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A Paper Presentation on **Interlocutory applications: Strategies to curtail delays in civil** **cases**



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INTERLOCUTORY APPLICATIONS: STRATEGIES TO CURTAIL DELAYS IN CIVIL CASES

INTRODUCTION

Interlocutory Application

We all know that interlocutory applications or orders do arise in the course of trial of a suit, hearing of an appeal, or inquiry in a proceeding. During the proceedings many interlocutory applications need to be filed for various reliefs. Some of them are envisaged by specific provisions of the Code of Civil Procedure and some are invoked under the inherent powers of the courts under Section 151 of the Code, to meet the ends of justice or to prevent the abuse of the process of the court. Interlocutory applications play a vital role in civil litigation. The magnitude of the interlocutory proceedings cannot be underestimated. There is a common feeling among various stake holders of judicial system that recurrent interruptions and inescapable delay in adjudication of civil proceedings, is on account of the interlocutory applications.

There is no specific definition in Civil Procedure Code, 1908 to this phrase 'Interlocutory application'. The Webster's New World Dictionary defines 'interlocutory' as order other than a final decision. Once an action has been commenced all

subsequent applications are referred to as interlocutory applications.

In the matter of **Noor Mohammed Vs. Jethanand and Another (2013) 2 Supreme Court Cases 202** it is observed that “It is to be kept in mind that time of leisure has to be given a decent burial. The sooner it takes place, the better it is. It is the obligation of the present generation to march with the time and remind oneself with every moment that the rule of law is the centripetal concern and delay in delineation and disposal of cases injects an artificial virus and becomes a vitiating element. The unfortunate characteristics of endemic delays have to be avoided at any cost. One has to bear in mind that this is the day, that this is the hour and this the moment, when all soldiers of law fight from the path. One has to remind oneself of the great saying *“Awake, Arise, “O” Partha”*.

Checking and registration of interlocutory application

Rule 13 of C.G. Rules and Order (Civil)

✓ It mentions that every interlocutory application or petition filed in a suit or proceeding valued at Rs 50 or less shall clearly state the fact that it is so valued in order to enable proper check to be made of the court fee paid. Every interlocutory application or petition, other than one which under rule 418 is to be registered as a miscellaneous judicial case, shall be given by the reader a serial number in the

chronological order of its presentation in the suit or proceedings.

✓ This number shall be entered in red ink at the head of the application or petition as: the first interlocutory application or petition in the particular suit or proceedings will be endorsed *“Interlocutory Application (or petition) No 1, the second “Interlocutory Application (or petition) No 2, and so on.* The number so given shall also be entered by the reader in the margin of the order sheet against the entry relating to the presentation of such application or petition.

TYPES OF INTERLOCUTORY APPLICATIONS

Injunction Applications

1. Ex-parte Interim Injunction application (Order 39 Rule 3 CPC)

The courts should be extremely careful and cautious in granting ex-parte ad interim injunctions or stay orders. Ordinarily short notice should be issued to the defendants or respondents and only after hearing concerned parties appropriate orders should be passed. If in a given case, ex-parte injunction is granted, then the said application for grant of injunction should be disposed of on merits, after hearing both sides as expeditiously as may be possible on a priority basis and undue adjournments should be avoided as laid down in the

matter of **Ramrameshwari Devi vs Nirmala Devi (2011) 8 SCC 249**

Rule 270 of C.G Rules and order (Civil)

It states that temporary or interim injunction should in practice be granted ex-parte only in very exceptional circumstances. Generally they should be granted unless the plaintiff fully satisfies the court that in spite of all reasonable diligence, it is inevitable that he should apply behind the back of the defendant.

Particular care should be taken in dealing with the applications for temporary injunctions against local bodies and similar institutions.

2. Temporary Injunction application (Order 39 Rule 1, 2 of CPC)

Temporary Injunction orders are passed by the courts to prevent irreparable harm from occurring to a person or property during the pendency of a lawsuit or proceeding. Party praying for relief of injunction is bound to establish prima facie case, balance of convenience and irreparable injury in case of non-grant of relief.

Rules 6 to 10 of Order 39, Code of Civil Procedure, 1908 mention certain interlocutory orders, which include the court's power to order the interim sale of movable property, to order the detention, preservation or inspection of any

property which is the subject-matter of such suit. Similarly, when the land in the suit is liable to Government revenue or is tenure liable to the sale and the party in possession neglects to pay the revenue or rent, the court may order any other party to the suit in case of sale of the land to be put in immediate possession of the property.

