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sub-section (4) of s.100, only if some prejudice has been caused to the appellants by not formulating such a substantial question of law.

*Arsad SK. & Anr. v. Bani Prosanna Kundu* ..... 847

(3) O.7, r.11 - Rejection of plaint - Title suit by mother and son for declaration and permanent injunction in respect of a flat - In a different matrimonial case, High Court ordered the mother to vacate the premises in lieu of the amount to be paid by her husband - Application by mother in title suit under O.7, r.11 - Rejected by trial court, allowed by High Court - Held: High Court has correctly perused the plaint in its entirety and after deletion of name of first plaintiff from title suit, held that plaint discloses no cause of action, as the very purpose of the suit has become infructuous in view of the order passed by High Court to hand over possession of the flats in question - Thus, provisions of O.7,r.11(a) are attracted.

*Soumik Sil v. Subhas Chandra Sil* ..... 821

CODE OF CRIMINAL PROCEDURE, 1973:

(1) s.173(8) - Dowry case filed by petitioner-wife against husband and in-laws - Charge-sheet - At the time of framing of charges, petitioner filed application seeking further investigation of the case with respect to her 'stridhan' properties and the palmtop communicator, stating that though in the complaint there was a specific case that 'stridhan' was with husband and his family members, no efforts were made by Investigating Officer to recover it - Further investigation ordered - Ornaments produced by husband but refusal by petitioner to take them on the ground that they were not the complete ornaments - Investigating Officer

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finally gave report that nothing was required to be done with respect to the Palmtop - Thereafter, petitioner submitted another application before Magistrate for further investigation u/s.173(8) with a special direction that the same be conducted under the direct supervision of an officer not below the rank of Asstt. Commissioner of Police of Zone, within whose jurisdiction the Police Station falls, reiterating the same grievance which was made earlier - Magistrate allowed the said application - Revision application by respondents partly allowed observing that Magistrate was not justified in directing further investigation on a particular aspect (Stridhan and Palmtop) and that too by a particular officer - High Court upheld the order - SLP - Held: High Court was right in holding that all steps pertaining to investigation of stridhan property had been allowed in favour of the petitioner and even suo moto investigation was conducted by the police which subsequently was confirmed by the order of the Magistrate - Thus, whatever was legally possible was already allowed in favour of petitioner - The attending circumstances showed that she had not moved the Court bonafide but perhaps to teach a lesson to the respondent-husband rather than recovery of her stridhan property - In any view, if the investigation conducted by the authorities did not suffer from the lacunae or serious infirmity, there is no reason to issue any further direction to the court below to take steps in the matter - However, all remedies in accordance with law for recovery of 'stridhan property', would be available to the petitioner.

*Pooja Abhishek Goyal v. State of Gujarat & Ors.* ..... 855

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(2) s.216 - Alteration of charge - One of the absconding accused in Bombay bomb blast case apprehended subsequently - Charges framed - Original charge of criminal conspiracy u/s 3(2) TADA r/w s.120 IPC and other offences, though applicable, but inadvertently not mentioned - Application by CBI for addition of the charges - Rejected by Designated Court - Held: This is a fit case where the court ought to have exercised its powers u/s 216 and allowed the application filed by CBI for alteration of charge - Application by CBI u/s 216 allowed.

*C.B.I. v. Karimullah Osan Khan* ..... 588

#### COMPANIES ACT, 1956:

(1) s.536 - Company in liquidation - Resumption of plots allotted to company, on its failure to set up Factory/industry - Application for permission by Board - Held: Termination notice by the Board is valid - Likewise, order of Company Judge permitting the Board to take possession of land is legal and justified.

*Phatu Rochiram Mulchandani v. Karnataka Industrial Areas Development Board & Ors.* ..... 710

(2) s.537.

(See under: Karnataka Industrial Area Development Act, 1966) ..... 710

#### COMPENSATION:

(See under: Motor Vehicles Act, 1988) ..... 810

#### CONSTITUTION OF INDIA, 1950:

(1) Arts. 14 and 16.

