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Victoriam Legalis - Advocates & Solicitors | Newsletter



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We here, at Victoriam Legalis, believe in continuous learning and growth, and agree that one way to do the same is to keep up with the developments and changes taking place around us.

We live in an Information Age, and while there is no dearth of knowledge and information, we, through this newsletter, hope to give you a consolidated account of relevant updates and developments.

In light of the same, we present to you the first issue of our newsletter, which we hope, you find beneficial!

Happy Reading!



Media and Entertainment

1. Condom Ad Featuring Couple Playing Garba| MP High Court Quashes Case Against Pharma Firm Head For ‘Hurting Sentiments’

The Madhya Pradesh High Court recently quashed criminal proceedings initiated against the head of a pharma firm for publishing a condom advertisement featuring a couple playing Garba and thereby allegedly hurting religious sentiments. Having perused the content of the advertisement, the bench of Justice Satyendra Kumar Singh observed that the intention of the accused was just to promote the product of his company and not to hurt the religious feelings and sentiments of any community. Consequently, the Court held that offence under Section 295-A, 505 IPC and 67 IT Act are not made out, and hence, the Court quashed the FIR, Chargesheet, and also subsequent criminal proceedings pending against him before the Court of Judicial Magistrate First Class, Indore.

2. CAFC Says USPTO Arguments for Rejecting Google Patent Application Lack Support in Record

The U.S. Court of Appeals for the Federal Circuit (CAFC) in a precedential decision today vacated a Patent Trial and Appeal Board (PTAB) finding that certain claims of Google, LLC’s U.S. Patent Application No. 14/628,093 were obvious. The CAFC opinion, authored by Chief Judge Moore, said the U.S. Patent and Trademark Office’s (USPTO’s) arguments on appeal “cannot sustain the Board’s decision below because they do not reflect the reasoning or findings the Board actually invoked.” Google’s patent application has to do with methods for filtering the results of an internet search query such that only age-appropriate results for a user are displayed. At issue were two prior art references: Parthasarathy, which “discloses methods of filtering search results by comparing a “search-query-intent score” to a predetermined safety threshold” and Rose, which is titled “System and Method for Improving the Ranking of Information Retrieval Results for Short Queries.”

3. ITC Judge Rules Apple Violated U.S. Trade Laws by Infringing Masimo Pulse Oximeter Patent

A United States Administrative Law Judge in Washington, D.C. ruled that Apple Inc. violated Section 337 of the Tariff Act of 1930 as amended, by importing and selling within the United States certain Apple Watches with light-based pulse oximetry functionality and components, which infringe one of Masimo’s pulse oximeter patents. Apple first released its pulse oximeter sensor with the Apple Watch Series 6 in 2020 and continues to use it in the current Apple Watches. The United States International Trade Commission (USITC) will now consider whether to implement an import ban on these Apple Watches.

4. Class Action Lawsuit by artists against Universal Music Group Sued Over Its Spotify Equity Ownership

Recently, hip-hop duo Black Sheep, best known for their 1991 album A Wolf in Sheeps Clothing, sued Universal Music Group in a class-action lawsuit. As reported by music companies worldwide, the following claims have been made by the artists: (i) That Black Sheep and other artists signed to Universal should have received 50% of Spotify’s royalties since 2011 due to a clause in their contracts referring to net income relates ; (ii) that UMG agreed to accept lower royalties from Spotify in return for receiving shares in the streaming service in 2008; and (iii) that Black Sheep and other artists should also have received 50% of UMG’s Spotify equity (or its value) as, according to the duo’s lawsuit, that would be proportional to their license agreement.



5. Yash Raj Films copyright infringement case: Delhi High Court issues summons to US platform “Triller”

The Delhi High Court on Tuesday issued summons to American video sharing and social networking platform Triller on a copyright infringement suit filed by YRF restraining the platform from infringing its copyright in sound recordings, musical works and literary works. YRF alleged that the defendant had illegally uploaded, stored, reproduced, made copies, created new works embodying the Plaintiff’s works, without obtaining any valid license or authorisation. The platform has sought relief under the ‘safe-harbour’ protection guaranteed to intermediaries under the Digital Millennium Copyright Act (a USA enactment, which also finds a place in Indian law in the form of Information Technology Act, 2000) to continue its infringing activity to which the Counsels representing YRF said that the impugned platforms contained various features, such as the audio extraction feature, which were beyond the limited role of an intermediary specified under Section 79 (2)(a) of the IT Act, thereby disentitling Triller from the ‘safe-harbour’ protection guaranteed to intermediaries under the IT Act.

6. Uphaar fire tragedy – Delhi HC declines to stay web series ‘Trial by Fire’

The Delhi High Court on Thursday declined, to stay the release of web series ‘Trial by Fire’ scheduled for release on Netflix on January 13, 2023. The plea was filed by Sushil Ansal, one of the convicts in the 1997 Uphar Cinema Fire Case on which the web series is based, seeking permanent and mandatory injunction against the series and restraint of further publication and circulation of the book titled “Trail By Fire- The tragic tale of the Uphaar Tragedy”. The Court observed “Undisputedly the work authored by defendants 4 and 5 was published way back in 2016. This is clearly evident from the various newspaper articles and media reports which have been placed for the perusal of the Court. The plaintiff chose, for reasons best known to him, not to initiate any injunctive action in respect of the said work when it came to be originally published on 19 September 2016. A slothful or sluggish plaintiff seeking a seeking an injunction of the nature which is sought in these proceedings cannot be allowed to claim such reliefs”





Technology and E-Commerce Updates

1. Amazon secures \$8 billion term loan

Amazon.com Inc said on Tuesday it had reached an agreement with certain lenders to provide the e-commerce giant an \$8 billion unsecured loan. The term loan will mature in 364 days, with an option to extend for another 364 days and the proceeds would be used for general corporate purposes. The online retailer has been bracing for likely slower growth, as soaring inflation forces businesses and consumers to cut back spending. That, coupled with a strong greenback, dragged Amazon's shares about 50% lower in 2022.

