharge the contract (Alopi Parshad v. Union of India), and only a situation radically different from what was undertaken, the test of Davis Contractors with which Indian law converges, suffices. The doctrine applies to executory contracts alone; an executed transfer such as a lease is outside Section 56 (Raja Dhruv Dev Chand v. Raja Harmohinder Singh, AIR 1968 SC 1024). Once frustration operates the contract becomes void, and Section 65 obliges each party to restore any advantage received under it — discharge here is the act of the law itself, not of the parties.

Mains Q3. **— Telangana State Judicial Service Mains, 2023 · Property / TPA — Lis Pendens & Part Performance (Ss. 52, 53A)**

Briefly explain the concept of 'lis pendens' and 'part performance' with reference to relevant provisions of the Transfer of Property Act, 1882. (8 marks)

Sections 52 and 53A of the Transfer of Property Act, 1882 are twin equitable restraints on an owner's power of alienation: the first protects the authority of a court seized of a dispute over property, the second protects a transferee who has acted upon an incomplete transfer.

Section 52 enacts the doctrine of lis pendens, resting on the maxim ut lite pendente nihil innovetur (Amit Kumar Shah v Farida Khatoon). During the pendency of a non-collusive suit or proceeding in a court of competent authority, in which a right to immovable property is directly and specifically in question, no party may transfer or otherwise deal with the property so as to affect the rights of any other party under the decree that may follow, except with the leave of the court and on its terms. The Explanation, inserted in 1929, fixes pendency from the presentation of the plaint until the final decree is completely satisfied or its execution becomes time-barred. The principle was classically stated by Turner LJ in Bellamy v Sabine, that no suit could ever be brought to a successful termination if alienations pendente lite were allowed to prevail, and was adopted for India by the Privy Council in Faiyaz Husain Khan v Prag Narain. Because the rule rests on public policy and expediency rather than notice, the plea of bona fide purchaser for value without notice is no defence. A transfer pendente lite is, however, neither illegal nor void ab initio; it merely remains subservient to the rights ultimately decreed, the transferee being bound as though a party to the suit.

Section 53A embodies the doctrine of part performance, a partial import of the English equity of Maddison v Alderson recast as a statutory right. It requires a written contract signed by the transferor to transfer immovable property for consideration, with terms ascertainable with reasonable certainty; possession taken or continued by the transferee in part performance, coupled with some act in furtherance of the contract; and the transferee's performance or continuing willingness to perform his part. The acts relied on must be unequivocally referable to the contract (Sardar Govindrao Mahadik v Devi Sahai). When these conditions are met, the transferor is debarred from enforcing any right against the transferee in respect of the property, though title remains with the transferor: the section operates as a shield and not a sword, and the proviso spares a subsequent transferee for consideration without notice. Since the 2001 amendment the contract must be registered, and in Shrimant Shamrao Suryavanshi v Pralhad Bhairoba Suryavanshi the Supreme Court held that the defence survives even after limitation bars a suit for specific performance.

Both provisions thus subordinate strict ownership to equity — lis pendens preserving the fruits of litigation, part performance preserving possession honestly taken under an unperfected bargain.

Mains Q4. **— H.P. Judicial Service Mains, 2019 · Criminal Law — Common Intention vs Common Object (ss. 34 & 149 IPC)**

Discuss the difference between common intention and common object.

Sections 34 and 149 IPC are the Code's two vehicles of constructive liability, each fastening on a person guilt for an act he did not physically commit, yet they proceed on different principles. Section 34 IPC (now s.3(5) BNS 2023) creates no offence and prescribes no punishment; it is a rule of evidence laying down the principle of joint liability, and is always read with a substantive offence. Section 149 attaches liability to every member of an unlawful assembly, defined by s.141 IPC (now s.189 BNS 2023) as an assembly of five or more persons united by one of five enumerated objects.

The essence of s.34 is a pre-arranged plan coupled with participation. In Mahbub Shah v King-Emperor (1945), the Privy Council held that common intention implies a pre-arranged plan, and the criminal act must be done in concert pursuant to that plan; similar intentions independently formed, without being shared, will not suffice. In Barendra Kumar Ghosh v King Emperor (AIR 1925 PC 1), the man who stood outside while his companions fired was held equally guilty, since the criminal act means the totality of the series of acts of all: "they also serve who only stand and wait". Participation in some form is the sine qua non, though the plan may develop even on the spur of the moment if prior concert is clearly established (Krishna Govind Patil v State of Maharashtra, AIR 1963 SC 1413).

Section 149 dispenses with both requirements. It has two limbs: the offence must be committed in prosecution of the common object of the assembly, or be one which the members knew to be likely to be committed in prosecution of that object; Mizaji v State of Uttar Pradesh (AIR 1959 SC 572) is the classic authority on this knowledge limb. Liability flows from mere membership of the assembly at the time of the offence, and no overt act need be proved. Common object is therefore wider in scope than common intention, for it demands no meeting of minds on the particular offence committed.

The contrast runs on four axes (Virendra Singh v State of MP, (2010) 8 SCC 407): s.34 fixes no minimum number while s.149 requires at least five persons; s.34 demands some participation while s.149 rests on membership alone; s.34 requires a shared intention while s.149 is satisfied by a common object with knowledge; and s.34 is evidentiary while s.149 creates a distinct head of liability. Since the two overlap, the Supreme Court permits substituting a conviction under s.302/149 with one under s.302/34 where the evidence justifies it and no prejudice results (Lachman Singh v The State, AIR 1952 SC 167; Dahari v State of UP, (2012) 10 SCC 256). The settled position is that common intention rests on prior concert and participation, while common object casts a wider net over every member of an unlawful assembly, even one who neither intended nor performed the fatal act.

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

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