



Vikas Singh

FROM THE PRESIDENT'S DESK

Dear Friends,

The Supreme Court has been in the news in the recent past. Since the present EC has taken over, there has never been a dull moment for the Supreme Court. The events that have taken place in the recent past are corroding the credibility of this great institution. At the time of farewell of Justice R. K. Agrawal, I tried to elicit information about him and came across his farewell speech which he gave while leaving Madras High Court on his elevation to the Supreme Court. I found the speech highly relevant in today's context and accordingly, I refer to a portion of the same, which is worth sharing with all of you as under:

"This glorious chartered High Court has been in existence for more than 150 years. It does not reflect a mere building of lime, bricks and mortar. Its reputation and prestige is the fruit of the dedication, sincerity and perseverance of those great lawyers and Judges who have practised here and advanced the cause of justice.

Friends, we will come and we will go, but the institution shall remain. We should not do anything to damage its name. As you are aware, it takes years to build a reputation and only a moment to destroy it. We have to be very careful in our conduct. The danger is from within, and not from outside. We have to be very careful in our acts. Friends, my earnest appeal to all of you is not to cut the tree on the branch of which you are sitting. You have to remember that the respect, status and reputation you get in society is all because of this great institution. If this Court faces loss of public confidence, then take it from me, you will be the worst affected in society. I firmly believe in the principle - "be optimistic and think positive". All is not lost. Let us think of a better tomorrow, and work towards it. It is time that we stand together and take a solemn pledge - to strive hard to regain the lost glory of this great institution, and to forebear from doing anything which may even remotely harm the institution."

This speech was reported in the media extensively as a reminder to the members of the Bar and Bench to work towards restoring the credibility of the institution. Recently, we had a very engaging meeting with the Hon'ble CJI on various issues namely:- 1) Providing office space for the President, Secretary and a meeting room for the SCBA EC in the Annex building or in the main building of the Supreme Court; 2) to hand over the land which is meant for archives for building chambers for lawyers; 3) for amending the criteria for allotment of chambers; and 4) for providing for a lawyers' welfare stamp to be affixed on every vakalatnama by amending the Supreme Court Rules. In fact, with regard to the amendment to the Rules relating to chamber allotment, some suggestions of the SCBA were not acceptable to the Committee of Judges comprising of Justice R. F. Nariman, Justice U. U. Lalit and Justice L. Nageswara Rao and accordingly, the Hon'ble CJI advised to meet the said Committee and try and convince them on the issue of chamber allotment as well as amendment of the Rules for the affixation of the lawyer's welfare stamp. We had a meeting with the said Committee on May 9, 2018 and the Committee has given an assurance that they shall favorably consider all our suggestions.

A highly modern and well equipped crèche has been inaugurated in the Supreme Court which is considered to be one of the best in the country. This facility will definitely help our members with small children to more effectively pursue the profession. A huge credit is to be given to Justice Gogoi, who monitored the making of the crèche and to Ms. Indira Jaising and Mr. Siddharth Luthra who devoted a lot of time in making suggestions and ironing out the bottlenecks in the opening of the crèche.

Sitting : Left to Right : 1. Mr. Koka Raghava Rao, (Sr.), Senior Executive Member, 2. Mr. P.P. Khurana, (Sr.), Senior Executive Member, 3. Mr. Anukul Chandra Pradhan, (Sr.), Senior Executive Member, 4. Mr. Meenesh Kumar Dubey, Treasurer, 5. Mr. Vikrant Yadav, Hony. Secretary, 6. Mr. Vikas Singh (Sr.), President, 7. Mr. Sukumar Pattjoshi (Sr.), Vice-President, 8. Mr. Rahul Kaushik, Joint Secretary, 9. Mr. Pijush Kanti Roy, Joint Treasurer, 10. Mr. Jayant K. Sud (Sr.), Senior Executive Member, 11. Mr. Manoj Prasad (Sr.), Senior Executive Member, 12. Mr. Jana Kalyan Das (Sr.), Senior Executive Member. **Standing : Left to Right :** 1. Mr. Vijay Panjwani, Executive Member, 2. Ms. Sadhana Sandhu, Executive Member, 3. Ms. Savita Devi, Executive Member, 4. Mr. Manish Goswami, Executive Member, 5. Ms. Purnima Jauhari, Executive Member, 6. Mr. Raj Kumar Kapoor, Executive Member, 7. Mr. Chandra Shekhar Ashri, Executive Member, 8. Mr. Shakeel Ahmad, Executive Member, 9. Mr. Rajiv Kumar, Executive Member

MESSAGE FROM THE SECRETARY



Vikrant Yadav

Dear Members,

Furthering the drive for making healthy food options available for the members and litigants, **Amul Milk Counter** was inaugurated by the E.C. of SCBA on April 26, 2018. The entire negotiation with Amul was made by Mr. Shakeel Ahmad, Executive Member. We have also started a Counter of '**Gopal's 56**' at first floor Cafeteria, from May 7, 2018, in which varieties of Ice Creams are available at the best rates.