2. Amazon looks to sell excess air cargo space as demand cools post-pandemic

Amazon.com Inc. is trying to sell excess space on its cargo planes, according to people familiar with the matter, its latest effort to adjust from a rapid pandemic-era expansion to a slowdown in online growth. The e-commerce retailer, which has a fleet of about 100 planes in the US and Europe, in recent months has hired executives with experience marketing cargo space for airlines. The pressure to make money from unused space aboard its jets is increasing as the company looks to boost profits in a period of slower revenue growth, another person said. Amazon unveiled the air cargo service in 2016, prompting speculation that it would ultimately create an overnight delivery network to rival United Parcel Service Inc. and FedEx Corp. Amazon Air operates out of smaller regional airports close to its warehouses around the country, helping the Seattle-based company quickly move inventory to accommodate one- and two-day delivery.

3. Keen to help people save, duo started digital gold savings app

When a Jar user spends, they also save. The application rounds off their spends to the nearest 10 and invests it in gold. Users also have an option to choose a fixed amount that Jar will invest in gold on a daily basis. Jar started with gold as an asset class as Indians traditionally prefer to save in gold, and it presents the fewest barriers to entry as possible. The starting investment can be as low as Re1, and is, most importantly, liquid. The investments in digital gold are backed by physical gold of the same amount, and investors can choose to withdraw their gold or liquidate it at any time.

4. How Aer Media is tapping into the Rs 2,200 Cr influencer marketing segment

Aer Media's model works with brands instead of working with influencers. The founding team explains that Aer Media activates the influencer marketing strategy for their brands. For example, when a brand launches a particular product, it gives Aer Media an outline of its target audience and what it likes to achieve. "Based on this, our platform Unbox Social creates a list of the best influencers that would work with the brand and the product. We work with the influencers and give them access to these brands," Vinay says. The team charges the brands a retainer fee after factoring in its own expenditure.

5. CCPA issues notices to Amazon, Flipkart, Snapdeal for alleged sale of toys without BIS quality mark

The consumer protection regulator CCPA has issued notices to e-commerce platforms Amazon, Flipkart and Snapdeal for allegedly selling toys without BIS quality mark, news agency PTI reported. Besides, the government on Wednesday said 18,600 toys have been seized in the last one month from major retail stores, including those of Hamleys and Archies at airports and malls across the country, for lack of BIS quality mark. Since January 1, 2021, the government made it mandatory for toys to conform with safety norms specified by the Bureau of Indian Standards (BIS), a national standards setting body.

6. Live-commerce platform Peepul Tree raises \$6M in seed funding led by Elevar Equity

Live-commerce platform Peepul Tree, which connects Indian artisans and their craftsmanship to global consumers, has raised \$6 million in a seed funding round led by Elevar Equity. The startup will utilise the funds to onboard content creators to market their collections that showcase the rich heritage behind the products and strengthen the storytelling. Peepul Tree will also use the capital to digitise the artisan supply chain and build technology to bring together artisans, content creators, and customers on a single platform. The company works with artisanal communities and content creators by aggregating supply through a cluster-based approach, creating a steady stream of demand, and managing the entire supply chain and logistics to global consumers using a technology-enabled platform.

7. Flipkart marketplace arm gets \$90 million cash infusion

FLIPKART INTERNET, THE marketplace arm of e-commerce firm Flipkart, has received about \$90 million cash infusion from its two Singapore-based entities Flipkart Marketplace and Flipkart Private. A resolution to infuse the capital, the first in 2023, was approved on December 29. Last year in March, Flipkart Marketplace received over \$553 million from Walmart. The main source of revenue of Flipkart Internet is reportedly the commission from the sellers, advertising and other seller services to merchants. The cash infusion is expected to help Flipkart in competing with US-based Amazon for leadership in the Indian e-marketplace as the development has come at a time when Amazon India has shut down multiple businesses in India, such as food delivery, edtech and its distribution units, and fired employees at its local unit.

<https://www.news18.com/business/amazon-launches-amazon-air-in-india-these-cities-will-receive-first-shipments-6895513.html>

8. Big Decision For Small Online Players: No Need For GST Registration If Sales Are Below Rs 20 Lakh

In a move that will benefit persons in the unorganised sector, the GST Council decided to waive mandatory registration for small entities selling their products online. The exemption will be for those having an annual turnover of up to Rs 20 lakh and those not making any inter-state taxable supply. The changes will be effective from January 1, 2023. The Council has provided the “waiver of requirement of mandatory registration under section 24(ix) of CGST Act for person supplying goods through ECOs, subject to certain conditions, such as - a) the aggregate turnover on all India basis does not exceed the turnover specified under sub-section (1) of Section 22 of the CGST Act and notifications issued thereunder; b) the person is not making any inter-state taxable supply”, according to an official statement.