Rule 273A C.G. Rules and order (Civil) states that the courts should appreciate that an interlocutory injunction should be granted ex-parte only in very exceptional circumstances and ordinarily only in cases in which the applicant establishes that by no reasonable diligence on his part, could he have avoided the necessity for making the application.

It is duty of the court to see while deciding injunction application that it should not give finality to the dispute which should have been decided on merits. It also has to be examine minutely the intention of s parties and object of the relief so as to not grant relief which are merely for harassing the other party or to linger on the case.

Application for rejection of plaint on various ground

1. Application for rejection of plaint under Order VII Rule 11 CPC While deciding the application under Order VII Rule XI, mainly the averments in the plaint only are required to be considered and not the averments in the written statement. Plaint is ought to be rejected

when it is vexatious, illusory cause of action and barred by limitation and it is a clear case of clever drafting. While carefully examining the plaint it has to be seen whether there are grounds for rejection or not and if there is any ground for rejection, then plaint ought to be rejected. It is duty of the the court to see that application for rejection of plaint is not merely for causing delay in the proceeding. It should be decided without filing of written statement.

If the court has no jurisdiction to decide the matter then it can be returned under order 7 rule 10 CPC to be presented to the proper court.

2. Section 9 CPC pertains to jurisdiction of the court to try suits of civil nature. Excepting suits of which there cognizance is either expressly or impliedly barred.

3. Section 10 CPC is the provision with regard to the stay of suit in which the matter in issue is also directly and substantially issue in a previously instituted suit between the same parties litigating under the same title. Where such suit is pending in the same or any other court having jurisdiction.

4. Section 11 CPC is with regard to Res-judicata which provides that no Court shall try any suit or issue in which the matter directly and substantially in issue has

been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

As an interlocutory application does not encroach upon the merits of the controversy between parties an order pursuant to such applications cannot be regarded as a matter affecting the trial of the suit. Hon'ble High Court of Chhattisgarh in the matter of *Sardar Satpal Singh vs Smt. Saroj Shukla & Ors F.A. No 220 of 2012* remanded back the matter with the direction that "*issue has to be made and it should be decided on merit after appreciation of evidence*".

Until and unless the issue is not decided on merits, the plea of principles of res judicata has no application, as per the judgment reported in **Erach Boman Khavar vs Tukaram Sridhar Bhat & Ors**, AIR 2014 SC 544, wherein the Hon'ble Supreme Court held as follows:

"It is clear as crystal that to attract the doctrine of res judicata it must be manifest that there has been a conscious adjudication of an issue. A plea of res judicata cannot be taken the aid of unless there is an expression of an opinion on the merits. It is well settled in law that principle of res judicata is applicable between the two stages of the same litigation but the

question or issue involved must have been decided at an earlier stage of the same litigation.”

As the interlocutory orders do not decide any matter in issue arising in the suit nor do they put an end to the litigation and do not decide the legal rights of the parties to the litigation, the principle of res judicata does not apply to the findings on which these orders are based. If a similar application is made for similar relief on the basis of same facts after the earlier application has been disposed of, the court would be justified in rejecting the application as an abuse of process of the court. But when there are changed circumstances the court is perfectly justified in entertaining a second application.

Application for production of document:

1. Order 7 Rule 14 Code of Civil Procedure- When the documents are relevant.— Only relevant documents can be taken on record under sub-rule (3) of Rule 14 of Order 7 of the Code. Irrelevant documents cannot be taken on record by accepting such an application. Admissibility is not to be seen at the stage of deciding the application; only the relevance of the document is to be seen. Admissibility to be considered at the time of evidence. Amount of delay should be considered. Delay is a relevant consideration for deciding an application under Rule 14 of Order 7 of the Code. When the delay is not much, the application may be accepted subject to the

