

LAW COMMISSION OF INDIA

ONE HUNDRED THIRTY-NINTH REPORT

ON



1991

URGENT NEED TO AMEND ORDER XXI, RULE 92(2), CODE OF CIVIL
PROCEDURE TO REMOVE AN ANOMALY WHICH NULLIFIES THE
BENEVOLENT INTENTION OF THE LEGISLATURE AND OCCASIONS
INJUSTICE TO JUDGMENT—DEBTORS SOUGHT TO BE BENEFITED.

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CHAPTER I

INTRODUCTION

1.1 *A dimension of law which speaks in two inconsistent voices.*—As the law stands today, a judgement-debtor or a person claiming interest in a property sold in execution of a decree desirous of making recourse to the valuable right conferred on him under Order XXI rule 89(1) for setting aside the sale of the auctioned property on making an application in that behalf accompanied by the amount prescribed by the said provision is faced with an impossible situation. Because, he is required to—

- (1) make an application “on his depositing in court” the required amount, that is to say, on the application being accompanied by the deposit in court;
- (2) make the application within 60 days so that he can collect the requisite amount from the Bank (the Legislature being of the opinion that this process would require a period longer than 30 days but less than 60 days).
- (3) the application which can be made within 60 days along with the deposit must be made on depositing the amount within 30 days though the Legislature recognised that more than 30 days would be needed and has accordingly enlarged the time for making application from 30 days to 60 days.

1.2 *The perspective of the report.*—We are, in this report, concerned with a point arising out of the Code of Civil Procedure, 1908, relating to the time for making a deposit which is to accompany an application to set aside an execution sale. The relevant statutory provisions will be set out and the case law on the subject will be discussed later, in due course.^{1/1} At the present stage, it will suffice to state that the provision with which we are concerned is resorted to by litigants very frequently in courts and is, therefore, of considerable practical importance and unless the discrepancy is removed serious injustice would ensue to the persons wanting to save the property from a forced sale. As our attention has been called to this discrepancy between the relevant provision in the Civil Procedure Code ^{1/2} on the one hand and the connected provision in Limitation Act, ^{1/3} it has been considered desirable to study the subject and present a report thereon in order to remedy the lacuna in the law.

1.3 *Suggestions already made by the Law Commission and in the judicial decisions.*—As will be pointed out later in this report, the need for an amendment of the law on the point, which is the subject matter of the report, has been highlighted nearly 10 years back in the Law Commission of India's 89th Report presented on 28th February, 1983 in para 42.35. We quote:—

“42.35 However, we should refer to a connected provision in the Code of Civil Procedure, 1908, which seems to need amendment. Article 127 of the Limitation Act is concerned with applications, in regard to which 0.21, R. 92(2) of the Code is relevant. The period of limitation for an application under article 127 is sixty days, after its amendment (1) in 1976. The application is to be accompanied by a deposit. The period for making the required deposit under 0.21, R. 92(2), C.P.C. is, however, still thirty days. This disharmony between the two statutory provisions should be removed. We may point out that the disharmony has been adverted to in a recent judgment of the Kerala High Court(2) also. To remove this discrepancy, we recommend that 0.21, R. 92(2) of the Code of Civil Procedure, 1908, should be suitably amended by increasing the period from 30 days to 60 days(3).”

- (1) Section 98, Code of Civil Procedure (Amendment) Act, 1976.
- (2) Dakshayini v. Madhavan, AIR 1982 Ker 126 (June).
- (3) To be carried out under 0.21, R. 92(2), Code of Civil Procedure, 1908.

It has also been stressed by the Supreme Court of India and it seems desirable that the anomaly should be removed as expeditiously as possible to foreclose grave injustice to unfortunate litigants.

1.4 *Scheme of the report.*—In order to present a clear picture of the subject, it is proposed in this report first to deal with the relevant statutory provisions and then to discuss the important judicial pronouncements pertaining to those provisions, which discussions will be followed by a consideration as regards the need for amendment of the law. And finally the Commission will make appropriate recommendations to overcome the existing anomalous situation which calls for urgent remedial legislative measures.