9. UPI's single block and multiple debit facility will see many switch from cash on delivery to new functionality

The RBI has said India's most popular digital retail payments system UPI will soon have a new functionality — single-block-and-multiple-debits, which will enable a customer to block funds in his/her account for specific purposes, which can be debited whenever needed. Currently, the UPI can process payment mandates for recurring as well as single-block-and-single-debit transactions.

What this means is that currently customers can only block one debit transaction in their accounts for their choice of payment. But with the new single block and multiple debits feature, customers can block multiple transactions on their account for specific transactions which will in turn make automated payments easier and quicker.





Fashion & Sports Law Updates

1. Esports recognised as official sports by the Indian Government in their attempt to distinguish online games and esports

The Government of India (Allocation of Business) Rules, 1961 have been updated by the Indian government in accordance with the 317th Amendment to the Indian Constitution. A recent notification from the Cabinet Secretariat of India outlines the adjustment of the nation's classification of online gaming and esports. These rules are now known as the Government of India (Allocation of Business) Rules, 2022. Esports have been formally recognised by the Indian government as "multisports events" under the Ministry of Youth Affairs. Esports and online gaming have been formally classed and separated from one another by the Indian government. The Ministry of Electronics and Information Technology is now responsible for overseeing online gaming, as stated in entry 5A of the aforementioned Act. While, Esports has been classified under entry 2A of the Act. India is deemed to be a juggernaut in Esports in the coming years and this formal support in developing its infrastructure by the government will add a massive boost to this process.

2. Sephora Faces “Clean” Beauty Lawsuit Amid Cosmetics “Regulatory Vacuum”

One of many latest case to carry corporations' sustainability-centric claims below the microscope is a proposed class motion lawsuit waged in opposition to Sephora over a set of “clear” cosmetics merchandise. In line with the grievance that she filed in a New York federal court docket in November, Plaintiff Lindsey Finster claims that by “manufacturing labels, marketing, certifying and/or promoting cosmetics marketed as ‘Clear’ below its ‘Clear At Sephora’ program” – when no scarcity of the merchandise include substances which might be “inconsistent with how shoppers perceive” the time period “clear,” the wonder retailer is partaking in false promoting and breaching warranties that it made to shoppers in reference to these merchandise.

3. H&M, Zara and Gap among brands found to be unfairly treating Bangladesh suppliers

A new report by Transform Trade has found a number of major high street fashion retailers to be paying and treating their Bangladeshi suppliers “unfairly”. The likes of H&M, Gap, Next, Primark and Zara are among the brands named for paying factories below the cost of production. In the research, retailers were found to be paying their suppliers in the region the same prices almost two years on from the start of the pandemic, despite many facing rising costs in raw materials. Additionally, nearly one in five were struggling to pay the 2 pound 30 pence a day minimum wage of Bangladesh, the second largest garment exporter in the world.

4. Thom Browne wins trademark case against Adidas

Adidas has lost its trademark claim against Thom Browne, after a jury in Manhattan's Southern District Court found there was no infringement of the luxury brand's use of stripes. Adidas, which sought damages and a percentage of lost sales totalling nearly 8 million dollars, said in filings Thom Browne "has expanded its product offerings far beyond its formal wear and business attire specialty," claiming the company is “selling athletic-style apparel and footwear featuring two, three or four parallel stripes in a manner that is confusingly similar to adidas' three-stripe mark.” Adidas originally filed a trademark complaint against Thom Browne in 2021. As many pointed out, there is little market confusion between both brands and their use of stripes. Some would suggest the German sportswear giant should get its own house in order before it seeks to compromise others.



5. LVMH cancels plans to build research centre near grounds Paris Polytechnic Institute

The luxury goods group LVMH has decided not to set up its research centre on the Saclay plateau in the Essonne department of France, near the engineering school of the Paris Polytechnic Institute (IP Paris), which had given the green light to the project last November despite opposition from several students. The project of the world's number one luxury goods company, called LVMH Gaia, aims to eventually bring together 300 researchers on a surface area of 22,500 m², according to LVMH, which intends to invest more than 100 million euros in the future building.

<https://fashionunited.com/education/schools/lvmh-cancels-plans-to-build-research-centre-near-grounds-paris-polytechnic-institute/2023012651922>

6. The Fabricant names Sevdaliza face of new digital wearables collections

Digital fashion house The Fabricant has unveiled a new partnership with Iranian-Dutch musician Sevdaliza, who will become the face of a new collection of digital wearables. Described by the brand as its 'Icon', Sevdaliza will be at the forefront of The Fabricant's the XXories facewear range, which includes virtual earrings, facial piercings and nose changes, each of which can be worn via augmented reality (AR). According to the brand, the pieces will elevate the visual benchmark for digital fashion AR wearables, with an aesthetic that seemingly appears to pierce the skin.