fulfillment of the other relevant factors. In cases of huge delay, the effect which the documents sought to be produced can have on the plaintiff's case and other relevant factors should be weighed simultaneously with the probable delay which may be caused because of relegation of the proceedings to an early stage upon acceptance of the documents sought to be produced. Sufficient/reasonable cause for the delay to be shown.—Application cannot be accepted if reasons for the delay are not stated. Party to state the reasons because of which he could not produce the documents on time. Sufficient/reasonable cause for non-production of the documents on time to be made out. Application cannot be accepted if such cause is not shown. Sufficient/reasonable cause for non-compliance with the statutory provisions should be shown. The plaintiff must show in his application, for leave under sub-rule (3) of Rule 14 of Order 7 of the Code, the reasons for non-compliance with the statutory provisions of Rule 14 of Order 7 and Rule 1 of Order 13 of the Code. Any application without such reasons should not be accepted. Under **Order 8 rule 1A CPC** it is duty of the defendant at the time of his defence or claim for set-off or counter claim to produce documents upon which relief is claimed or relied upon by him.

2. Order 11 Rule 12 CPC is with regard to discovery on oath of the documents which are in the possession or

power of the other party relating to any matter in question. The court may on hearing of such application either refuse or adjourn the same.

Rule 143 Of Rules and Order (Civil) deals with discovery of documents- Presiding judges should try to persuade parties and their pleaders to make proper admissions and to make full use of these provisions of the code and in suitable cases should themselves take the initiative in introducing and applying these rules.

3. Under Order 13 Rule 8 CPC the court may if there is sufficient cause direct any book or document to be produced before it, impound it and can keep it in the custody of officer of the court and can return admitted document as per Rule 9.

Court while deciding any application for production of document at later stage should see whether it is filed for proper adjudication of the case or to cause delay in the matter. It is for the judge to scrutinize this. Sufficient cause has to be shown for not filing the document at earlier stage. It has to be seen that there is no undue delay in filing it before the court after receiving the document if it is received by delay.

Other important Interlocutory application

1. Under Order 1 Rule 10 CPC, suo-moto or on application by the parties, at any stage of proceedings, the Court may, in case of a bonafide mistake order any other person to be substituted or added as plaintiff or strike out or add parties.

2. Under Order 2 Rule 2 CPC, every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish and portion of his claim in order to bring the suit within the jurisdiction of any Court.

3. Under Order 5 Rule 20, CPC there is a provision for substituted service of summons in case the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason. The same is done by an application presented by the party.

Rule 59 and Rule 60 Rules and Order (Civil) deals with substituted summons.

4. Interlocutory applications for amendment in pleadings

Principles which govern the granting or disallowing of amendments under Order 6 Rule 17 CPC was discussed in **North Eastern Railway Administration, Gorakhpur v. Bhagwan Das (2008) 8 SCC 511**, The Hon'ble Supreme Court, stated that Order 6 Rule 17 of the C.P.C postulates amendment of pleadings at any stage of the proceedings.-

In the recent matter of **Basavarj Verses Indira and Others**

(2024) 3 Supreme Court Cases 705 it is held that:

Proviso to Order VI Rule 17 CPC provides that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

Although Order VI Rule 17 permits amendment in the pleadings “*at any stage of the proceedings*”, but a limitation has been embedded by means of the proviso to the fact that no application for amendment shall be allowed after the trial is commenced. Reserving the Court’s jurisdiction to order for allowing the party to amend pleading on being satisfied that in spite of due diligence the parties could not have raised the matter before the commencement of trial.

Order 6 Rule 17 consists of two parts. Whereas the **first part is discretionary (may)** and leaves it to the court to order the amendment of pleading. The **second part is mandatory (shall)** and prompts the court to allow all amendments which are necessary for the purpose of determining the real question in controversy between the parties.

The proviso, therefore, to an extent has curtailed absolute discretion to allow amendment at any stage so as to curtail unnecessary delay.

As per **Order 6 Rule 18 CPC** in case of failure to do the necessary amendment within the prescribed time or if no time is prescribed then from the 14 days from the date of the order the amendment can be done only on the application of the party by the leave of the court.

5. Under **Order 9 rule 7 CPC**, when the case is proceeded *ex-parte* against the defendant then an application under order 9 rule 7 can be presented before the court assigning good reason for previous non-appearance within the limitation prescribed under the limitation act.

6. **Order 12 Rule 6 CPC** pertains to admission of facts made in the pleading whether orally or in writing. In the event of such admission the court may at any stage of the suit either on application of any party or on its motion and without waiting for determination of any question between the parties make such order or give such judgment as it may think fit having regard to such admission.