(See under: Service Law) ..... 577

(2) Art. 32 - Writ petition seeking transfer of investigation of case to CBI - Sexual harassment

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of a contractual Government teacher - Victim stated to have been set ablaze resulting into her death - Held: Power of constitutional court to transfer investigation to CBI should be exercised only in situations befitting, judged on the touchstone of high public interest and the need to maintain the Rule of Law - Insofar as the facts and circumstances following the death of the deceased is concerned, in view of the charge-sheet filed and the departmental action taken against the erring officials, there is no necessity of any further direction in the matter, at this stage - As regards the events preceding the death of victim, the same, prima facie, disclose some amount of laxity and indifference - Therefore, even while noticing that disciplinary action has been taken against certain officials, State Government should hold a detailed administrative inquiry to ascertain whether any other official or authority, at any level, is responsible for not attending to the grievances raised by the deceased and to take necessary action in the matter accordingly - Public interest litigation.

*Sudipta Lenka v. State of Odisha Ors.* ..... 693

(3) Article 129.

(See under: Contempt of Courts Act, 1971) ..... 667

#### CONTEMPT OF COURT:

(1) (See under: Service Law) ..... 637

(2) (See under: Contempt jurisdiction) ..... 604

#### CONTEMPT OF COURTS ACT, 1971:

s.12 of the Act r/w. Art. 129 of the Constitution - Contempt jurisdiction - High Court while disposing of writ petition filed by petitioner had issued directions to the Union of India and its officer to re-

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designate the petitioner from rank of Hawaldar to Warrant Officer as recommended by Ministry of Home affairs - Appeal there against dismissed by Supreme Court - Non-compliance with the directions issued by High Court as well as by Supreme Court in spite of lapse of considerable period - Contempt petition filed u/Article 129 r/w s.12 against UOI - Maintainability of - Held: Supreme Court had dismissed the appeal and, therefore, it was the direction passed by High Court which in fact was allegedly disobeyed by respondents/contemnors - In the interest of justice and to lessen the burden of Supreme Court, High Court to look into the grievance of the petitioner, if a petition is filed before them *inter alia* bringing to their notice and knowledge that their orders and directions have been disobeyed.

*Dineshan K. K. v. R.K. Singh & Anr.* ..... 667

#### CONTEMPT JURISDICTION:

Eviction order - Time granted to tenant to vacate the premises subject to filing of usual undertaking of not transferring interest to third party and payment of mesne profit and vacation of property peacefully on the stipulated date - Undertaking not filed - Contempt petition - Held: Tenant or occupant cannot be permitted to remain in tenanted premises of the landlord without paying the rent, or the occupation charges, which is what tenant attempted to do - Landlord would be entitled to take back the possession of the said premises - Contempt petition allowed.

*Central Bank of India v. N.R.C. Limited* ..... 604

#### CONTRACT:

Enforceability of Contract - Contract for removal of

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iron ore fines - Granted in 2007 - Renewed in 2009 - Principal Chief Conservator of Forests declining to grant permission for lifting and transporting of iron ore fines by plying vehicles as the area was declared as 'Tiger Reserve' - High Court holding that contract stood frustrated and it was illegal for SAIL not to refund entire amount - Held: Contract is unenforceable and also hit by s.38(v) of Wildlife (Protection) Act - High Court was correct in allowing the writ petition - Wild life (Protection) Act, 1972 - s.38(v).

*Executive Director, Steel Authority of India & Ors. v. Tycoon Traders & Ors.* ..... 838

#### CUSTOMARY RIGHTS:

(See under: Family Law) ..... 843

#### DECREE:

(See under: Transfer of Property Act, 1882 and Undertaking) ..... 795

#### EVIDENCE:

(1) Burden of Proof.  
(See under: Partition) ..... 765

(2) Circumstantial evidence.  
(See under: Penal Code, 1860) ..... 744

(3) Dying declaration:

(i) Evidentiary value of - Explained.