<https://fashionunited.com/news/fashion/the-fabricant-names-sevdaliza-face-of-new-digital-wearables-collections/2023012651914>

7. Harvey Nichols to stop selling fur by end of 2023

British department store Harvey Nichols has announced that it is planning to stop selling fur by the end of 2023. The decision comes after an investigation into Chinese fur farms by animal protection organisation Humane Society International (HSI) UK in 2021 found "sickening" evidence of inhumane environments the animals were being kept in. HSI/UK wrote to Harvey Nichols in 2022 outlining that its Animal Sourcing Policy, based on commitments to ethical treatment, was incompatible with the conditions for animals found at said farms.





Corporate & Commercial Law Updates

1. New industrial policy aims to focus on One Nation-One Standard

The Department for Promotion of Industry and Internal Trade (DPIIT) is working on a new industrial policy that proposes to increase financing sources for industry and a scheme for promoting Made in India brand, sources said. It has suggested various ways for wider access to finance for the industry such as setting up of a development finance institution to provide finance at competitive rates and considering using some part of foreign exchange reserves for such funding. The proposed policy, sources said, is aimed at addressing issues and challenges of industry through certain policy measures to foster and create an innovative and competitive industrial ecosystem in the country.

2. Determination Of Debt/ Adjudication Of Liability, Under SARFAESI, No Need To Refer To Arbitration: Delhi High Court

The Delhi High Court has ruled that the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDB Act) or the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) do not lay down an omnibus bar to arbitration. In each case, the Court would have to consider the nature of the dispute and determine whether the said statutes require the dispute to be tried exclusively by the Debt Recovery Tribunals (DRTs), the Court held. The Court held that since the dispute essentially involved a question relating to determination of debt, it was linked to the adjudication of liability and thus, it fell within the scope of adjudication contemplated under Section 13. Therefore, the dispute must be exclusively tried by the DRT, the Court ruled.

3. Specific Performance Of Agreement To Lease Can Be Sought Before Arbitrator; Bar Of Section 41 of PSCC Act Will Not Apply: Bombay High Court

The Bombay High Court has reiterated that dispute between parties arising under the Leave and License Agreement, emanating from a relationship of a licensor and licensee, cannot be referred to arbitration in view of the statutory bar contained in Section 41 of the Presidency Small Cause Courts Act, 1882 (PSCC Act), as per which the Small Causes Court alone would have the jurisdiction to adjudicate the dispute. As per the Presidency Small Cause Courts Act, the Court of Small Causes shall have jurisdiction to entertain all suits and proceedings between a licensor and licensee, or a landlord and tenant, relating to recovery of possession of any immovable property situated within its jurisdiction.

4. HDFC Capital raises USD 376 million for affordable housing fund

HDFC Capital, the real estate private equity arm of HDFC Group, on Monday achieved the initial close for second scheme of its third fund, raising USD 376 million. The latest fund raising is the third by HDFC Capital's affordable real estate fund (H-Care 3) and the primary investor in the H-Care schemes is a wholly-owned subsidiary of the Abu Dhabi Investment Authority (ADIA), HDFC said in a statement. Since the launch in 2016, the fund, across its schemes, has created a USD 3.1 billion funding platform, making it one of the largest private finance platforms in the world focused on development of affordable housing. The fund will provide long-term, flexible funding across the life cycle of affordable and mid-income housing projects including early-stage funding. In addition, it will also invest in companies in the construction technology, fintech, sustainability-tech etc. engaged in the affordable housing ecosystem.



5. AA Obligated To Direct For Liquidation Only If CoC'S Decision To Liquidate Is In Accordance With IBC: NCLAT Delhi

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson) and Ms. Shreesha Merla (Technical Member), while adjudicating an appeal filed in Hero Fincorp Limited v M/s Hema Automotive Pvt. Ltd., has held that the Adjudicating Authority's obligation to direct for liquidation shall arise only when the CoC's decision to liquidate is in accordance with IBC. The CoC resolved to liquidate the Corporate Debtor after preparation of the Information Memorandum and before the period for inviting Expression of Interest could expire. The NCLAT Bench upheld the Adjudicating Authority's decision to reject the liquidation application. The Bench observed that Explanation to Section 33(2) of IBC clarifies that CoC can decide to liquidate the Corporate Debtor any time after its constitution under Section 21(1), but before – (i) the confirmation of the Resolution Plan; and (ii) at any time before the preparation of Information Memorandum. The Bench opined that CoC failed to take into consideration the Explanation to Section 33(2) before deciding to liquidate the Corporate Debtor.

6. Alibaba sells Paytm stake worth \$125 million via block deal

China's Alibaba Group sold a 3.1% stake in Indian digital payments firm Paytm for a total of \$125 million through a block deal. Alibaba, which held a 6.26% stake in Paytm as of end-September, sold the stake at Rs 536.95 apiece. Morgan Stanley advised Alibaba on the deal, the source added. Paytm's stock has risen about 9% this year up to last close, after reporting strong preliminary figures for the third quarter. It closed 2022 with a 60% loss, despite the company announcing a share buyback in December.





Hospitality & Real Estate

1. Greater Noida Authority permits registration of over 2,200 flats in 3 housing societies

GNIDA has permitted the registration of 2,215 flats constructed by three different builders located in sectors 1 and 16 of Greater Noida Extension, a move that will benefit homebuyers. The builders who have been allowed to register homes in their projects are Starcity Real Estate Private Limited, Enticement Limited and Gulshan Developers Limited. The move will allow the registration of 933 homes in Starcity Real Estate's project ATS Destinaire, 536 flats in Enticement Limited's CRC Sublimis and 746 apartments in Gulshan Developers' Gulshan Bellina.