7. **Order 14 rule 5 CPC** is with regard to amendment in the issues or frame additional issues either suo moto or by application of the parties at any stage of the suit before passing the decree.

8. **Order 14 rule 5 CPC** is with regard to amendment in the issues or frame additional issues either suo moto or by application of the parties at any stage of the suit before passing the decree.

9. **Order 17 Rule 1 Code of Civil Procedure- Order XVII Rule 1 of CPC** contemplates that only if sufficient cause

is shown at any stage of the suit, the Court may grant time to the parties and adjourn hearing. The proviso states that no such adjournment shall be granted more than three times to a party during hearing of the suit. It is often seen that parties resort to this application even without any cogent reasoned seek adjournment. In order to alleviate sufferings and hardships of the parties and after considering the entire circumstances, exemplary costs need to be imposed while accepting application.

*In the matter of **Noor Mohammed Vs. Jethanand and Another (2013) 2 Supreme Court Cases 202** Hon'ble Supreme Court observed that "In the case at hand, as we perceive, the learned counsel sought adjournment after adjournment in a non-chalant manner and the same were granted in a routine fashion. It is the duty of the counsel as the officer of the court to assist the court in a properly prepared manner and not to seek unnecessary adjournment. Getting an adjournment is neither an art nor science. It has never been appreciated by the courts. All who are involved in the Justice-dispensation system, which includes the Judges, the lawyers, the judicial officers who work in courts, the law officers of the State, the Registry and the litigants, have to show dedicated diligence so that a controversy is put to rest. Shifting the blame is not the cure. Acceptance of responsibility and dealing with it like a caption in the frontier is the necessary of the time. It is worthy to state that diligence brings satisfaction. There has to be strong resolve in the mind to carry out the responsibility with devotion. A time has come when all concerned are required to abandon idleness and arouse oneself and see to it that the syndrome of delay dose not erode the concept of dispensation of expeditious justice which is the constitutional command. Sagacious acceptance of the deviation and necessitous steps taken for the redressal of the same would be a bright lamp which would gradually become a laser beam. This is the expectation of the collective, and the said expectation has to become a reality. Expectation are not to remain at the stage hope. They have to be metamorphosed to actuality."*

10. Order 18 Rule 16 CPC is with regard to examine a witness immediately with the leave of court on application of any party if a sufficient cause is shown to

the satisfaction of the court. Court may recall any witness who has been examined earlier under Order 18 rule 17 CPC.

11. Order 22 Rule 3 CPC is with regard to addition of the legal representative of the plaintiff after his death and **order 22 rule 4** is with regard to addition of the legal representative of the plaintiff after his death.

12. Application under **Order 23 Rule 1 CPC** is with regard to withdrawal of the suit and **Order 23 Rule 3 CPC** is applicable when compromise has taken place between the parties. It is subject to satisfaction of the court and must be in writing and signed by the parties even in respect of subject matter which is not included in the suit.

13. Under **Order 26 Rule 9 CPC** court can order for commission to be appointed for making local investigation subject to application presented by the parties. It cannot be used merely for delaying the matter or to harass the other party. Commissions may be appointed for the following acts:

14. Commission for scientific investigation (Order 26 Rule 10A).

15. Commission for performance of a ministerial act (Order 26 Rule 10 B)

16. Commission for sale of movable property (Order 26 Rule 10 C)
17. Commission can be issued for examining of adjusting account (Order 26 Rule 11)
18. Commission for necessary instruction (Order 26 Rule 12)
19. Commission to make partition (Order 26 Rule 13, 14)
20. In suit against minor under **Order 33 Rule 12 CPC** in case of a minor plaintiff attains majority during the pendency of the suit if he likes to proceed with the suit or application he shall apply for an order discharging the next friend and for leave for proceed in his own name.
21. **Interlocutory Application when case is fixed for Judgment**

The decision rendered by the division bench of the Karnataka High court in *Rabiya Bi Kassim M Vs. The Country-Wide Consumer Financial Service Ltd* 2004 (4) KLJ 189 has settled the position with respect to the production of evidence at any stage of the proceedings. Once the matter has been finally heard and posted for judgment, as held by the Supreme Court in *Arjun Singh vs Mohindra Kumar*, 1964 SCR (5) 946, nothing is required to be done by the Court except to pronounce the judgment, and therefore the decision in Laxminarayan enterprises' has become a nullity.