(ii) Dying declaration - Severability of - Held: Role of two sets of accused can be segregated, if dying declaration is severable - In the instant case, role of accused persons cannot be segregated as it mentions all accused persons to have been involved in all events - Deceased has referred to all of them as being involved in every incident -

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Alibi witnesses have made out a strong improbability for two of the appellants to have participated in the incidents - If somewhat different roles were assigned to at least some of the accused persons, segregation or severance could have been possible - But with everybody being roped in for every event, it is not possible to segregate or sever the actions of one from another. (Also see under: Penal Code, 1860)

*Jumni and Others v. State of Haryana* ..... 673

(4) Plea of alibi - Held: Alibi witnesses have made out a strong case of demonstrating the improbability of two appellants being involved in the incident of beating up the deceased and stopping her from going to police station the previous day and setting her on fire in the morning of the day of occurrence - Courts below proceeded on the basis that these two accused are required to prove their innocence - It is for the prosecution to prove the guilt of accused - Defence evidence has to be tested like any other testimony, always keeping in mind that a person is presumed innocent until he or she is found guilty. (Also see under: Penal Code, 1860)

*Jumni and Others v. State of Haryana* ..... 673

EVIDENCE ACT, 1872:

s.32 - Dying declaration - Evidentiary value of - Explained.

*Bhagwan Tukaram Dange v. State of Maharashtra* ..... 753

FAMILY LAW:

Institution of marriage - Observation by High Court that a valid marriage does not necessarily mean

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that all the customary rights pertaining to the married couple are to be followed and subsequently solemnized - Instant SLP filed by Advocate not party before the High Court challenging the said observations - Held: Such observations had been made in the facts of that case - In fact, High Court observed that if a man and woman are living together for a long time as husband and wife, though never married, there would be a presumption of marriage and their children could not be called illegitimate - High Court made the said observations as the alleged marriage took place in 1994 and two children were born in 1996 and 1999 respectively - Therefore, observations made by the High Court in the said judgment were restricted to the facts of that case and do not lay down the law of universal application - Presumption.

*Uday Gupta v. Aysha & Anr.* ..... 843

FATAL ACCIDENT:

(See under: Motor Vehicles Act, 1988) ..... 810

HINDU LAW:

HUF - Partition - Presumption - Explained.

*Kesharbai @ Pushpabai Eknathrao Nalawade (d) by Lrs. & Anr. v. Tarabai Prabhakar Rao Nalawade & Ors.* ..... 765

INTEREST:

(See under: Motor Vehicles Act, 1988) ..... 810

INVESTIGATION:

Transfer of investigation of case to CBI. (See under: Constitution of India, 1950) ..... 693

## JUDGEMENTS/ORDERS:

(1) Modification in judgment - Stated.

*Kesharbai @ Pushpabai Eknathrao Nalawade  
(d) by Lrs. & Anr. v. Tarabai Prabhakar Rao  
Nalawade & Ors.* ..... 779

(2) Amendment in judgment - Stated.

*Kesharbai @ Pushpabai Eknathrao Nalawade  
(d) by Lrs. & Anr. v. Tarabai Prabhakar Rao  
Nalawade & Ors.* ..... 780

## JURISDICTION:

(1) Contempt Jurisdiction.

(See under: Contempt of Courts Act, 1971) ..... 667

(2) Jurisdiction of Civil Judge u/s 6 of the West Bengal Premises Tenancy Act.

(See under: West Bengal Premises Tenancy Act, 1997) ..... 645

(3)(See under: Code of Civil Procedure, 1908) ..... 847

## KARNATAKA INDUSTRIAL AREA DEVELOPMENT ACT, 1966:

(i) Lease-cum-sale agreement - Allotment of plots to company for setting up factory/industry - Industry not set up - Company in liquidation - Agreement terminated by Board - Held: Right to purchase the plots in question after the expiry of the lease period could accrue in favour of the Company only on fulfilling the covenants stipulated in clause 2(P) - On Company's failure to do so, Lease Agreement gave right to the Board to determine lease and resume the land - It is, thus, in the nature of Lease-cum-Sale Agreement, which started with lease and could culminate into sale - Lease came to be

determined by Board because of the breach of covenants of lease agreement - Therefore, it cannot be accepted that Company had become the owner of the plots in question.

(ii) Validity of termination notice - Held: Company had committed clear breach in not completing the project and setting up the factory within the time given on the Lease Agreement or the time as extended by the Board - In such circumstances, Lease Agreement gave a definite right to the Board to terminate the lease - Board was within its right to terminate the lease as provided in Lease Agreement.