CHAPTER II

RELEVANT STATUTORY PROVISIONS

2.1 *Genesis of the controversy.*—The controversy which is the subject matter of this report arises from certain provisions of the Civil Procedure Code and the Limitation Act which relate to applications to set aside a sale ordered by a court by public auction in execution of a court decree against the judgment-debtor. The point relates to the period of limitation prescribed by law (a) for such an application and (b) for making the deposit of the amount which is required to accompany the application.

2.2 In the scheme of the Code of Civil Procedure, 1908, such a sale can be set aside under the provisions of Order XXI rule 89 of that Code, quoted below:—

“89. *Application to set aside sale on deposit.*—(1)

Where immovable property has been sold in execution of a decree, any person claiming an interest in the property sold at the time of the sale or at the time of making the application, or acting for or in the interest of such person, may apply to have the sale set aside on his depositing in Court,—

(a) for payment to the purchaser, a sum equal to five per cent. of the purchase-money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

(2) Where a person applies under rule 90 to, set aside the sale of his immovable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this rule.

(3) Nothing in this rule shall relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.”

In substance, the application for setting aside the sale must be accompanied by the required amount.

2.3 *Order XXI, rule 92(2), CPC.*—So far as the period of limitation for the deposit to accompany an application to set aside an execution sale is concerned, it is 30 days, by virtue of the provision contained in Order XXI, rule 92 of the Code of Civil

Procedure, 1908. The material parts of that rule are quoted below:—

“92. *Sale when to become absolute or be set aside.*—

(1) Where no application is made under rule 89, rule 90 or rule 91, or where such application is made and disallowed, the Court shall make an order confirming the sale, and thereupon the sale shall become absolute;

Provided that, where any property is sold in execution of a decree pending the final disposal of any claim to, or any objection to the attachment of, such property, the Court shall not confirm such sale until the final disposal of such claim or objection.

(2) Where such application is made and allowed, and where, in the case of an application under rule 89, the deposit required by that rule is made within thirty days from the date of sale, or in cases where the amount deposited under rule 89, is found to be deficient owing to any clerical or arithmetical mistake on the part of the depositor and such deficiency has been made good within such time as may be fixed by the Court, the Court shall make an order setting aside the sale;

Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

(Emphasis added)

(3)

(4)

(5)”

Thus, the deposit of the requisite amount which must accompany the application must be made within 30 days.

2.4 *Compliance within time limit mandatory.*—At this stage it needs to be brought in focus that the requirement of Order XXI, rule 92(2), relating to deposit within 30 days is mandatory as per the pronouncements of the courts (see VANNISAMI THEVAR v. PERIAYASWAMI THEVAR, AIR 1917 Mad 176, 177 (DB). ^{2/1} The court cannot extend the time, either under section 148 or section 151, CPC [see MATRANI DEVI v. CHHATHU PRASAD, AIR 1072 Pat 55 (U.N. Sinha, CJ.)] ^{2/2}

2.5 Article 127. *The Limitation Act, 1963*.—It will be noticed that whereas the period for making the deposit under Order XXI, rule 92(2), CPC is *thirty days*, the period of limitation for making the application to set aside an execution sale (which application has to be accompanied by the deposit in court of the *requisite* amount) is *60 days*, by virtue of article 127 of the *Limitation Act, 1963* (as amended in 1976).

Article 127 of the *Limitation Act, 1963* (as amended in 1976) reads as under:—

Description of application	Period of limitation	Time from which period begins to run
"127. To set aside a sale in execution of a decree, including any such application by a judgment-debtor	Sixty days	The date of the sale."

Be it realised that prior to 1976, the period mentioned in Article 127, The Limitation Act, 1963 was 30 days but it was enlarged to 60 days in 1976 by virtue of an amendment in the pre-existing law in the circumstances mentioned hereinafter.