Whether interlocutory application is an inbuilt mechanism for delay in civil trial?

The delay is often due to protracted arguments on interlocutory applications. This practice ends up affecting the original suit and therefore speedy disposal ends up becoming a farce as the courts keep on entertaining endless arguments on motions for interim reliefs.

The practice of filing interlocutory application has become a matter of routine and is resorted to many a time to thwart the proceedings in a suit or to evade the compliance of any order passed against such party. There is an umpteen number of cases where unscrupulous litigants take undue advantage by invoking the jurisdiction of the Court by Filing interlocutory applications. Frivolous litigation clogs the wheels of justice making it difficult for the courts to provide speedy justice to the genuine litigants. A lot of judgments or orders of the Court are not permitted to acquire finality. It is one of the serious issues concerning the sanctity and credibility of the judicial system in general.

STRATEGIES TO CURTAIL DELAY:

The prerogative of a court while dealing with an interlocutory application is not to delve into serious questions of law which demands detailed arguments and serious consideration and therefore the courts do not go into the facts the resolution of which might end up in the

determination of the original suit. The provision dealing with the incidental proceedings is contained under Part III Of The Code Of Civil Procedure. But such applications are moved under various provisions of the Code of civil procedure, 1908 which include applications for appointment of Commissioner, Temporary Injunctions, Receivers, payment into court, security for cause, and etc. In fact, there are in total of 382 different nomenclature of interlocutory applications, as provided on the Hon'ble Supreme court's website.

Putting Heavy Costs: The first and foremost tool to tackle frivolous interlocutory applications is put heavy costs. In **Ashok Kumar Mittal v. Ram Kumar Gupta (2009) 2 SCC 656**, the Hon'ble Supreme Court stated that "the present system of imposing meager costs in civil matters, no doubt, is wholly unsatisfactory and does not act as a deterrent to tactics like "buying-time", or evading compliance of court orders. More realistic approach relating to costs may be the need of the hour."

The **Law Commission of India** in its report '**Costs in Civil Litigation**' Report No.240, had proposed amendments in CPC to curb such practice by imposing heavy costs on such applicants.

"Section 35A (Compensatory costs for false or vexatious claim/defense) should be recast to have a better check against false and frivolous litigation.

Litigants who obtained ex-parte ad interim injunction on the strength of false pleadings and forged documents should be adequately punished. No one should be allowed to abuse the process of the court as laid down in the matter of **Ramrameshwari Devi vs Nirmala Devi**.

Even the Law Commission of India in its 192nd report on “PREVENTION OF VEXATIOUS LITIGATION”, June 2005 has tried to address the growing menace of vexatious litigations in the high courts and courts subordinate to high courts.

Repeated interlocutory applications is clearly an abuse of the process of law and would have the far-reaching adverse impact on the dispensation of justice.

In the matter of **Ramrameshwari devi case** Hon’ble Supreme Court of India has laid down guideline that “Imposition of actual, realistic or proper costs and or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

Indian Council for Enviro-Legal Action Vs UOI and ors

A classic example of keeping the litigation alive by filing I.As can be found in the case of **Indian Council for**

Enviro-Legal Action Vs UOI and others, (2012) 1CompLJ 360 (SC) Very strange and extraordinary litigation where even after fifteen years of the final judgment of the court the litigation was intentionally kept alive by filing one interlocutory application or the other in order to avoid compliance of the judgment. The applicants in this case through Interlocutory Applications tried to evade the payment of the amounts as remedial measures by reopening issues already settled by the Hon'ble Supreme court. Therefore the court on finding these interlocutory applications being totally devoid of any merit accordingly dismissed with costs of Rs. 10 lakhs in both the Interlocutory applications.

When any interlocutory application is filed before the court the presiding officer should see whether it is necessary to obtain reply of the application from the other party. If reply is not required application should be decided immediately so as to curtail further delay in the proceeding.

Reforms in service of summons

Delay in service of summons is a major hurdle in the speedy delivery of justice. Certain amendments have already been made to the CPC to address this issue.

Case management

Even though it may not be feasible to prescribe strict time limits for the disposal of cases, the adoption of better case management strategies can help in the timely dispensation of justice. Case management includes

management and scheduling of the time and events in a suit as it progresses through the justice delivery system. It helps the court to establish managerial control over the case by setting the time schedule for the predetermined events and by supervising the progress of the suit as per the time schedule.

