

is traceable from the early Indian Cases (IC) and Moore Indian Appeals till this day, which is remarkable and appreciable as well.

This decision *Balamani v. Senior Superintendent of Post Offices and others*, AIR 2008 AP 181 =

2008 (4) ALD 401, is a notable decision in the field of Legal Journalism wherein it was specifically observed that a Journal which is sought to be brought about for the purpose of propagating judgments rendered by various Courts is a publication of news and current topics.

**IMMENSE NEED AND NECESSITY TO ENHANCE PECUNIARY
JURISDICTION OF CIVIL COURTS AND MAKE NECESSARY
AMENDMENTS TO VARIOUS SECTIONS OF A.P. CIVIL COURTS
ACT, 1972 (AP ACT NO.19 OF 1972)**

By

—VARAHAGIRI PRASADA RAO, B.Sc., (Hon.) B.L.,
ADVOCATE,
Bobbili, Vizianagaram District, A.P.

It is the constitutional desire, nay mandate, that the persons, who are responsible for administration of justice, must endeavour themselves in such a way that justice to the door-steps of the needy must not only appear to be taken but must actually be rendered to them with less expense just like the other two wings of the State, to wit, the Legislature and the Executive and also be within the easy and amenable reach of the common man. It is not my endeavour in this present article to suggest means as to how best the State can take effective measures to ameliorate the existing evils rampantly prevailing in the other two functionaries of the State, to wit, the Executive and the Legislature. In this present article. I want to draw the attention of the law-makers to pay little of their precious time to consider about the immense necessity to interfere and do the needful in the interests of poor litigant public in the field of the administration of justice.

2. It is the constitutional mandate under Article 214 of the Constitution of India that there should be a High Court for each State, but, to meet the demands of litigant public,

permanent Benches of High Court have been allowed to be notified by the President (Rashtrapathi, the Executive-in-chief) under the same Article in various States, not in Andhra Pradesh which have been upheld by Apex Court.

3. Likewise, District Judges have to be appointed for each district in every State by the Governor of the State in consultation of the High Court of such State under Article 233 of the Constitution of India, but, depending upon the needs and necessities, the Governor can appoint Additional District Judges to any district.

4. Likewise, the States are given power under Section 10 of AP Civil Courts Act, 1972 (AP Act 19 of 1972) to establish, by notification, and in consultation with the High Court, District Courts for the districts within the territories of the State and also appoint Additional District Judges under Section 11 of Act 19 of 1972 one or more to the District Court, again depending upon the exigencies and necessities of the local public. So, also, the Government establish, after consultation with the High Court, by

notification, such number of Senior Civil Judges and Junior Civil Judges as they may deem necessary for each district in the State, other than the District of Hyderabad under Section 12 of Act No.19 of 1972.

5. Likewise, the Government may also establish in consultation with the High Court, one or more Additional Senior Civil Judges to the Court of Senior Civil Judge and one or more Additional Junior Civil Judges to the Court of Junior Civil Judge under Section 13 of Act No.19 of 1972.

6. Likewise, under Section 15 of Act No.19 of 1972, the Government shall, after consultation with the High Court, by notification, fix and also alter the local limits of the jurisdiction of any District Court or Senior Civil Judge's Court and the High Court shall likewise alter the local limits of the jurisdiction of any Court of Junior Civil Judge.

7. Likewise, the pecuniary jurisdiction of the District Court, Senior Civil Judge's Court and Junior Civil Judge's Court are being fixed and altered under Section 16 of Act No.19 of 1972 from time to time.

8. Likewise, the pecuniary jurisdiction of the District Court in respect of appeals filed before it against the decree passed by a Senior Civil Judge in the district concerned is being fixed and altered from time to time depending upon the exigencies, under Section 17 of Act No.19 of 1972.

9. Previous to the coming into force of A.P. Act No.19 of 1972, there used to be AP.(Andhra Area) Civil Courts Act, 1873 and the AP (Telangana Area) Civil Courts Act, 1954, which were repealed under Section 34 of AP Civil Courts Act, 1972 (Act No.19 of 1972).

10. Under the repealed Acts, Courts used to be very little in number, having a District Court, one sub-ordinate Judge's Court and one or two District Munsiff's Court, having

vast territorial jurisdiction but low pecuniary jurisdiction, as a consequence of which the general litigant public were used to be put to great hardship.