2.6 *Reasons for amendment*.—The provision contained in Article 127, *The Limitation Act, 1963* was amended by the Legislature by enlarging the time for making of a deposit on the part of the judgement-debtor (for setting aside a sale in the execution of a decree) *in view of the experience that the pre-amendment period of 30 days was considered to be insufficient to enable the judgement-debtor to arrange for the requisite funds having regard to the fact that banks usually take more than 30 days to sanction loans and advances*. This is evident from the ^{3/2} Objects and Reasons clause of the relevant Bill, reproduced below;—

"Clause 102 (Amendment of the Schedule to the Limitation Act, 1963).—An application to set aside a sale in execution of a decree on deposit under rule 89 of Order XXI is required to be made within thirty days from the date of the sale. Experience shows that this period is too short and often causes hardship because the judgement-debtors usually fail to arrange for moneys within that time. Banks usually take more than thirty days to sanction loans and advances. In the circumstances, entry 127 of the Schedule to Limitation Act is being amended to increase the period of limitation to sixty days in respect of an application to set aside a sale in execution of a decree..."

(Emphasis supplied)

CHAPTER III

LAW AS IT OBTAINS TODAY IN THE LIGHT OF THE JUDICIAL DECISIONS

3.1 *Present position.*—The net position as regards setting aside a sale on deposit of requisite amount resulting from the relevant statutory provisions as they stand after 1976 is as under:—

- (i) An application to set aside an execution sale (which is required to be accompanied by deposit in court of the requisite amount to the decree holder and the auction purchaser) can be made within 60 days (Article 127, The Limitation Act, 1963) and
- (ii) The deposit of the aforesaid amount has to be made within 30 days under Order XXI, Rule 92(2), CPC and the period of 30 days is inflexible as the provision is held to be mandatory.

3.2 *The Anomaly.*—Evidently, when amending the Limitation Act in 1976 it was not realised that the complementary provision of Order XXI, rule 92 of CPC providing to the effect that a sale would be set aside on an application for setting aside the sale being made within 30 days along with the deposit in court of the appropriate amount also required to be amended by enlarging the relevant period from 30 days to 60 days in order to achieve the purpose of enlarging the time prescribed by Article 127 of the Limitation Act. Thus, the time for making the application and the time for making the deposit which was identical under the unamended Article 127 of the Limitation Act read with Order XXI, Rule 92(2) became discrepant in view of the amendment of article 127. It became 60 days under the former provision whereas it remained 30 days under the latter provision. The Legislature upon realizing on the basis of experience that banks would take more than 30 days to arrange for a loan and the time of 30 days for making the deposit was too short, amended the relevant Article of the Limitation Act (for making the application) by substituting a period of 60 days in place of 30 days. However, presumably on account of an unfortunate inadvertence, it escaped the notice of the Draftsman while preparing the Bill for amending Article 127, Limitation Act, that unless a corresponding amendment was made in Order XXI of Rule 92(2), the purpose of the legislation would be defeated. The

reason is that while the time for making the application would stand enlarged to 60 days, the time for making the deposit (supposed to accompany the application) would remain unaltered as 30 days. Thus, notwithstanding the amendment of the Limitation Act, the judgement-debtor would fail to have the sale set aside if he was not able to make the deposit within 30 days which the Legislature itself thought was insufficient for collecting the requisite amount and considered it desirable to enlarge to 60 days on that account by amending the relevant Article in the Limitation Act.

In brief, as the period for making the deposit to accompany the application and the period for making the application itself are now discrepant and different, an anomaly has arisen.