(iii) Requirement of prior permission of Company Court before terminating the lease - Notice of cancellation of lease given after the winding up order - Held: Serving of cancellation notice simplicitor would not come within the mischief of s.537 of Companies Act, as that by itself does not amount to attachment, distress or execution etc - No doubt, after the commencement of the winding up, possession of the land could not be taken without the leave of the Court - Therefore, no prior permission was required by the Board for cancelling the lease - Companies Act, 1956 - s.537.

*Phatu Rochiram Mulchandani v. Karnataka Industrial Areas Development Board & Ors.* ..... 710

## LAND ACQUISITION ACT, 1894:

s. 16.

(See under: Transfer of Property Act, 1882) ..... 795

## LOCUS STANDI:

Company in liquidation - Cancellation of lease-cum-sale agreement in respect of two plots allotted to Company, for its failure to set up factory/industry -

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Order of Company Judge to OL to hand over possession of plots to Board - Challenged by one of the shareholder/Promoter of Company - Held: Appellant is very much concerned with the outcome of the proceedings in as much as, if the ownership of the land in question vests with the Company, it may reduce his personal liability, as he has given guarantee to the financial institutions for the loan advances to the Company.

*Phatu Rochiram Mulchandani v. Karnataka Industrial Areas Development Board & Ors.* ..... 710

#### MAHARASHTRA RENT CONTROL ACT, 1999:

Applicability of.

(See under: Public Premises (Eviction of Unauthorized Occupants) Act, 1971) ..... 604

#### MINES ACT, 1952:

s.72-B r/w ss.2(j) and 18(5) - Coal Mines Regulations - Regulation 8-A - Deemed Agent - Fatal accident in Mine - Complaint - Liability of Chief General Manager referred to in the complaint as deemed Agent - Held: Only a person who is authorised to act on behalf of the owner or purports to act on behalf of the owner may be deemed to be an Agent - In the absence of any statement having been made or any indication having been given by the owner enabling the appellant to act or purport to act on his behalf, it cannot be said that he was a deemed Agent for the Mines - Appellant while performing administrative duties, cannot be assumed to have been involved in technical matters of Mines - Besides, complaint does not state anywhere that appellant acted or purported to act on behalf of owner of the Mines or that he took part in the management, control, supervision

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or direction of any Mines and, therefore, no case for proceeding against him has been made out - Complaint against appellant quashed.

*G.N. Verma v. State of Jharkhand & Anr.* ..... 623

#### MOTOR VEHICLES ACT, 1988:

s.166 - Fatal motor accident - Compensation - Tribunal and High Court ignoring to award compensation towards future prospects - Awarding meagre amounts under heads "loss of consortium" and "funeral expenses"- Held: At the time of fixing such compensation, court should not succumb to niceties or technicalities to grant just compensation - It is the duty of court to equate, as far as possible, the misery on account of accident with compensation so that the injured or dependants should not face vagaries of life on account of discontinuance of income earned by victim - Therefore, it will be the bounden duty of Tribunal to award just, equitable, fair and reasonable compensation considering the price index prevailing at the moment and judging the situation prevailing - Compensation under the head "future prospects of deceased" to be calculated by adding 30% to monthly income and by deducting 1/3 towards personal expenses - Compensation under the heads "loss of consortium" and "funeral expenses" enhanced - Interest to be paid @ 8% instead of 6% awarded by Tribunal from the date of application till payment - Interest.

*Smt. Savita v. Bindar Singh & Ors.* ..... 810

#### NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985:

(1) s.23 - Applicability of - Held: s.23 creates three offences i.e. import into India, export out of India;

and transshipment of any narcotic drug or psychotropic substance - Word "transshipment" occurring u/s.23 must necessarily be understood in the context of the scheme of the section and the preceding expressions of "import into India" and "export out of India" to mean only transshipment for the purpose of either import into India or export out of India - No evidence to prove that the respondent was carrying contraband either in the course of import into India or export out of India - High Court rightly set aside conviction u/s.23 of the Act.