In our Lecture Series, we had **Dr. K. B. S. Rajan**, Advocate, speaking on the topic "Ancient Indian Laws (the Vedic Laws)" on April 27, 2018.

Mr. M. Karpaga Vinayagam, Sr. Advocate spoke on the topic "**Principles on Appreciation of Evidence in Criminal Law**" on May 4, 2018.

SCBA also organized a farewell function for Hon'ble **Mr. Justice R. K. Agrawal** on his retirement on May 4, 2018.

We requested Hon'ble the Chief Justice of India, first, regarding entry of Advocates from Gate 'G' (near Museum), rejected four times by the Security Committee, which was a decade old demand of SCBA and secondly, regarding our Clerks holding Proximity Cards be allowed to carry their mobile phones inside the Court Rooms, in silent mode, I am happy to inform you that Hon'ble the Chief Justice of India has kindly accepted the same. We look forward to an eventful month ahead.



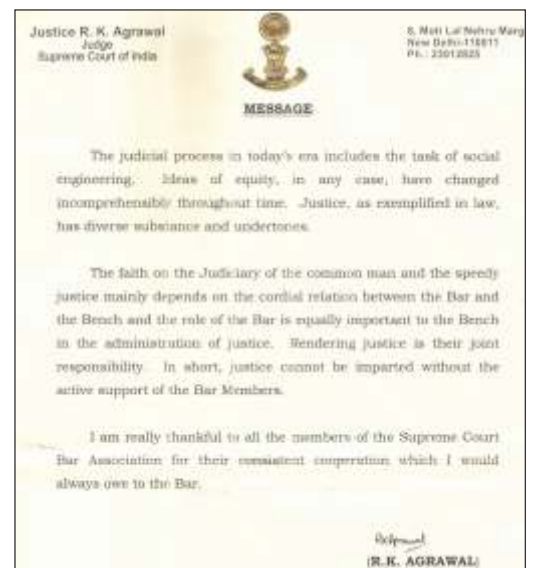
On the occasion of 5th Anniversary of High Court of Manipur, Mr. A. Guneshwar Sharma (Registrar General) of the High Court of Manipur presented Souvenir-2018 to Mr. Vikrant Yadav, Hony. Secretary, SCBA on May 11, 2018.

CAMPUS ROUND UP

Farewell function of Hon'ble Mr. Justice R. K. Agrawal, Judge, Supreme Court of India



The SCBA bid a warm farewell to Hon'ble Justice R. K Agrawal who demitted office on May 4, 2018 after a four-year stint in the Apex Court. Justice Agrawal was sworn in as a Judge of the Supreme Court on Feb 17, 2014. The farewell function became a venue of outpour of emotions centered around the "crisis gripping the Supreme Court". Chief Justice of India, Hon'ble Mr. Justice Dipak Misra, who was the chief guest at the event said it was the duty of the Judges to show respect to the lawyers despite their age or status. Justice Misra further emphasized that "the Supreme Court is one and will remain one. Bar fosters us, nurtures us, I have told the young members of the Bar to be the guiding angels. The co-existence should always remain in the true spirit,". Justice Agrawal in his parting speech stated that "Bar and Bench are two sides of the same coin" and highlighted the shared responsibility of both the institutions in upholding the legal values and justice. Justice Agrawal termed young lawyers as the oxygen of the legal environment and emphasized on need for giving this next generation a level playing field of fair opportunities. Only if the young lawyers are given more opportunities will they be able to shoulder bigger responsibilities. We wish Hon'ble Justice Agrawal and his family a very happy retired life.



CAMPUS ROUND UP

Elevation of Hon'ble Ms. Justice Indu Malhotra

Ms. Justice Indu Malhotra on April 27, 2018 has sworn in as a Judge of the Supreme Court of India. The first woman advocate to be elevated as a Judge of the Supreme Court directly from the Bar and 7th woman Judge to make it to Apex Court. It is a great moment for the Bar and women lawyers in particular.