3.3 *Kerala High Court Judgment.*—This anomaly was pointed out by the High Court of Kerala (Poti, CJ and Bhaskaran, J) in *DAKSHAYINI v. MADHAVAN* 3/1 by making the following observations:—

“Naturally therefore after that amendment the period available for setting aside a sale was 60 days. So if a person deposits the amount as contemplated by O. 21, R. 89 and applies for setting aside the sale he need make the application within 60 days of the date of sale. The deposit contemplated under O. 21, R. 89 was to be made within 30 days of the date of sale as provided in O. 21, R. 92(2) of the Code. In cases where the amount deposited under R. 89 was found to be deficient owing to any clerical or arithmetical mistake on the part of the depositor such deficiency could be made good within such time as may be fixed by the court. The deposit contemplated by O. 21, R. 89 to be made within the time specified in R. 92(2) was a condition precedent to setting aside the sale. Evidently the period of 30 days contemplated under O. 21, R. 92(2) was the period corresponding to the 30 days under Art. 127 of the Limitation Act as it stood earlier. That meant that the deposit as well as application had to be made within 30 days. When this

time was sought to be enlarged Art. 127 of the Limitation Act was amended. But though a corresponding treatment was required to O-21, R. 92(2) that was evidently lost sight of unless it be that we assume that the legislature wanted two different periods, a period of one month for deposit and two months for application, which of course does not appear to be, on the face of it, reasonable.

"It appears to us that it is a very clear case of omission on the part of the legislature to notice that a period corresponding to the period specified in Art. 127 had to be stipulated as a period within which deposit is to be made in the provision in O-21, R. 92(2) of the Code. The consequence now is that if we read the rule as it stands deposit has to be made within 30 days and application has to be made within 60 days. In the case before us deposit and application were made within 60 days. Deposit was not made within 30 days. Consequently the application stands dismissed by the order of the court below. That is the order challenged in this revision.

"2. ... We can only point out the anomaly and say that the law works inequitably, perhaps because of the omission of the legislature to notice the need to amend the provision in Order 21, R. 92(2). We can only call the attention of the Government to the need for moving immediately for amending the rule. Consequently, while we dismiss this revision, we alert the Central Government to the need of treating O-21, R. 92(2) by enlarging the period for deposit from 30 days to 60 days to bring it in accord with R. (sic Article) 127 of the Limitation Act. A copy of this order will be sent to the Law Department of the Central Government besides furnishing a copy to the Central Government pleader for onward transmission."

(Emphasis added)

Apparently, no appropriate notice was taken of these observations by the Law Department and no real amendment was mooted.

3-4. *Supreme Court Judgment (1986)*;—Later, in 1986, the Supreme Court 3/2 also noted the anomaly and observed as under:—

"2. The failure to deposit the amount entails confirmation of sale under Order XXI, Rule 91(1) and thereupon the sale becomes

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absolute. The limitation prescribed for an application under Order XXI, Rule 89 was thirty days from the date of sale under Schedule I, Article 166 of the Limitation Act, 1908, now replaced by Article 127 of the Limitation Act, 1963. The words "may apply to have the sale set aside on his depositing in court" etc. show that not only the application, but also the deposit, should be made within thirty days from the date of sale. It is not enough to make the application within thirty days. Nor is it enough to make the deposit within thirty days. Both the application and the deposit must be made within thirty days from the date of sale. Article 127 of the Limitation Act, 1963 has now been amended by Act 104 of 1976 and the 'words sixty' days have now been substituted for the words 'thirty days'. As a result of the amendment, the limitation for an application to set aside a sale in execution of a decree, including any such application by a judgement-debtor under Order XXI, Rule 89 or Rule 90 is therefore sixty days now. *Such being the law, there is need for an appropriate amendment of sub-rule (2) of Rule 92 of the Code. Under Order XXI, Rule 89 as it now exists, both the application and the deposit must be made within thirty days of the sale. The failure to make such deposit within the time allowed at once attracts the consequences set forth in Sub-rule (2) of Rule 92. This is an unfortunate state of things and Parliament must enact the necessary change in law.*"

The observations 3/3 made by the Kerala High Court in 1981 were reiterated with approval by the Supreme Court 3/4 in the following words;—

"3... The learned single Judge has brought about the inconsistency between sub-rule (2) of Rule 92 of Order XXI of the Code and Article 127 of the Limitation Act and suggested that steps should be taken to remove this inconsistency. We fully endorse the view expressed by the learned single Judge."