*Union of India v. Sheo Shambhu Giri* ..... 803

(2) ss. 50 and 20 - 'Chance recovery' - Compliance of s.50 - Police in routine traffic check for without ticket passengers, detected accused in possession of charas - Held: It was plainly a chance recovery of charas - It was not necessary for police officers to comply with provisions of s. 50 - Mere suspicion, even if it is 'positive suspicion' or grave suspicion cannot be equated with 'reason to believe' - Conviction of the accused for commission of offence u/s 20, upheld.

*State of H. P. v. Sunil Kumar* ..... 613

#### NOTICES/PROCESSES:

Notice to evict.

(See under: Public Premises (Eviction of Unauthorized Occupants) Act, 1971) ..... 604

#### PARTITION:

Hindu undivided family - Partition - Effect of - Held: Once a partition in the sense of division of right, title or status is proved or admitted, presumption is that all joint property was partitioned or divided - High Court affirmed the findings of the trial court

that in 1985, there was a complete partition and the parties had acted on the same - Therefore, presumption would be that there was complete partition of all the properties - Burden of proof that certain property was excluded from the partition would be on the party that alleges the same to be joint property - High Court committed an error in placing the burden of proof on the appellants - Evidence - Burden of proof.

*Kesharbai @ Pushpabai Eknathrao Nalawade (d) by Lrs. & Anr. v. Tarabai Prabhakar Rao Nalawade & Ors.* ..... 765

#### PENAL CODE, 1860:

(1) s.302 - Death of a married woman by burns - Dying declaration - Relatives of husband of deceased convicted and sentenced - Plea of alibi of two appellants not accepted by courts below - Held: Testimony of alibi witnesses of two of the four appellants deserves acceptance - Evidence of defence witness that the door of the room of the deceased was locked from inside and when he broke open it, he saw the deceased on fire, cannot be glossed over - Thus, not possible to discount the theory of suicide - Besides, with everybody being roped in for every event, it is not possible in this case to segregate or sever the actions of one from another - Two appellant setting up the plea of alibi not found guilty of murder of deceased and are acquitted - Remaining two appellants are given benefit of doubt - Evidence - Plea of alibi - Severability of dying declaration.

*Jumni and Others v. State of Haryana* ..... 673

(2) ss. 302 and 201 - Murder - Circumstantial evidence - Dead body recovered from the well belonging to accused-appellant -

deceased stated to have been last seen together previous night - Witness declared hostile - Held: Circumstance of last seen together does not by itself and necessarily lead to the inference that it was appellant who committed the crime - Mere non-explanation on the part of appellant, by itself cannot lead to proof of guilt against him - Motive is not established - Conviction of appellant cannot be maintained merely on suspicion, however strong it may be, or on his conduct -- Conviction and sentence imposed on appellant are set aside and he is acquitted of the charge, by giving him benefit of doubt - Evidence

*Kanhaiya Lal v. State of Rajasthan* ..... 744

(3) (i) ss.302 and 498-A r/w s. 34 - Death of wife of appellant with burn injuries - Appellant and his father, drunk, asking the victim to bring money from her parental house - On refusal she was given severe beatings - Kerosene poured on her and appellant setting her on fire - Dying declarations - Conviction by courts below and sentence of life imprisonment - Held: Conviction was recorded on the basis of dying declarations recorded by Head Constable and Judicial Magistrate - Said statements were further corroborated by father of deceased and medical evidence - There is no reason to interfere with the order of conviction and sentence.

(ii) s.85 - Act of a person under influence of intoxication - Held: Intoxication, as such, is not a defence to a criminal charge - It cannot be accepted that since accused-appellant was under influence of liquor, offence will fall u/s 304 (Part I) or s.304 (Part II) - He was presumed to know the consequences of his action, of having lit the match

stick and set his wife on fire, after his father sprinkled kerosene on her body - He was correctly charge-sheeted u/s 302 and there is no reason to interfere - Since appellant has already suffered 16 years of sentence without remission, State Government directed to consider his case in terms of the Resolution read with Annexure I - Sentence - Remission of - Government of Maharashtra Resolution No.RLP1006/CR621/PRS-3 dated 11.04.2008.