2. IHG debuts voco brand in India with a signing in Jim Corbett

IHG® Hotels & Resorts, one of the world's leading hotel companies, has announced the signing of a management agreement with Satyadeo Hospitality Private Limited to convert Corbett Aamod Spa & Resort into India's first voco hotel. The new voco Jim Corbett is scheduled to be rebranded by July 2024, adding 100 rooms to IHG's premium portfolio in the country. The signing also marks the introduction of the 7th brand from IHG's global portfolio to the Indian market.

<https://www.hotelierindia.com/operations/ihg-debuts-voco-brand-in-india-with-a-signing-in-jim-corbett>

3. Delay in classification of Gujarat & Chhattisgarh hotels hurting business; FHRAI requests MoT for early resolution

The country's apex hospitality Association – Federation of Hotel & Restaurant Associations of India (FHRAI) has submitted a representation to Shri Arvind Singh, IAS, Secretary, Ministry of Tourism (MoT) explaining concerns faced by hotels in the States of Gujarat and Chhattisgarh over delay in the classification of 1, 2 and 3 star hotels. Pending from the last 3 to 6 months, hotels in these States that are seeking either re-classification or classification of their properties are facing enormous hardships. With licenses having expired or being due for renewal, including that of liquor license, most hotels are not able to renew the licenses due to the delay in the classification process. Having suffered massive losses over the last couple of years of the pandemic, the FHRAI has requested the MoT for an early resolution.

4. Sale Of Property Under SARFAESI Will Not Extinguish Prior Existing Charge For Dues Under State Tax Laws

The Kerala High Court on Friday held that the statutory charge created under the provisions of the Kerala General Sales Tax Act, 1963 and the Kerala Value Added Tax Act, 2003, prior to any mortgage made, against the dealers would remain intact, even if the property is sold by the Bank, by the rights conferred under Section 26E of the SARFAESI Act, 2002, and Section 31B of the Recovery of Debts and Bankruptcy Act 1993 read with the Rules to it, until such encumbrances are cleared as per the provisions of the said enactments and the rules.

<https://www.livelaw.in/news-updates/sale-of-property-under-sarfaesi-will-not-extinguish-prior-existing-charge-for-dues-under-state-tax-laws-kerala-high-court-218512>



5. RERA-registered ventures must be considered as ‘public interest projects’: Credai-NCR tells environment minister

Observing that construction and demolition activities have been banned for almost 29 days following curbs under stage III of the Graded Response Action Plan (GRAP) in Delhi NCR, resulting in losses of hundreds of crores and delay in timely possession to homebuyers, the Confederation of Real Estate Developers Association of India - NCR chapter has urged union minister of environment, forest and climate change Bhupender Yadav to consider RERA-registered projects as ‘public interest projects.’ The real estate developers submitted a memorandum to the minister highlighting the impact of the ban. They said that normal work that does not cause air pollution should be permitted to protect the interest of labourers and homebuyers. It also brought to the minister’s notice that the ban on construction activities due to pollution is not recognised by RERA, development authorities, or the town planning department due to which realty firms do not get the ‘time extension’ benefit against ‘time-loss’ due to the delay in construction.

6. Haryana realty regulator restrains Bank of Baroda from conducting e-auction in CHD E-Way Tower commercial project

Taking cognizance of a complaint, the Haryana Real Estate Regulatory Authority (HARERA) restrained Bank of Baroda from conducting an e-auction on January 24 in CHD E-Way Tower at Gurugram’s Sector 109, the Authority stated. The quorum of the Authority, which consists of chairman and three members, observed on January 23 that the bank’s e-auction attempt is “devoid of” considering and settling the claims of individual allottees who are stakeholders in the project in question. “Bank of Baroda is restrained from the proceedings with the e-auction dated January 24, 2023 being done without considering and settling the claims of individual allottees,” the HARERA order said. The order added, “Forensic audit of the accounts of CHD Developers Limited should be done to bring out clear picture of the utilization or diversion of funds of invested funds with respect to the project, if any.”





Litigation & Dispute Resolution

1. Jamiat-Ulama-i-Hind moves Supreme Court challenging anti-conversion laws of 5 states

Jamiat Ulama-i-Hind moved the Supreme Court on Thursday challenging the anti-conversion laws enacted by the States of Uttar Pradesh, Madhya Pradesh, Gujarat, Uttarakhand and Himachal Pradesh.

The plea, which is a public interest litigation (PIL) petition, was filed challenging the constitutional validity of: (i) Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Act, 2021 (ii) Uttarakhand Freedom Of Religion Act, 2018 (iii) Himachal Pradesh Freedom Of Religion Act, 2019 (iv) Madhya Pradesh Freedom Of Religion Act, 2021 (v) Gujarat Freedom of Religion (Amendment) Act, 2021.

The plea, filed through advocate Ejaz Maqbool, contended that the laws are a means to "harass" inter-faith couples and implicate them in criminal cases. The PIL stated that provisions of all the five acts force a person to disclose his/ her faith and, thereby, invade the privacy of a person. Further, the provisions of the five Acts entitle the family members of persons entering into inter-faith marriage to lodge a first information report (FIR), virtually giving them a fresh tool for harassing a convert.