11. Subsequently, the Government used to appoint Additional District Judges, sub-Judges and also District Munsifs delimiting the territorial jurisdictions and enhancing pecuniary jurisdictions of the respective Judges. Subsequently more Courts were used to be constituted to cater to the needs of the public and now-a-days the slogan is that there should be a Junior Civil Judge's Court at every Mandal Headquarters and the Government are also endeavouring themselves to constitute a Court having its territorial jurisdiction for three to five Mandals. So, the need of the day is to see that justice is being done to the public at their threshold. This can also be supplemented in another angle, to wit, that the workload in Courts would be considerably lessened due to the reasonable distribution of work in various Courts so that the cases in Courts can also be quickly disposed.

12. Now, as on today, according to the provisions of AP Civil Courts Act 1972 (Act No.19 of 1972), the pecuniary jurisdiction of a Junior Civil Judge is Rs.1,00,000/- (Rupees one lakh only) since the year 2000, the Senior Civil Judges, from one lakh to ten lakhs of rupees and the District Judge, above ten lakhs. Previously, that is, before the year 2000 the High Court used to exercise original Civil Jurisdiction over claims worth of ten lakhs and above and the District Court, from Rs.5 lakhs to Rs.10 lakhs; the Senior Civil Judge, from Rs.50,000/- to Rs.5,00,000/- and Junior Civil Judge, upto Rs.50,000/-. Out of necessity and demand, the Government had been amending Sections 16 and 17 of A.P. Civil Courts Act, 1972 from time to time and there is no prohibition from further amending the said sections in view of the present circumstances.

13. Now-a-days, it is an open secret that, the market value as understood generally, is

at least three to four times more than the Market Value Certificate that would be usually issued by the local Sub-Registrar of Assurances. On account of the deep involvement of builders and real estate business people, the prices of lands both in rural and urban areas have been spiraling upto the zenith day by day to unimaginable ranges, so that there is no guarantee that the prices of lands, especially in Municipal Corporations and neighbouring villages around them upto twenty Kilometers, available as on date will not be the same the next day and one will be at a dismay to see the manner in which the said prices are being boosted up. It is no exaggeration to say that the rates of lands in Hyderabad, Visakhapatnam and other Municipal Corporations, ranges from five thousand rupees to the ten thousand rupees per square yard in important areas. The same situation is also there in almost all Municipalities, though not at such rates but at least, at half of such rates prevailing in Corporations.

14. Under these circumstances, if a person wants to file a suit for possession of one acre of agricultural land, he has to obtain Market Value Certificate from local sub-Registrar and now-a-days, at no village in Andhra Pradesh, the market value of one acre of dry land is less than two lakhs of rupees per one acre and Rs.4,00,000/- per one acre of wet land and in urban areas the market value per square yard ranges from Rs.300/- to Rs.4,000/- depending upon the locality of the land. So, if a person wants to file a suit for possession of land in urban areas, even for small parcels of land, like ten cents of land, it may not be possible for him to file a suit in Junior Civil Judge's Court, as the pecuniary value of the suit for purposes of jurisdiction would definitely exceed Rs.1,00,000/- so, even for properties of small extent, one has to go to Senior Civil Judge's Court, which is not available at all places, like Junior Civil Judge's Court. Thus, it results in great hardship to the litigant public

to go to far-off places even for small properties, which are ten cents of land in urban areas and one to two acres of dry or one acre of wet land in villages. This circumstance has also its evil effects on the practising advocates in Moffusil areas, where there are Munsif-Magistrate Courts only, as very few cases countable on fingers relating to any type of relief in respect of immovable properties, and bare injunction suits and money suits only can be filed in a Junior Civil Judge's Court, where normally ten to twenty Advocates would be practising. So, the inherent zeal and interest in the junior advocates also has been gradually disappearing as there is no minimum work for the advocates there to lead an honourable life, as the advocates are generally referred as white collared gentlemen.

15. The issue can also be viewed in another angle. The value of the suits in the districts would ordinarily exceed Rs. One lakh but would be less than ten lakhs of rupees; so much so, the work load in the Court of Senior Civil Judges has been considerably grown, when compared with the downfall of the work in Junior Civil Judge Courts, resulting very badly on the public as well as on the advocate practicing in Junior Civil Judge's Courts only.

16. Likewise, the filing of appeals as provided in Section 17 of the A.P. Civil Courts Act 1972 has also its own difficulties, being experienced by the litigant public.