(Emphasis added)

The Supreme Court, however, held that the High Court was justified in reconciling the inconsistency and setting aside the sale though the deposit was made beyond 30 days but within 60 days.

3-5. *Later Supreme Court judgment of 1990, overruling earlier judgement of 1986*;—The matter again came up before the Supreme Court in P. K. UNNI v. NIRMALA INDUSTRIES. 3/5 A three-

Judge Bench of the Court overruled the earlier decision of the court in Basayantappa's case (supra). The Supreme Court observed:—

"11. The words of the statutes being clear, explicit and unambiguous, there is no scope to have recourse to external aid for their construction. Nevertheless in deference to the arguments of the respondents' counsel, we would refer to the *Statement of Objects and Reasons in respect of Clause 102 of the Bill introduced in the Lok Sabha on 8th April, 1974* [Published in the *Gazette of India (Extraordinary) Part II, Section 2, dated April 8, 1974*] amending Article 127. It states :

"Clause 102 (Amendment of the Schedule to the Limitation Act, 1963).— An application to set aside a sale in execution of a decree on deposit under Rule 89 of Order XXI is required to be made within thirty days from the date of the sale. Experience shows that this period is too short and often causes hardship because the judgment-debtors usually fail to arrange for moneys within that time. Banks usually take more than thirty days to sanction loans and advances. In the circumstances, entry 127 of the Schedule to the Limitation Act is being amended to increase the period of limitation to sixty days in respect of an application to set aside a sale in execution of a decree. This increase in the period of limitation will not affect the purchaser because five per cent of the purchase money is required to be paid to him.

The advantage of the increased period of limitation will also be available to an application under Rule 90 or Rule 91 of Order XXI to set aside a sale in execution of a decree. In view of the increase in the period of limitation, confirmation of a sale will have to await the expiry of the increased period of limitation."

(emphasis supplied)

The Supreme Court added in para 15:—

"In the construction of the relevant provisions, we see no contradiction or ambiguity or defect or omission. We see no merit in the argument that Article 127 must override Rule 92(2) of Order XXI in respect of limitation. We view both the provisions as prescriptive of time for different purposes, and of equal

efficacy and particularity. The maxim *generalia specialibus non derogant* has no relevance to their construction. Nor does the principle in *Hydon Case* [(1584) 3 Co Rep. 7a : 76 ER 737] offer any help on the point in issue. The mischief which the legislature had set out to remedy by amendment of Article 127 is what is stated in the objects and reasons clause. That object was accomplished by prescribing a longer period for filing an application to set aside a sale in execution of a decree. Further more, as already seen, by amendment of Rule 92(2) of Order XXI an opportunity was accorded to the depositor to make good the deficiency in the deposit made by him due to arithmetical or clerical mistake on his part. In no other respect did the legislature evince an intention to extend the period prescribed for making the deposit."

(Emphasis added)

While overruling the earlier decision on the aforesaid reasoning, the Supreme Court has declared the law to the effect that while application for setting aside the sale can be made in 60 days the requisite deposit has to be made in 30 days.

However, in the same judgment 3/6, the Supreme Court has observed to the effect that the need for amendment exists, Says the court:—

"It would perhaps have been better, more logical, reasonable and practical, as stated by the Kerala High Court in *Dakshayini v. Madhavan*, AIR 1982 Kerala 126, to enlarge the period for making the deposit so as to make it identical with that prescribed for making the application, and such extended period would have better served the object of the amendment, namely, ameliorating the plight of the judgment-debtor, but such are matters exclusively within the domain of legislation by Parliament and the Court cannot presume deficiency and supply the omission. The legislature did not do more than what it did. It has, in our view, accomplished what it has set out to achieve. No more or less."