2. Protestors can now be booked by Gujarat Police police officers; State Bill amending CrPC gets Presidential assent

The Gujarat Police can now register criminal cases against citizens if they stage protests in violation of Section 144 (power to issue prohibitory orders) of the Code of Criminal Procedure (CrPC). President of India Droupadi Murmu gave her assent to the Code of Criminal Procedure (Gujarat Amendment) Bill, 2021, which makes such an act a cognizable offence under Section 188 of the Indian Penal Code (IPC). Section 144 empowers a magistrate to direct any person to abstain from a certain act if he feels that such direction is likely to prevent obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of public tranquility.

3. Bombay High Court issues notice to Mid-Day Publisher, Editor, Reporter for disclosing identity of juvenile

The Bombay High Court last month issued show-cause notice to the publisher, editor and a reporter of tabloid, Mid-Day, seeking explanation on why contempt of court proceedings should not be initiated against them for publishing and disclosing the identity of a nine-year-old boy, who was booked in a criminal case. A division bench of Justices Revati Mohite Dere and Prithviraj Chavan noted in its order passed on December 20, that the tabloid breached the provisions of Section 74 of the Juvenile Justice (Care and Protection of Children) Act of 2015, which prohibits disclosing the identity of children.

4. Supreme Court Dismisses Centre's Plea Alleging Bias Against Foreign Arbitrators In Reliance Industries Arbitration

The Supreme Court bench comprising Chief Justice DY Chandrachud and Justice PS Narasimha dismissed the central government's appeal which had sought to cease arbitration proceedings initiated by Reliance industries, BP Exploration, and Niko Resources against the Ministry of Petroleum and Natural Gas. The arbitration proceedings were initiated over a \$400-million cost recovery dispute involving natural gas exploration in the KG-D6 block.

5. If Child Works Voluntarily Then Sections 75 & 79 Of Juvenile Justice Act Do Not Apply

In a recent order, Justice K. Surender of Telangana High Court held that where a juvenile who works voluntarily, Sections 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 do not apply. Section 75 provides for punishment, if any person having control of child, assaults, abandons, abuses or willfully neglects the child. Section 79 deals with punishment for exploitation of a child employee. It prescribes punishment for acts of ostensibly engaging a child and keeping him in bondage for the purpose of employment or withholding his earnings or using such earnings for one's own purposes.

6. Kin of deceased health worker cannot claim compensation under both State and Central government schemes: Madras High Court

The Madras High Court recently held that a kin of a COVID-19 victim can claim benefits/ compensation either under the Central government scheme or State government scheme but not both. Justice CV Karthikeyan, therefore, rejected a petition filed by a deceased nurse's husband, seeking a compensation of ₹50 lakh from the Tamil Nadu (TN) government. The nurse had passed away after contracting COVID while at work. "A person can get that benefit of that scheme either under the Central government or under the State government scheme. He cannot seek a relief from both the Central government and from the State government scheme," the Court said. The Court noted that the petitioner, K Arunachalam had already received a sum of ₹50 lakh under the Central government's Pradhan Mantri Garib Kalyan Package (PMGKP) insurance scheme for frontline health workers fighting COVID-19, following the death of his wife K Thangalakshmi. The Court said that the petitioner's claim amounted to making a "wrongful gain from an unfortunate death."

<https://www.barandbench.com/news/litigation/covid-19-kin-deceased-health-worker-cannot-claim-compensation-both-state-central-government-schemes-madras-high-court>

7. Chargesheet not public document; Supreme Court dismisses plea to publish chargesheets filed by police on government websites

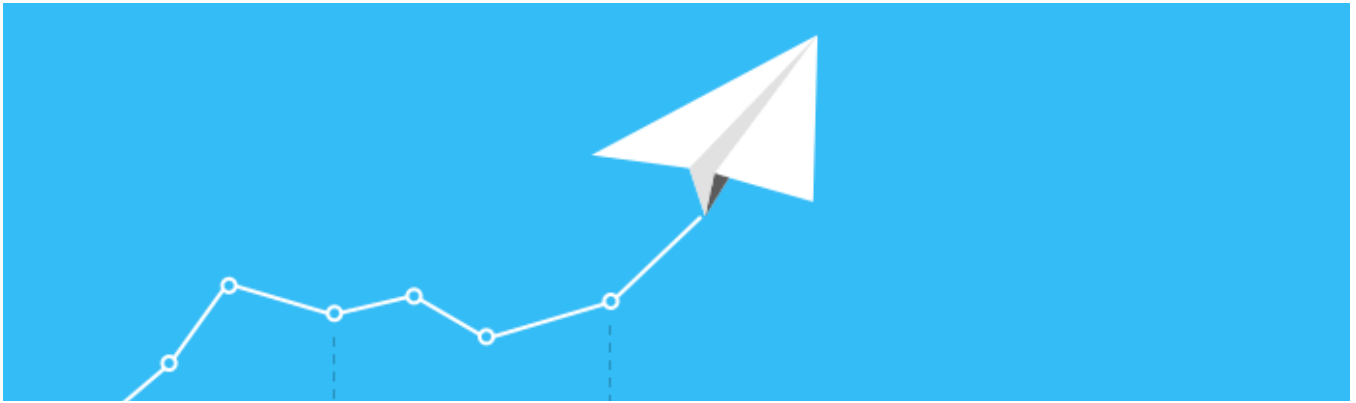
The Supreme Court dismissed a plea to publish chargesheets filed by the police, the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) in public domain and on government websites. The Court said that a chargesheet is not a 'public document' and cannot, therefore, be published online.