*Bhagwan Tukaram Dange v. State of Maharashtra* ..... 753

(4) s.326 - Death of a person by injuries caused by several persons - Conviction and sentence u/s 302 of two upheld by High Court - Held: Appellants had caused one injury each, whereas deceased had sustained five injuries - According to doctor, death had occurred on account of shock and excessive bleeding due to the injuries caused on the person of deceased - Thus, death had not taken place as a result of injuries caused by appellants or any one of them - Therefore, they cannot be held guilty u/s 302 simplicitor or with the aid of s.34 - But their acts come within the mischief of s. 326 - Conviction modified and are held guilty u/s 326 and sentenced to rigorous imprisonment for 10 years and fine of Rs.5,000/- each.

*Vijay Singh & Anr. v. State of Madhya Pradesh* ..... 830

PLEA:

Plea of alibi.

(See under: Penal Code, 1860) ..... 673

PLEADINGS:

Held: Party has to plead the case and produce/

adduce sufficient evidence to substantiate his submissions made in the plaint and in case the pleadings are not complete, the Court is under no obligation to entertain the pleas.

*Rajasthan State Tpt Corpn. & Anr. v. Bajrang Lal* ..... 782

**PRESUMPTION:**

(See under: Family Law) ..... 843

**PUBLIC INTEREST LITIGATION:**

(See under: Constitution of India, 1950) ..... 693

**PUBLIC PREMISES (EVICTION OF UNAUTHORIZED OCCUPANTS) ACT, 1971:**

Eviction proceedings under the Public Premises Act against Public Limited Company having paid up share capital of Rs. One crore - Maharashtra Rent Control Act, 1999 - Applicability of - Held: Notice to evict issued much after the Act of 1999 came into force - 1999 Act clearly lays down that it shall not apply to Public Limited Companies having a paid up share capital of Rs. One crores or more - No fault with the action of the landlord taken under the Public Premises Act - Maharashtra Rent Control Act, 1999.

*Central Bank of India v. N.R. C. Limited* ..... 604

**RENT CONTROL AND EVICTION:**

(1) (See under: Jurisdiction) ..... 604

(2) (See under: West Bengal Premises Tenancy Act, 1997) ..... 645

**SENTENCE/SENTENCING:**

Sentence - Remission of.  
(See under: Penal Code, 1860) ..... 753

**SERVICE LAW:**

(1) Merger of services - Consequences of - Services of employees under erstwhile Rural Electricity Co-operative Society merged with Madhya Pradesh State Electricity Board - Graduate Junior Engineer of Erstwhile Society claiming promotion as Assistant Engineer as per MPSEB Circular - Held: Absorbed employees of Rural Electricity Co-operative Societies, having due regard to their date of appointment/ promotion in each category in the respective societies, shall be placed with effect from the date of absorption, as juniors to the junior-most employee of the Electricity Board in the respective category - Thereafter, they would be considered for further promotions as per the rules/regulations of MPSEB and be entitled to retrospective promotions at par with and with effect from the dates on which the junior-most graduate engineer in the parent service on the date of absorption obtained such promotions - Constitution of India, 1950 - Arts.14 and 16.

*Panchraj Tiwari v. M.P. State Electricity Board and Others* ..... 577

(2) Regularization - Similarly situated daily rated employees like respondents, regularised on the basis of directions of High Court, which directions attained finality - Respondents not regularized on the ground that meanwhile as per judgment in Uma Devi they were not entitled to regularization - Direction by High Court in contempt petition to regularise respondents, failing which matter to be posted for framing of charge - Held: Similarly placed employees having been regularized, and in case of some of them such regularization being after the decision in *Uma devi*, stand taken by appellants

in refusing regularization to respondents cannot be countenanced - However, as the stand of appellants stemmed from their perception and understanding of decision in *Uma devi*, they are not held liable for contempt but, it is made clear that appellants and all other competent authorities of State will be obliged and duty bound to regularize the services of respondents forthwith - Contempt of Court.

*Malathi Deas (Retd.) now P. B. Mahishy & Ors. v. Suresh & Ors.* ..... 637

(3) Termination from service - Embezzlement of money - Respondent-employee working as a trainee conductor on daily basis found carrying passengers without tickets - Charge sheeted - Enquiry officer found charges proved against him - Disciplinary Authority passed order of punishment of removal from service - Suit challenging removal decreed accepting the allegation of employee that in the inquiry the statement of the witnesses were not recorded in front of him; that he was not given an opportunity to cross-examine the witnesses produced by Corporation; that he was not supplied with the copies of the documents and was not heard on the quantum of the punishment - Corporation's appeal dismissed by first appellate court and High Court - Held: No interference called for with the order of dismissal.