(Emphasis added)

3-6. Is the object of amendment of Article 127 in fact served? No. The object of amendment of Article 127 was to remedy the mischief arising on account of the fact that Banks usually took more than 30 days to sanction loans and experience showed 3/7 that judgment-debtors usually failed to arrange for the requisite loans to enable them to make the

deposit in court within 30 days' time and it resulted in hardship to the concerned judgment-debtors. The Law Commission of India in its 54th Report presented more than 18 years back had also made observations to this effect.^{3/8} It was in this backdrop that the hardship was sought to be overcome by enlarging the period from 30 days to 60 days so that the judgment-debtors could secure the necessary loans. The hardship was caused because Banks needed more than 30 days to sanction loans. This mischief could not be remedied except by granting to the judgment-debtor or the person interested in the property concerned enough time to obtain the funds. Thus the object of amendment is in point of

fact defeated. More than 30 days' time was not needed for making an application to set aside the sale. Once the deposit is made, the application would be made along with it or immediately, for it is not the drafting of the application which takes any time. It was needed to enable the judgment-debtor to obtain the loans from the Bank. Presumably as this dimension of the matter was not brought into focus, the Court has made the remark to the effect that the object of amendment was achieved. Be that as it may, with immense respect and due deference to the Supreme Court, the fact remains that the object of amendment is, as a matter of fact, frustrated rather than achieved.

CHAPTER IV

PRESSING NEED FOR AMENDMENT WITH URGENCY

4.1. *The compulsive case for amendment.*—From the discussion in the preceding Chapters, it is clear that in the present state of the law, there is manifest discrepancy between the provision in the Civil Procedure Code and the connected and complementary provision in the Limitation Act. An application to set aside an execution sale under the Code of Civil Procedure, 1908 must be accompanied by the necessary deposit as provided in Order XXI, Rule 89(1) of Code of Civil Procedure. But the prescribed limitation periods for making application and for making the deposit are different being 60 days and 30 days respectively. In theory as well as in practice, it is manifestly clear that if an application to set aside has to be accompanied by a deposit of the requisite amount it is pointless to give 60 days to make the application if the deposit has to be made within 30 days. It is also pointless because the felt need of the time rooted in the experience is that Banks take more than 30 days to sanction loans to judgment-debtors seeking to avail of the benefit of Order XXI, rule 89, CPC. If deposit cannot be made within 30 days on account of the difficulties built in the Banking system what use is it to give him 60 days to make the application to accompany the deposit. The bottleneck arises in obtaining the loan within 30 days, not in drafting the application in 30 days. That is why the law prior to 1976 provide for an identical period for deposit as well as making application. The same pattern was needed to be followed in effectuating the intention of the Legislature to grant 60 days to the judgment-debtor to secure the loan which intention was explicitly set out in the Objects and Reasons clause.^{4/1} The need is, therefore, manifest and the Courts have been repeatedly stressing it accordingly.

4.2. *Judicial decisions.*—As has been mentioned above ^{4/2} the courts including the Supreme Court have pointed out the need for amending the provision in Order XXI, Rule 92(2), Code of Civil Procedure so as to substitute "sixty days" for "thirty days" in Order XXI, Rule 92(2) of the Code.

4.3. *Hardship and urgency.*—Besides this, innocent judgment-debtors have to suffer injustice, owing

to the fact that because of the inconsistency, the period for depositing remains unaltered and the intendment of the Legislature to enable them to obtain the loans so as to make it possible for them to deposit the requisite amount in Court to save the property from being lost to them remains thwarted. And those who have moulded their action on an interpretation of the law which received the imprimatur of the Supreme Court in *Basavantappa's* case in 1986 will suffer enormous loss now as the said decision has been reversed recently in *P. K. Unni's* case in 1990. There is, thus obvious urgency to salvage the situation before the pending matters are decided and their fate is sealed against them, notwithstanding the Legislative intendment to come to their rescue, reflected as early as in the 1976 amendment of Article 127 of the Limitation Act.