Doing so could also compromise the rights of the accused as well as the victim of the crime and also the investigating agency, the bench added.

8. Daughter-In-Law Can't Claim Maintenance From Father-In-Law U/S 125 CrPC

The Patna High Court has clarified that a daughter-in-law is not entitled to claim maintenance from her father-in-law under Section 125 of the Code of Criminal Procedure. The Single Judge Bench of Justice Sunil Dutta Mishra further held that a Family Court cannot invoke Section 125 CrPC to grant interim maintenance while deciding an application for maintenance under Section 19 of the Hindu Adoption and Maintenance Act (the HAMA). The Court observed that the object of Section 19 of the Act is to enable a widowed daughter-in-law to claim maintenance from her father-in-law only where she is unable to maintain herself out of her own property or from the estate of her husband, father, mother, son or daughter.





Start-Up Advisory & Consultancy

1. Ola To Shut Down Avail Finance App, Integrate It With Ola Money

Ola will reportedly be shutting down its recently acquired Avail Finance App and integrating it into Ola Money. Further, going ahead with its integration plan with Ola Money, Ola Financial Services has stopped lending to customers via Avail Finance. The move also comes as Ola has been losing deadwood by shutting down verticals which are burning cash. Last year, it shut down the infotainment service Ola Play, the used cars platform Ola Cars and the quick commerce vertical Ola Dash. Ola stopped disbursing loans in December 2022 and will only be making collections throughout 2023, as the lending vertical only offered one-year loans. Further, the mobility startup is working on a new lending service and the customers would be able to access the same via the Ola app and the Ola Money app, according to the aforementioned report.

2. CCI Antitrust Order Could Derail Android Growth In India: Google To SC

Tech major Google has reportedly said that the Competition Commission of India (CCI's) recent antitrust order risks stalling the growth of its Android ecosystem in the country. The disclosures were part of the court filings made by Google before the Supreme Court and seen by Reuters. Describing the far-reaching effects of the Competition Commission of India's (CCI) recent antitrust order, tech major Google said the ruling entails introducing new licence agreements and changing its existing arrangements with more than 1,100 device manufacturers and thousands of app developers. In its plea, the tech major also said that it would be required to make major changes to its Android operating system, which has been in place for the last 14-15 years. The tech major further added that no other jurisdiction had 'ever asked for such far-reaching changes based on similar conduct.'

3. BYJU'S Seeks More Time From Creditors To Renegotiate \$1.2 Bn Loan

Edtech major BYJU'S has reportedly sought more time from its creditors to renegotiate an agreement for its \$1.2 Bn term loan, which is in breach of covenants. Creditors have until Tuesday (January 10) to sign a forbearance agreement, which would give BYJU'S time till February 10 to negotiate broader terms for the term loan it took out in 2021. In simple terms, a forbearance agreement is a temporary arrangement which allows a debtor to postpone loan payments. BYJU'S raised the debt via a term loan for the overseas market in 2021. The edtech decacorn, then valued at \$18 Bn, earlier planned to raise around \$700 Mn, though ended up raising \$1.2 Bn. It intended to use the proceeds to fund general expenses, including supporting business growth in North America and funding inorganic growth opportunities via acquisitions.

4. BluSmart in advanced talks to raise \$250M; closes \$100M in EV asset financing

BluSmart is in advanced talks to raise \$250 million in its latest Series B round, \$50 million of which will come from existing investors and founders, while the remaining \$200 million will be provided by a large climate fund and a pension fund, Co-founder Anmol Jaggi told YourStory. The ride-hailing startup, whose affordable green taxis have received public traction, has also secured a \$100 million credit line to expand its fleet via the purchase of 7,000 electric vehicle cars, Anmol added. State-run Indian Renewable Energy Development Agency (IREDA) extended a loan of Rs 267 crore for the purchase of 3,000 EV cars to BluSmart, in March last year.



5. This Vembu-backed healthtech startup is providing blood test-type reports for knees

Ashva is a healthtech startup that aims to quantify knee assessments and track the efficacy of physiotherapy treatments using data. The startup is in the process of raising a new funding round. Ashva currently offers two products:

Fitknees: An AI sensor device that monitors the progress of patients taking physiotherapy for knee problems, including osteoarthritis, sports-related knee injuries, and post-knee replacement operation recovery.

Fitmust: A handheld device that quantifies a person's upper and lower limb muscle strength.

The two devices, used in conjunction, can quantitatively monitor the progress of physiotherapy sessions and objectively demonstrate whether the prescribed exercises are improving the patient's condition.

6. Third-party will assess Startup India Seed Fund Scheme: DPIIT

The Department for Promotion of Industry and Internal Trade (DPIIT) will now seek the third-party assessment of the Startup India Seed Fund Scheme, a senior official revealed on Friday. The DPIIT has taken this step to ensure the on-ground impact of startups. Launched in 2021, the four-part Rs 945 crore scheme provides financial support to early-stage startups for proof of concept, prototype development, product trials, their entry to the market, and finally, commercialisation of their products. The support is provided to eligible startups through incubators set across the country. Under the Startup India initiative, launched in January 2016, the government has implemented the Fund of Funds and Startup India Seed Fund schemes.