Justice Malhotra was born in 1956 in Bengaluru. She had enrolled as a lawyer in the Bar Council of Delhi in 1983. In 1988, Justice Malhotra qualified as an Advocate-on-Record (AOR) in the Supreme Court. She has served as Standing Counsel for the State of Haryana and represented various statutory bodies. She was designated as a Senior Advocate in 2007 and has appeared in many landmark cases. Being an expert in arbitration, she has authored the third edition of 'The Law and Practice of Arbitration and Conciliation, 2014'.

It is her consistent hard work, sincerity and ability in advocacy that has earned her this position. It has come as a great motivation for all of us to work hard and bring accolades to the SCBA.

Justice Indu Malhotra was felicitated by the women members of the Bar recently. This function was held in the Ladies Bar room in the Supreme Court where Justice Malhotra interacted with her former colleagues and junior Bar members. Senior Counsel Ms. Indira Jaising also in attendance, welcomed and presented a memento to Justice Malhotra.

The SCBA wishes best of luck in her new innings as a Judge of the Hon'ble Supreme Court.



FROM THE SCBA TIMES EDITORIAL BOARD

Dear Members,

'To me, the greatest pleasure of writing is not what it's about, but the inner music the words make.' - Truman Capote.

Welcome to the fifth edition of SCBA Times, our monthly legal news magazine. This news magazine is intended to be an informative and interactive platform for the members of the Bar. It encompasses blend of news, events and achievements among various other horizon. Our columns contain a wide range of legal and related topics. We are happy to see the enthusiasm of our fraternity to contribute in the magazine.

The SCBA Times is open to your valuable suggestions. We look forward to your opinions and contributions in the area of law. We hope members of the Bar will encourage the efforts and will enlighten us with precious suggestions. The Editorial Board wishes all its readers a very happy holiday.



Mr. Vikas Singh (Sr.),
President



Mr. Sukumar Pattjoshi (Sr.),
Vice-President



Mr. Jayant K. Sud (Sr.),
Senior Executive Member



Mr. Manish Goswami,
Executive Member



Ms. Sadhana Sandhu,
Executive Member



Mr. Chandra Shekhar Ashri,
Executive Member



Mr. Santosh Paul, Editor

CAMPUS ROUND UP

Counter for Fresh and Healthy Amul Milk Products



Furthering the drive for making healthy food options available for the members of the Supreme Court and litigants, a Booth of Amul Milk Products was inaugurated by the Executive Committee of SCBA. The event was attended by a large number of advocates. The entire effort of negotiating with Amul and identifying the placement of the counter was done by Mr. Shakeel Ahmad, Executive Member and Mr. Vikrant Yadav, Hony. Secretary.

Gate - G of Supreme Court Now Open



The SCBA EC after relentless follow up with the Registry of the Supreme Court, has finally succeeded in getting permission /security clearance for use of Gate-G, opposite Pragati Maidan for its members.

Inauguration of Creche



A creche that can accommodate 30 children between six months and six years old was inaugurated by the Hon'ble Mr. Justice Dipak Misra, the Chief Justice of India, Hon'ble Mr. Justice Ranjan Gogoi, Hon'ble Mr. Justice M. B. Lokur, Hon'ble Mr. Justice Kurian Joseph and other Hon'ble Judges of the Supreme Court of India on May 2, 2018. This creche is equipped with children friendly furniture, utensils, toys and first aid kits. It is open from 8.30 am till 6.30 pm on working-days and members of SCBA, registered women clerks engaged by Senior Advocates, Advocates, SCBA staff and employees of the registry can use the facility. The fee for admitting a child is Rs. 1,000/- and there is also a 'care fee' of Rs. 1,500/- per month.

Gopal's 56 Ice Cream



Beat the heat this summer with the Gopal's 56 Ice Creams, now available at 1st Floor Cafeteria.

Green Quote



"Here is your country. Cherish these natural wonders, cherish the natural resources, cherish the history and romance as a sacred heritage, for your children and your children's children. Do not let selfish men or greedy interests skin your country of its beauty, its riches or its romance."