17. Likewise, under Section 24 of Act No.19 of 1972, the District Judge and/or Senior Civil Judge has been invested with the jurisdiction of a Judge of Small Causes for the suits cognizable by such Courts upto ten thousand rupees only and a Junior Civil Judge, upto four thousand rupees only, but it is not known where Small Causes suit, whose value is more than ten thousand rupees, has to be filed. It cannot be said that there cannot be suits of Small Cause nature, whose value is more than ten thousand rupees.

As an illustrative example, Article (8) of Second Schedule, which is hereunder extracted, may be seen:

The Second Schedule

Suits excepted from the cognizance of a Court of Small Causes

(See Section 15 of Act No.9 of 1887)

“(8). Suit for the recovery of rent, other than house rent unless the Judge of the Court of Small Causes has been expressly invested by the State Government with authority to exercise jurisdiction with respect thereto.”

Section 15 of Provincial Small Causes Courts Act, 1887 is as follows:

“*Section 15. Cognizance of suits by Courts of Small Causes:*—(1) A Court of Small Causes shall not take cognizance of the suits specified in the Second Schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exception specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the State Government, may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.”

Section 16 is as follows:

“*Exclusive jurisdiction of Courts of Small Causes:*—Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction

of the Court of Small Causes by which the suit is triable. So, it is beyond doubt that suits for recovery of rents, other than house rents, are cognizable by Civil Courts only and suits for recovery of house rents whatever may be the quantum shall be tried by Small Causes Courts only and according to the mandate under Section 17 of the Act, no Civil Court has got jurisdiction in respect of suits for recovery of house rents and they must be filed only in Small Causes Courts.”

18. The following example leaves us at cross-roads of perplexity. Suppose an owner of house lets out his house on monthly rent of Rs.800/- to a tenant and as the tenant committed default for one year, he wants to file a suit for recovery of the house rents due to him from his tenant. The arrears for one year are Rs.9,600/-. So, he must file a suit on the Small Cause side of a Senior Civil Judge or District Judge. Suppose, there is another landlord of a house, who lets his house to a tenant at a monthly rental of Rs.850/-. Suppose the tenant does not pay the rents for one year, which accrue to Rs.10,200/-. He wants to file a suit for recovery of the arrears of rent of Rs.10,200/- due to him from the tenant. The pity is he cannot file a suit on Small Cause side, as the Senior Civil Judge or District Judge has no jurisdiction to try a Small Cause suit, if its value is more than Rs.10,000/-. He cannot also file a regular civil suit on the original side of Junior Civil Judge's Court, alleging that, as Small Causes Court has no jurisdiction, it is the Civil Court only that has got jurisdiction under Section 9 Civil Procedure Code, 1908, as there is a specific statutory bay under Section 17 of Provincial Small Cause Courts Act, 1878 read with Article 8 of Second Schedule in regard to the character of the suit, to wit, recovery of house rents. So, it appears that he is without any relief, can such be the law? It requires deep probe.

19. There is yet another circumstance, which poses a perplexing circumstance.

It is a common phenomenon that, when a Senior Civil Judge does not work for one reason or other, another Senior Civil Judge of different territorial jurisdiction in the same district would be placed in full additional charge and such Judge has been trying cases and disposing the same on merits, as if he is the original Judge himself. There is a provision Section 28 of A.P. Civil Courts Act, 1972 which says that the High Court specifies the Senior Additional District Judge or Principal Senior Civil Judge at such place or any other neighbouring District Judge to assume charge of the District Judge, when the latter dies or due to illness or otherwise, cannot discharge his duties as District Judge, Who: shall discharge such of the current duties thereof as are connected with the filing of the suits and appeals, the execution of the process and the like, and shall continue in charge of the office until it is resumed or assumed by a person duly appointed to that office, provided that if an Additional District Judge of the same place or a District Judge of neighbouring district assumes charge, it shall be competent for him to perform any of the functions of the District Judge.

Such a section, enabling a Senior Civil Judge to assume charge of another Senior

Civil Judge at the same place or at some other place in the district, does not find place in A.P. Act 19 of 1972. Similarly, there is no like provision, enabling a Junior Civil Judge to assume charge of another Junior Civil Judge at the same place or some other place in the district. But, in practice, a Senior Civil Judge working at some place in the district is authorized to assume charge of the Court of another Senior Civil Judge in the district, when vacancy arises due to death or illness of the latter Senior Civil Judge. Likewise, in the case of the Junior Civil Judges also, the same procedure is being adopted and such Judges have been disposing off cases after full-fledged trial. There is apparently no sanction under law for such a procedure. I doubt whether such judgments, if questioned, may turn out to be nullities as they are given by Courts, which lack inherent jurisdiction to try such suits.