The Need for Digital Transformation in Indian Courts: Allowing Lawyers to Use Phones and Laptops in Courtrooms

- Aryan Garg

INTRODUCTION

The use of electronic devices such as phones and laptops by lawyers inside courtrooms has been a matter of debate for a long time. In the Indian context, this issue has gained significance with the recent suggestion by the Chief Justice of India to allow the use of mobile applications in high courts.¹ It is time that Indian courts re-examine their policies regarding the use of technology in courtrooms and allow lawyers to work on their electronic devices. The ban on the use of electronic devices in courtrooms is rooted in the notion that they can cause distraction and may interfere with court proceedings. However, with the advancements in technology, electronic devices have become an essential tool for lawyers to carry out their work efficiently. Lawyers often need to access legal databases, research case laws and communicate with their clients during court proceedings. Allowing the use of electronic devices would not only enhance their productivity but also improve the quality of legal representation.

THE PROS AND CONS OF ALLOWING ELECTRONIC DEVICES IN INDIAN COURTROOMS

The Hon'ble Chief Justice of India, Justice DY Chandrachud, has recently advocated for the use of electronic devices such as mobile phones, iPads and laptops inside courtrooms, as long as they are not being used to watch movies.² He voiced his belief that the adoption of technology is crucial to meet the challenges of tomorrow and that public institutions, including the judiciary, must not lag behind private entities or individuals in adopting new technologies.

However, the use of mobile phones in courtrooms can have both advantages and disadvantages. One of the benefits of using electronic devices in courtrooms is that it can improve the efficiency and speed of court

¹ *Lawyers Should Be Allowed To Work On Phones Or Laptops Inside Courtrooms, Internet Facilities Also Must: CJI DY Chandrachud*, Live Law (Mar. 07, 2023, 9:30PM), [livelaw.in/top-stories/lawyers-allowed-work-phones-laptops-courtrooms-internet-facilities-cji-dy-chandrachud-222917](https://www.livelaw.in/top-stories/lawyers-allowed-work-phones-laptops-courtrooms-internet-facilities-cji-dy-chandrachud-222917)

² *supra* note 1.



proceedings. Lawyers can access legal databases and research materials instantly, reducing the time required to search for relevant information. This can save time for both lawyers and judges and help to expedite the legal process. Moreover, electronic devices can help lawyers to be more organized and productive. They can use their devices to take notes, create documents and store case-related information, which can help them to be more prepared and efficient in court.

While the above-noted advantages can help the profession in enhancing efficiency by way of integrating use of technology, there are also some potential drawbacks of allowing electronic devices in courtrooms. One major concern is that the use of mobile phones in courtrooms can distract both lawyers and judges. Notifications, calls and messages can disrupt court proceedings and distract attention away from the case at hand if they are a source of noise, which can be disruptive to others in the courtroom. Another concern is that the use of mobile phones in courtrooms can raise issues of privacy and security. It is essential to ensure that electronic devices are used for legitimate purposes and that their use is not in violation of court rules. There is also a risk of confidential information being accessed or shared through electronic devices, which can compromise the integrity of the legal process. While the use of electronic devices in courtrooms can offer benefits such as improved efficiency and productivity, it is essential to consider the potential drawbacks as well. The best way forward would be to establish clear rules, regulations and/or guidelines for the use of electronic devices in courtrooms to minimize distractions and ensure that they are used in a manner that is consistent with the principles of the legal system. With proper guidance and regulation, the use of mobile phones and electronic devices in courtrooms can be a valuable tool to facilitate the administration of justice.

WAY FORWARD

The use of electronic devices in the courtroom can significantly improve the efficiency and management of the complex system of information exchange that takes place in the legal system. The courtroom is not just a place of adjudication, but also an information hub where outside information is assembled, sorted, interpreted, developed into arguments and presented before the Hon'ble Courts for adjudication. Electronic devices help lawyers as well as court staff and judges to access legal databases, communicate with clients and colleagues, and file documents and applications electronically. This can save time and effort, and reduce the workload of court staff. The use of electronic devices has also been improving record-keeping and archiving of court documents, making it easier to search, retrieve and store electronic documents, and provide better security against loss or damage. While the use of electronic devices can also have potential cons, including distractions, security risks, technical issues, potential for misuse, and cost and infrastructure requirements such cons are curable with proper regulation and security measures in place. The use of electronic devices in the courtroom can significantly improve the efficiency and effectiveness of the legal system.

CONCLUSION

With the recent suggestion by the Hon' ble Chief Justice of India to allow the use of mobile applications in high courts, it is time to re-examine policies regarding the use of technology in courtrooms. While the use of electronic devices in courtrooms can offer benefits such as improved efficiency and productivity, there are also potential drawbacks such as distractions, security risks, and technical issues. Therefore, it is essential to establish clear rules and guidelines for their use to minimize distractions and ensure that they are used in a manner consistent with the principles of the legal system. With proper regulation and security measures in place, the use of electronic devices in the courtroom can significantly improve the efficiency and effectiveness of the legal system.



Get in Touch

We hope you enjoyed reading the newsletter, and we would love to hear your thoughts on what you want to be covered in our next edition!

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