4.4. *Recommendation.*—In the light of what we have stated above, our urgent recommendation is that in Order XXI, Rule 92(2), of the Code of Civil Procedure, 1908, the words "within sixty days" should be substituted for the words "within thirty days". And the recommendation should be made applicable to pending matters and matters which have not been concluded in the Courts by giving it retrospective or retroactive effect for the reason being mentioned presently.

4.5. This part of the recommendation is being made, as the Supreme Court judgement in *Basavantappa's* case rendered in 1986 held the field till it was overruled in *P. K. Unni's* case in 1990^{4/3} and the failure to amend did not result in prejudice to the concerned judgment-debtors till 1990. But, now that the situation has altered, the judgment-debtors who have acted on the interpretation of the law which was upheld even by the Supreme Court in *Basavantappa's* case in 1986, will suffer grave detriment and their fate will be prejudicially affected by the latest law as declared in *Unni's* case in 1990. It is, therefore, essential that the amendment should be made retrospective or retroactive in the sense of making it applicable to all pending matters not finally concluded by the Courts till the enforcement of the proposed amendment.

We, therefore, recommend accordingly in the hope that the pressing need for the amendment and of doing so urgently will be realised and serious in-

justice to the unfortunate judgment-debtors or the persons having interest in the auctioned property, prevented.

Sd/-
(M.P. THAKKAR)
CHAIRMAN

Sd/-
(Y.V. ANJANEYULU)
MEMBER

Sd/-
(P.M. BAKSHI)
MEMBER

Sd/-
(MAHESH CHANDRA)
MEMBER

Sd/-
(G.V.G. KRISHNAMURTY)
Member-Secretary

New Delhi, dated the 4th April, 1991.

NOTES AND REFERENCES

Chapter I

- 1/1. Chapter 2 *infra* and Chapter 3 *infra*.
- 1/2. Order XXI, rule 92(2), CPC.
- 1/3. Article 127, The Limitation Act, 1963.

Chapter II

- 2/1. Vannisami Thevar v. Periyaswami Thevar, AIR 1917 Mad 176, 177.
- 2/2. Matrani Devi v. Chhathu Prasad, AIR 1972 Pat 55.
- 2/3. Clause 102 of Notes on Clauses, Bill No. 27 of 1974, The Code of Civil Procedure (Amendment) Bill, 1974, published in the Gazette of India (Extraordinary) dated April 8, 1974 in Part II, Section 2.

Chapter III

- 3/1. Dakshayini v. Madhavan, AIR 1982 Ker 126, 127 (Potti, Ag. CJ and Bhaskaran, J).
- 3/2. Basavantappa v. G.N. Dharwadkar, (1986) 4 SCC 273.
- 3/3. Dakshayini v. Madhavan, AIR 1982 Ker 126, 127, Para 2.

3/4. Basavantappa v. G.R. Dharwadkar, (1986) 4 SCC 273, para 3.

3/5. P. K. Unni v. Nirmala Industries, AIR 1990 SC 933, 936, 937, paras 11-16 (May); (1990) 2 SCC 378.

3/6. P. K. Unni v. Nirmala Industries, AIR 1990 SC 933, 936, 937, paras 11-16 (May); (1990) 2 SCC 378.

3/7. Clause 102 of Notes on Clauses, Bill No. 27 of 1974, The Code of Civil Procedure (Amendment) Bill, 1974, published in the Gazette of India (Extraordinary) dated April 8, 1974 in Part II, Section 2.

3/8. See para 21-40 of the 54th Report presented on February 6, 1973.

Chapter IV

4/1. Clause 102 of Notes on Clauses, Bill No. 27 of 1974, The Code of Civil Procedure (Amendment) Bill, 1974, published in the Gazette of India (Extraordinary) dated April 8, 1974 in Part II, Section 2.

4/2. Chapter III, *supra*.

4/3. (1990) 2 SCC 378; AIR 1990 SC 933.