- Theodore Roosevelt

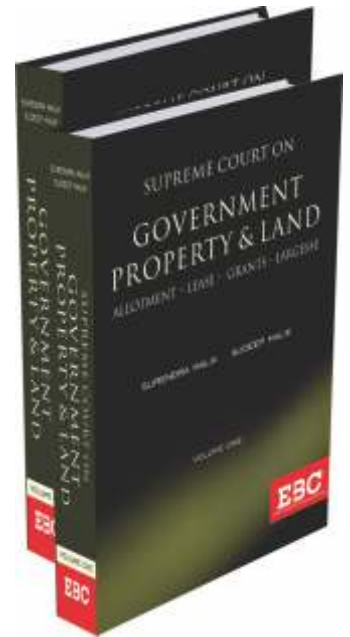
BOOK RELEASE

Surendra Malik & Sudeep Malik : Supreme Court on Government Property & Land

Published By: Eastern Book Company

The 2018 edition of the Digest covers the law as laid down by the Supreme Court from its inception in 1950 to date. It encapsulates case laws covering the areas such as Government Property and Land with special focus on Allotment, Lease, Grants and Largesse and Contract Law encompassing the issues involving contractual relations between the Government authorities and private individuals.

It also comprises the cross-citations of all major reports along with the Supreme Court case laws since 1950 till date. Furthermore, conscious effort has been directed towards the proper and systematic placement of rulings under both topic and statutory headings so that this Digest serves the contemporary legal professional in the best possible manner.



FROM THE COURTROOM

Reliance on Parliamentary Committee Reports



Dear Members,

As a guardian and final interpreter of the Constitution, Supreme Court has always functioned in self disciplined style in defining constitutional power. The recent judgment of the Supreme Court in Kalpana Mehta V. Union of India, SCC Online SC 512 (WP C No. 518 of 2012 decided on May 9, 2018) delivered by the Constitution Bench is best example in consciously dealing with matters while interpreting Indian Constitution, separation of power, fundamental rights, interpretation of constitutional provisions and the issue in the matter whether court can rely on Parliamentary Committee Reports in adjudicating matters under Article 32 or Article 136 of the Constitution.

Supreme Court has answered the issue that the Parliamentary Standing Committee reports can be taken aid for interpretation of statutory provision and the same is admissible under Section 74 of the Indian Evidence Act but the reports cannot be impinged or challenged in a court of law.

The court further held that there is no real conflict between the independence of the judicial process and its reliance on Parliamentary Committee Reports and such reference to the reports in the course of judicial proceedings will not constitute a breach of parliamentary privilege, upholding the meaning laid down in Article 105(2) (i) of the Indian Constitution.

The judgment will further enable a litigant to place such materials on record to bring historical background of a law, the nature of the problem, the causes and the remedies which may provide answers to intractable problems of governance and the Court can independently adjudicate the controversy without allowing a challenge to Parliamentary Standing Committee Report. The Court while answering the issue has maintained the delicate balance between the legislature and judiciary.

LECTURES ORGANISED BY SCBA



The motto of the Apex Court and that of our nation carry Sanskrit phrases respectively, "Yato Dharma: Tato Jaya:" and "Satyameva Jayate". Our country has all through been guided by the Vedas and Itihas and our civilization grew mainly on the basis of such ancient works. Be it

Dharma Sutra or Dharma Shastras, the ancient Indian laws, which governed the entire society of this country, they derive their sustenance from the Vedas and Upanishads. A rumination on the subject "How far the ancient Indian laws have assisted us in shaping the current Indian laws engrafted in the statute book would be useful. Focusing on the same, a lecture by **Dr. K. B. S. Rajan**, Advocate, on the topic "*Ancient Indian Laws (the Vedic Laws)*" was organized on **Friday, 27th April, 2018 by the SCBA** which was very well attended.

Mr. M. Karpaga Vinayagam, Sr. Advocate delivered a lecture to the members of the Bar on the topic "**Principles on Appreciation of Evidence in Criminal Law**" on **Friday, May 4, 2018**. The appreciation of evidence in Criminal Law is totally different



from Civil Law, even though Evidence Act is applicable both to Criminal Law as well as to Civil Law. The speaker extensively dealt with and explained the finer nuances of the established principles in Criminal Law that the prosecution has to establish its case beyond reasonable doubt and accused need not establish his defense in the trial. As a matter of fact, the accused is at liberty to take different stand as to his defense at different stages. On the other hand, the prosecution shall be consistent to prove its case. In other words, the prosecution should stand on its own legs and it should not take advantage on the weakness of the defense.

