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**REGULAR UPDATES!**

[Issue No.:51(4) / 2022]

## **Regular<sup>1</sup> Legal Updates & Points**

LegalMines

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<sup>1</sup> . Earlier, it was published as "**Daily** Legal Updates and Points"



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[1]	<p><b>Word/ Doctrine / Maxims of the Day:</b></p> <p><b>Ab extra:</b> It is a Latin phrase which means “from outside”. The term <i>ab</i> means (“from”) while <i>extra</i> means (“outside”). For example: Sometimes I wonder if this country is being controlled <i>ab extra</i>.</p>
[2]	<p><b>Question (?) / Issue for Discussion of the Day:</b> Starting from inventing the ‘basic structure’ doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy.</p>
[3]	<p><b>Law / Bill of the Day: Concept of Condition and Warranty:</b> Sections 12 and 13 of the <b>Sale of Goods Act, 1930</b> are relevant as to concept of condition and warranty. As per <b>Section 12:</b> A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty. A “<b>condition</b>” is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated. A “<b>warranty</b>” is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated. Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.</p> <p><b>Section 13</b> provides that when condition to be treated as warranty. As per Section 13 where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated. It further provides that where a contract of sale is not severable and the buyer has accepted the goods or part thereof the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.</p>
[4]	<p><b>Memorable Case Laws:</b></p> <p>(1) <b>Madan Lal Vs. NDMC &amp; Anr [2022]:</b> The Division Bench (Justices MR Shah and BV Nagarathna) of the Hon’ble Supreme Court of India observed that a hawker has no right to insist that he may be permitted to keep his goods and wares at the place where he is hawking overnight. The Court further observed that any hawker can be permitted to</p>



	<p>hawk in the market only as per the hawking policy and not <i>de hors</i> the same. The petitioner, being a hawker, has no right to insist that he may be permitted to keep his goods and wares at the place where he is hawking overnight.</p> <p><b>(2) P. Ramasubamma Vs. V. Vijayalakshmi &amp; Ors [2022]:</b> The Division Bench of the Hon’ble Supreme Court held that once the execution of agreement to sell and payment of advance substantial sale consideration is admitted by the vendor, there is nothing further required to be proved by the vendee in a suit for specific performance of agreement to sell.</p>
<p><b>[5]</b></p>	<p><b>Memorable Points (Cr.P.C.):</b> Memorable points<sup>2</sup> as to <b>Criminal Procedure Code, 1973</b> (total <b>40 points as to Cr.P.C. already covered under previous issues of “Regular Updates”</b>) are as under —</p> <p><b>(1)</b> The Cr.P.C., 1973 was enacted on _____ while enforced on _____?—<b>25<sup>th</sup> January 1974 and 1<sup>st</sup> January 1974 respectively.</b></p> <p><b>(2)</b> The Cr.P.C. is applicable across India w.e.f.—<b>31-10-2019</b></p> <p><b>(3) True/ False:</b> The Cr.P.C. is an Act to consolidate, amend and define (CAD) the law relating to Criminal Procedure—<b>False</b> [Refer Preamble to Cr.P.C., 1973: The purpose is to consolidate and amend (not define) the law relating to Criminal Procedure]</p> <p><b>(4) True/ False:</b> A “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, and include a police report—<b>False.</b> (Complaint does not include a police report; Refer Section 2(d) of the Cr.P.C.)</p> <p><b>(5)</b> A “non-cognizable offence” means an offence for which, and “non-cognizable case” means a case in which, a police officer has no authority to arrest without warrant. It is so define under Section _____ of the Cr.P.C.—<b>Section 2(I)</b></p>
<p><b>[6]</b></p>	<p><b>Memorable Points (Misc.):</b> Memorable points under Indian Constitution and various miscellaneous important Acts are as under (total <b>420 points already covered under previous issues of “Daily Updates”</b>)—</p> <p><b>(1) Constitution of India, 1950:</b> Article _____ of the Indian Constitution prohibits any discrimination on grounds of religion, race, caste, sex or place of birth—<b>Article 15.</b></p>

<sup>2</sup>. The readers please be informed that total **83 points** (the Indian Penal Code, 1860) , **84 points** (CPC) and **93** (Indian Evidence Act) **memorable points** have been covered under previous issues of “Daily Legal Updates & Points” now known as “Regular Legal Updates and Points”.



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- (2) **Code of Civil Procedure**: As per Section \_\_\_\_\_ of the CPC, 1908, the Court has inherent power to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court—**Section 151**
- (3) **Indian Evidence Act, 1872**: As per Section \_\_\_\_\_ of the Indian Evidence Act, 1872, when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him—**Section 106**.
- (4) **Indian Penal Code, 1860**: **True/ False**: If the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception, such consent is not a valid consent from the from the point of view of defence in criminal trial—**True** (Refer Section 90 of the IPC.)
- (5) **Transfer of Property Act, 1882**: **True/ False**: A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D, and E. E dies. B marries with the consent of C and D. B is deemed to have fulfilled the condition—**True** (Refer Section 26 of the TPA, 1882)
- (6) **Indian Contract Act, 1872**: **True/ False**: A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful—**True** (Refer Section 56 of the ICA, 1872)
- (6) **Partnership Act, 1932**: **True/ False**: As per the preamble of the Partnership Act, 1932, the purpose of the Partnership Act is to define, amend and consolidate the law relating to partnership—**False** [Refer Preamble to Partnership Act, 1932; The purpose is to consolidate and amend (not define) the law relating to Partnership]
- (7) **Sale of Goods Act, 1930**: **True/ False**: Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions—**True** (Refer Section 32 of the SOGA, 1930)
- (8) **Specific Relief Act, 1963**: Notwithstanding anything contained in the Code of Civil Procedure, 1908 a suit filed under the provisions of this Act shall be disposed of by the court within a period of \_\_\_\_\_ months, further extended upto \_\_\_\_\_ months from the date of service of summons to the defendant—**12 months; 6 months** (Refer Section 20-C of the SRA, 1963)



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	<p>(9) <b>Negotiable Instrument Act, 1881</b>: True/ False: A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place—<b>True</b> (Refer Section 69 of the NI Act, 1881)</p>
[7]	<p><b>G. K. / Current Affairs</b>: Under the G. K. / Current Affairs column total <b>59 points already covered under previous issues</b>—</p> <ol style="list-style-type: none"><li>(1) The executive power of the Union vests in whom?—<b>President</b> of India</li><li>(2) Which Article of the Indian Constitution deals with the tenure of the President—<b>Article 56.</b></li><li>(3) Which Article of the Indian Constitution deals with the pardoning power of the President?—<b>Article 72</b></li><li>(4) Which Article of the Indian Constitution deals with the impeachment of the President?—<b>Article 61.</b></li><li>(5) At present how many High Courts are there in India?—<b>25 High Courts.</b></li></ol>

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**Thanking You!**