*Rajasthan State Tpt Corpn. & Anr. v. Bajrang Lal* ..... 782

SUIT:

Title Suit.  
(See under: Code of Civil Procedure, 1908) ..... 821

TRANSFER OF PROPERTY ACT, 1882:

Eviction decree - Upheld by appellate court - Plea

of tenant that the suit property was acquired by Municipal Corporation for the purpose of primary school and Land Acquisition Officer had passed an award and, therefore, landlord was divested of his right, title and interest in the suit property after the land acquisition proceedings and thus, suit for eviction of tenant was not maintainable - High Court noted that there was no material to suggest that the Municipal Corporation had taken possession of the suit property from the landlord and on the contrary, Corporation had sanctioned a development plan submitted by landlord in respect of the suit property - Held: s.16 of the Land Acquisition Act, 1894 enables the acquiring authority to take possession of acquired land and when that is taken, it would be free from all encumbrances - In the absence of possession of the suit property being taken by Corporation, the plea by the tenant cannot be accepted that the landlord was divested of his right, title or interest in the suit property - Tenant continued to pay rent to the landlord even though according to the tenant the landlord had no concern with the suit property after the award was passed by the Land Acquisition Officer - Stand of the tenant self-defeating - Tenant liable to be evicted.

*Sheela Jawarlal Nagori & Anr. v. Kantilal Nathmal Baldota & Ors.* ..... 795

TRANSFER PETITIONS:

Transfer of cases - Cases against accused pending in Special Court, Lucknow and Special Court, Delhi - Held: When two or more cases are pending against petitioners/respondents which are similar in nature, cases can be transferred from one court to another - Petitioners have made out a case for

transfer - Taking note of the fact that most of the witnesses are either doctors or officers working in respective medical colleges and also that the ultimate decision was taken only at the ministerial level which is at Delhi, in the interest and convenience of all parties, all the cases to be tried together at Delhi.

*K.V.S. Rao v. C.B.I. & Ors.* ..... 658

#### UNDERTAKING:

Eviction decree - Request by tenant for time to vacate the premises - Granted on condition of filing undertaking - Non-filing of undertaking - Held: Amounts to flagrant disobedience and undermines the authority of the High Court - High Court advised to consider having the tenant first file an undertaking and placed on record before granting any interim order after dismissal of tenant's petition.

*Sheela Jawarlal Nagori & Anr. v. Kantilal Nathmal Baldota & Ors.* ..... 795

#### WEST BENGAL PREMISES TENANCY ACT, 1997:

s.6 - Suit for eviction - Application by defendant to refer the dispute to arbitration as per agreement - Dismissed by trial court, but allowed by High Court - Held: In view of sub-s.(3) of s.2 of 1996 Act, arbitration agreement between landlord and tenant has to give way to s. 6 of Tenancy Act which confers exclusive jurisdiction on Civil Judge, to decide a dispute between landlord and tenant with regard to recovery of possession of tenanted premises in a suit filed by landlord - Judgment of High Court set aside - Arbitration and Conciliation Act, 1996 - ss.2(3) and 8.

*Ranjit Kumar Bose & Anr. v. Anannya Chowdhury & Anr.* ..... 645

#### WILD LIFE (PROTECTION) ACT, 1972:

s.38(v).

(See under: Contract) ..... 838

#### WITNESSES:

Testimony of alibi witness - Evidentiary value.

(See under: Penal Code, 1860)

#### WORDS AND PHRASES:

(1) Expressions 'chance recovery', 'reason to believe' - Connotation of, in the context of Narcotic Drugs and Psychotropic Substances Act, 1985

*State of H.P. v. Sunil Kumar* ..... 613

(2) Word 'transshipment', expressions 'import into India' and 'export out of India' - Meaning

(See under: Narcotic Drugs and Psychotropic Substances Act, 1985) ..... 803