20. So, in view of my above discussion on the subject relating to various sections of A.P. Civil Courts Act 1972 (Act No.19 of 1972), I am of the honest opinion that the following amendments are liable to be considered and made to A.P. Civil Courts Act, 1972.

Present Section	Suggested Amendment
Section 5. The pecuniary jurisdiction of the Chief Judge and Additional Chief Judge shall, subject to the provisions of the Code of Civil Procedure and other provisions of this Act, extend to all original suits, and proceedings of a civil nature including land acquisition original petitions, the amount or the value of the subject-matter of which (exceeds rupees ten lakhs)	_____
2. The pecuniary jurisdiction of a Senior Civil Judge shall extend to all like suits and proceedings of civil nature, including land acquisition original petitions, not otherwise exempted from his cognizance under any law for the time being in force, the amount or value of the subject-matter of which (exceeds rupees one lakh but does not exceed ten lakhs).	(exceeds Rupees five lakhs but does not exceed rupees ten lakhs).
3. The pecuniary jurisdiction of a Junior Civil Judge shall extend to all like suits and proceedings not otherwise exempted from his cognizance under any other law for the time being in force the amount or value of which does not exceed (rupees one lakh).	does not exceed (rupees five lakhs).

Section 9. Forum of Appeals.

1. An appeal shall, when it is allowed by law, lie from any decree or order, in a civil suit or proceeding-

(i) of the Chief Judge or the Additional Chief Judge of the City Civil Court, to the High Court. —

(ii) of the Senior Civil Judge of the City Court

(a) to the Court of the Chief Judge, when the amount or value of the subject-matter of the suit or proceeding is not more than (rupees five lakhs.)

is not more than (rupees seven lakhs)

(b) to the High Court, in other cases; and —

(iii) of the Junior Civil Judge of the City Civil Court to the Court of the Chief Judge —

(2) The Chief Judge may, subject to the orders of High Court, transfer for disposal of any appeal filed in the City Civil Court to any Additional Chief Judge or any Senior Civil Judge —

16. Jurisdiction of District Judge, Senior Civil Judge and Junior Civil Judge in original suits and other proceedings.-(1) The pecuniary jurisdiction of a District Judge shall, subject to the provisions of the Code of Civil Procedure 1908 and the other provisions of this Act, extend to all original suits and proceedings of a civil nature including Land Acquisition original petitions the amount or value of the subject-matter of which (exceeds rupees ten lakhs) —

(2) The pecuniary jurisdiction of Senior Civil Judge shall extend to all like suits and proceedings of a civil nature including land acquisition original petitions not otherwise exempted from his cognizance under any other law for the time being in force, the amount or value of the subject-matter of which (exceeds rupees one lakh but does not exceed rupees ten lakhs)

(Exceeds rupees five lakhs but does not exceed rupees ten lakhs).

(3) The pecuniary jurisdiction of a Junior Civil Judge shall extend to all like suits and proceedings, not otherwise exempted from his cognizance under any other law for the time being in force, the amount or the value of the subject-matter of which (does not exceed rupees on lakh)

(does not exceed rupees five lakhs.)

Section 17. Appeals from the decrees of Courts in the district.

(1) An appeal shall, when it is allowed by law, lie from any decree or order in a civil suit or proceeding :

(i) of the District Court, to the High Court; —

(ii) of the Court of Senior Civil Judge:

(a) to the District Court, when the amount or value of the subject-matter of the suit or proceeding is not more than (Rupees five lakhs)

Rupees (seven lakhs)

(b) to the High Court, in other cases; and —

(iii) of the Court of Junior Civil Judge, to the District Court.

Section 24. Investiture of District Judge, Sub-ordinate Judge or Junior Civil Judge with small causes jurisdiction.-(1) The High Court may, by notification, invest, within such local limits, as it shall, from time to time, fix -

(i) any District Judge or Sub-ordinate Judge with the jurisdiction of a Judge of Court of Small Causes for the trial of suits cognizable by such Courts (upto the amount of ten thousand rupees)

(Above five lakhs upto ten lakhs by Senior Judge and above ten lakhs, by District Judge.

(ii) any Junior Civil Judge with like jurisdiction (upto amount of four thousand rupees)

(Upto the amount of five lakhs of rupees)

After Section 28, new Sections 28A and 28-B have to be added

Senior Civil Judge under this Act or any other law for the time being in force.”