Arbitration Legislative Framework In India – A Changing Landscape:

By Kirit S. Javali, Advocate

India's efforts towards becoming a centre for arbitration of international dispute were further cemented with the amendments made to the Arbitration Act in 2015.

The amendments in 2015 made crucial changes to the existing Arbitration Act such as making orders of the arbitral tribunal enforceable as court orders; ensuring that even if the seat of arbitration is outside India, courts in India can provide interim relief (under Section 9) and accept evidence thereby further helping the arbitration process.

Taking into account the recommendations of Justice Srikrishna's Committee Report, the cabinet on March 7, 2018 has approved the Arbitration and Conciliation (Amendment) Bill, 2018 in order to boost institutional arbitration vis-A-vis ad hoc arbitration and to remove some practical difficulties in applicability of the Amendment Act.

The amendments which, when passed will apply to the Arbitration and Conciliation Act, 1996 ("Act") recommending further amendments on the back of the 2015 amendments.

The following are the brief features of the 2018 Bill -

i. Setting up of an autonomous central, arbitration body, called the Arbitration Promotion Council of India (APCI).

APCI shall accredit arbitral institutions and would facilitate speedy appointment of arbitrators through designated arbitral institutions by the Supreme Court of India or the High Court, without having any requirement to approach the court in this regard.

ii. Confidentiality of all arbitral proceedings except the award;
iii. No time limit for international arbitration:

It is proposed under the Bill that the timeline of twelve (12) months will begin from the completion of pleadings by the party in domestic arbitrations.

There was confusion whether the Amendment Act, 2015 applied to existing arbitrations and arbitration related court proceedings that commenced before the Amendment Act came into effect.

The new Bill proposes that unless parties agree otherwise, the Amendment Act shall not apply to arbitral proceedings that have commenced before the Amendment Act and to court proceedings arising out of or in relation to such arbitral proceedings, irrespective of whether such court proceedings began prior to or after the commencement of the Amendment Act. It shall apply only to arbitral proceedings commenced on or after the commencement of the Amendment Act and to court proceedings arising out of or in relation to such arbitral proceedings.

The Supreme Court in the recent case of **BCCI v Kochi Cricket Pvt. Ltd.** held that the Amendment Act will apply to applications which are pending in various courts for challenging the award and were filed before the commencement of the Amendment Act. The Hon'ble court has directed that the the Ministry of Law and Justice to incorporate the views taken by the court in the Bill. This judgement would have a major impact on arbitration cases pending in courts.

OUR ESTEEMED MEMBERS WHO LEFT US SINCE DECEMBER 2017 TO APRIL 2018



Justice Dr. G.C. Bharuka
Membership No : B-00337

Sanjeev Sabharwal, Sr. Advocate
Membership No. : S-01138

Bibhu Prasad Acharya
Membership No. : A-00145(OS)

Anil Kumar Sablok
Membership No. : S-00007



Justice Rajinder Sachar
Membership No. : S-00009



Ishwar Dutt Tyagi
Membership No.: T-00090



P. Ramesh
Membership No.: P-00580



Kartar Singh
Membership No : S-00433



Balkishan Sevak
Membership No.: B-00055



Birendra Bhushan Sinha
Membership No : S-00542



Shivangi
Membership No. : S-02301



Ranjit Raman Acharya
Membership No : A-00440



Salar Mohd. Khan
Membership No : K-00483

OBITUARY



Heart Warming verse penned down by **Late Praneet Ranjan** just a day before his final journey

हमे अच्छे और सच्चे दोस्त मिले,
ऐसा अच्छा और सच्चा परिवार मिला,
छू ले जो मन को हृदय को
ऐसा सबका प्यार मिला
ऐसे मानस के हसं मिले
कि सतगुरुओं ने भी
अनित्य अनादी परब्रह्म से
मिलने का पुल बना दिया
मानस के हसों के साथ साथ
जब सतगुरु के भी प्रार्थना में उठ गए हाथ

अच्छे और सच्चे मित्रों का बल
अच्छा और सच्चा परिवार का बल
और अनेकानेक निस्वार्थ भाव से
मदद करने वाले मानस के हसं
आप सबको मेरा कोटि कोटि नमन
सादर प्रणाम
आगे अभी थोड़ी लड़ाई और है बाकि
मगर आप लोगो के बल पर
उसमें भी सबका प्यार और
आशीर्वाद हमेशा मिलता रहेगा



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