

**DISPOSAL OF EXECUTION PETITION
(EXECUTION PROCEEDINGS TOP PRIORITY)**

By

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The Apex Court has opined that the difficulties of a Decree Holder starts from the time of execution. But the Courts do not pay much attention but adjourn the matter several times. Obviously they do not count in the disposal as Units unlike original suits. So much so a Decree holder who had got money decree in his favour applies by filing an E.P. in Court for realization of his decretal amount which decree he should obtain against opposite party struggling himself through trial of the suit in the 1st Court itself for more than 4 years depending upon the work load in that Court. If an appeal is preferred by the opposite party against that decree, the plaintiff as respondent in the appellate Court depending upon the work load of that Court has to wait for at least a minimum period of 3 or 4 years. If the plaintiff as respondent in the appellate Court succeeds and the opposite party prefers a second appeal where second appeal is provided for, to the Honourable High Court, the plaintiff again has to go through the ORDEAL depending upon the work load of that Court, take some more years there as respondent in the High Court. If he succeeds and the opposite party moves the S.L.P. and ultimately there also, if he succeeds and lower Court decree is confirmed it means the plaintiff has to undergo the litigation for nearly 2 decades or so. At last the plaintiff applies for execution to realize the fruits of his decree, the Executing Court grants time for filing counter for months, if not years. What would be the feelings of the decree holder in the judicial system when his precious time was consumed for obtaining a decree for decades. When the Executing Courts take

snail speed, the reason behind appears to be that the execution matters are not given importance unlike original suits or other trial matters for which the Hon'ble High Court directed the Subordinate Court, fixing a time limit for speedy disposal of suits. Even Fast Track Courts are established with a view to give quick and speedy disposal of suits and other trial matters.

Property matters and allied matters are concerned the time occupied to get a decree after exhausting all appellate Courts even matters of 1980 are now at the stage of execution. Suppose the plaintiff dies, adding of L.Rs. and other procedural formalities which occupy some more years. Rent control matters which are summary in nature are occupying more than 20 years to come to the stage of execution.

In our considered opinion why not the concept of the speedy disposal which is applied in case of trial of suits and disposal of appeals extra, be applied in the case of execution where real justice lies with. Executing Courts should be directed to give top priority to execution matters. Then alone real justice which is the main object of administering justice to litigant public will be achieved.

It is humbly submitted that it is high time that the Hon'ble High Court will be pleased to issue directions or Circulars having force of law to the Subordinate Judiciary to give top priority to execution procedures and give, if necessary Unit weight like original suits. Separate Courts for disposing of execution proceedings alone should be established. Then

alone real justice would be done to the litigant public.

The Adage says that the life of a human

being is 100 years and the life of litigation is one thousand years and it should be changed only quickening the disposal of execution proceedings.

HUMAN RIGHTS IN INDIA

By

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The Constitution of India is based on the principles that guided India's struggle against a colonial regime that consistently violated the civil, political, social, economic and cultural rights of the people of India. The freedom struggle itself was informed by the many movements for social reform, against oppressive social practices like sati (the practice of the wife following her dead husband onto the funeral pyre), child marriage, untouchability *etc.* Thus by the mid-1920s, the Indian National Congress had already adopted most of the civil and political rights in its agenda. The movement led by Dr. B.R. Ambedkar (one of the founding fathers of the Constitution) against discrimination against the Dalits (the erstwhile outcasts or so-called untouchables who formed the lowest strata of the caste hierarchy and who currently number more than 170 million or 16.5% of the total population of India) also had an impact on the Indian Constitution.

The Constitution of India is one of the most rights-based Constitutions in the world. Drafted around the same time as the Universal Declaration of Human Rights (1948), the Indian Constitution captures the essence of human rights, in its Preamble, and the sections on Fundamental Rights and the Directive Principles of State Policy.

In spite of the fact that most of the human rights found clear expression in the Constitution of India, the independent Indian State carried forward many colonial tendencies and power structures, including those embedded in the elite Indian Civil Service. Though the Indian State under Jawaharlal Nehru took many pro-active steps and followed a welfare state model, the police and bureaucracy remained largely colonial in their approach and sought to exert control and power over citizens. The casteist, feudal and communal characteristics of the Indian polity, coupled with a colonial bureaucracy, weighed against and dampened the spirit of freedom, rights and affirmative action enshrined in the Constitution.

In the first 15 years of the Indian Republic, such inherent contradictions within the Indian polity were glossed over by the euphoria of 'nation-building', an agenda generally endorsed by political parties, the middle class and elite civil society. However, when the contradictions within the Indian polity and State came into the open in the late '60s the oppressive character of the State began to be challenged by student movements and ultra-left formations like the Naxalite Movement. When the Indian State began to suppress such expressions of political dissent and mini-rebellions, the violation of