“*Section 28-A: Temporary discharge of duties of the Senior Civil Judge:*—In the event of the death of the Senior Civil Judge, or, of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station at which his Court is sitting any other Senior Civil Judge, depending upon his seniority, at such station or if there is no such other Senior civil Judge at such station, any other Senior Civil Judge in the concerned district and if there is no such Senior Civil Judge in the district, the Principal Junior Civil Judge at the station, as the High Court may specify in this behalf, shall, without any interruption to his ordinary duties, assume charge of the Office of the Senior Civil Judge and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of process and the like and shall continue in charge of the office until it is resumed or assumed by a person duly appointed to that office:

“*Section 28-B: Temporary discharge of duties of the Junior Civil Judge:*—In the event of the death of a Junior Civil Judge or of his being incapacitated by the illness or otherwise for the performance of his duties or of his absence from the station at which his Court is sitting, any other Junior Civil Judge at such station or if there is no such other Junior Civil Judge at such station, such other Principal Senior Civil Judge in the district as the High Court may specify in this behalf, shall, without any interruption to his ordinary duties, assume charge of the Junior Civil Judge of the place in question and shall discharge all the functions of the Junior Civil Judge in question under this Act or any other law for the time being in force, until it is resumed or assumed by a person duly appointed to that office.”

Provided that where a Senior Civil Judge at the place or any other Senior Civil Judge in the district assumes charge under this section, it shall be competent for him to perform any of the functions of the

21. I am aware of Section 23 of A.P. Civil Courts Act, 1972, while suggesting the amendments to be made to the said Act as Section 28-A and Section 28-B; Section 23 is extracted hereunder:

Section 23. General control of District Judge over all Courts in a district:—Subject to other provisions of this Act and to such orders

as the High Court may from time to time; issue in this behalf, the general control over all the Courts under this Act in a district shall be vested in the District Judge”.

The section itself is crystal clear and it gives overall administrative control, to the District Judge in the day to administration of the inferior Courts in his control in the district and such a power can never be equated with a statutory right to direct a Senior Civil Judge to assume charge of another Senior Civil Judge or to direct Junior Civil Judge in the district to assume the office of any other Junior Civil Judge in the district. If that were to be the intention of the Legislature, the said Section 23 of A.P. Civil Courts Act, 1972 would have been drafted otherwise, declaring that the District Judge can direct a Senior Civil Judge in the district to assume office of another Senior Civil Judge, which became vacant for some reason or other and likewise, direct a Junior Civil Judge of the district to assume charge of another Junior Civil Judge in the district, until the said Court is filled up by a person duly appointed to that office.” On the other hand, the section starts with a subjective clause,

which says that the District Judge has general control over all Courts in the district, subject to other provisions of the Act and orders of High Court. Anyway, it is not an unarguable point. So, at least, it will be better to add an explanation to Section 23 of the Act as follows, in which case there is no necessity to add Section 28-A and Section 28-B as suggested by me.

Explanation to Section 23: The General Control means and includes the right of the District Judge to direct a Senior Civil Judge of the district to assume charge of another Senior Civil Judge in the district, if the Court of such latter Judge falls vacant due to his death or of his being incapacitated by illness or otherwise for performance of his duties till such time as it is resumed or assumed by a person duly appointed to that office and also to direct a Junior Civil Judge in the district to assume the office of another Junior Civil Judge if the Court of such latter Judge falls vacant due to his death or his being incapacitated by illness or otherwise for performance of his duties, till such time as it is resumed or assumed by a person duly appointed to that office.

FREEDOM OF PRESS IN INDIA AFTER INDEPENDENCE

By

—VALLAPU LINGAIAH, B.A., L.L.M.,
Golabazar, Nizampet, Khammam, A.P.

Introduction

The basic idea of freedom of speech and expression is as old as the human civilization. In India, before independence there was no constitutional or statutory guarantee of individual and/or media freedom. At the most some English common law freedom could be claimed by the press, as was observed by the Privy Council – the apex Court for India then – in the following words.

The freedom of the journalist is an ordinary part of the freedom of the subject and to whatever length the subject may go, so also may the journalist, but a part from Statute law, his privilege is no other and no higher. The range of his assertions, his criticisms or his comments is as wide as, and no wider than, that of any other subject.

It is no gainsaying the fact that the rigours of the Indian Press Act of 1910, directed against offences involving violence as well as