Judicial data and statistics

The lack of comprehensive and accurate data relating to cases from courts across the country poses a hurdle to efficient policy making. This issue has been noted by the Law Commission of India in its 245th Report as well as in the Action Plan of the National Court Management System set up by the Supreme Court. Online information about case filings, case status and electronic copies of orders and judgments from courts that have already been computerized is available through the e- Courts portal. However, we are still some way from ensuring online real-time access to complete pendency data and statistics through the National Judicial Data Grid (NJDG).

This requires support from the High Courts to complete the data entry of all pending cases of subordinate courts so that information gets updated on the NJDG servers on a regular basis. In order to promote uniformity in judicial data and statistics, it was resolved at the Conference of Chief Justices held in April 2015 that for statistical purposes the

High Courts will count the main cases only towards pendency and arrears.

Interlocutory applications will continue to be separately numbered in original proceedings before the High Courts exercising original jurisdiction. While on the one hand judicial statistics are important for policy formulation by the judiciary and the government on the other hand it is equally important to place this information in the public domain so that the key stakeholders like advocates, litigants, researchers and the public at large can be better informed about the state of the judicial system.

The Adoption of electronic case management systems, automation of court processes and introduction of electronic case filings are important tools for achieving the timely enforcement of contracts. Accordingly, significant efforts are being made towards adoption of information and communication technology in district and subordinate courts under the eCourts Integrated Mission Mode Project.

IMPORTANT RULINGS :

Ramrameshwari Devi v. Nirmala Devi, (2011) 8 SCC 249

Hon'ble Supreme Court Of India has laid down guidelines to be followed by the trial courts while dealing with the civil trials.

A. Pleadings are foundation of the claims of parties. Civil litigation is largely based on documents. It

is the bounden duty and obligation of the trial judge to carefully scrutinize, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed.

B. The Court should resort to discovery and production of documents and interrogatories at the earliest according to the object of the Code. If this exercise is carefully carried out, it would focus the controversies involved in the case and help the court in arriving at truth of the matter and doing substantial justice.

In this manner court can definitely curtail further filing of interlocutory application by the parties.

In the recent judgment of **Yashpal Jain Versus Sushila Devi and Others 2023 SCC OnLine** Hon'ble Supreme Court of India has issued following directions:

All courts at District and Taluka level shall ensure that **written statement** is filed within the prescribed limit namely as prescribed under **Order VIII Rule 1** and preferably within 30 days and to assign reasons in writing as to why the time limit is being extended beyond 30 days as indicated under proviso to **sub-Rule (1) of Order VIII of CPC**.

All courts at Districts and Talukas shall ensure after the pleadings are complete, the parties should be called upon to appear on the day fixed as indicated in **Order X** and record the admissions and denials and the court shall direct the parties to the suit to opt for either mode of the

settlement outside the court as specified in **Sub-section (1) of Section 89** and at the option of the parties shall fix the date of appearance before such forum or authority and in the event of the parties opting to any one of the modes of settlement directions be issued to appear on the date, time and venue fixed and the parties shall so appear before such authority/forum without any further notice at such designated place and time and it shall also be made clear in the reference order that trial is fixed beyond the period of two months making it clear that in the event of ADR not being fruitful, the trial would commence on the next day so fixed and would proceed on day-to-day basis.

In the event of the party's failure to opt for ADR namely resolution of dispute as prescribed under Section 89(1) the court should frame the issues for its determination within one week preferably, in the open court.

Fixing of the date of trial shall be in consultation with the learned advocates appearing for the parties to enable them to adjust their calendar. Once the date of trial is fixed, the *trial should proceed accordingly to the extent possible, on day-to-day basis.*

The trial courts shall scrupulously, meticulously and without fail comply with the provisions of **Rule 1 of Order XVII** and once the trial has commenced it **shall be proceeded from day to day** as contemplated under the proviso to Rule (2).

The courts shall give **meaningful effect to the provisions for payment of cost** for ensuring that no adjournment is sought for procrastination of the litigation and the opposite party is suitably compensated in the event of such adjournment is being granted. In this manner court can curtail delay in proceeding.

CONCLUSION:

Interlocutory applications which are procedural steps taken during the pendency of a case, often becomes tools for obstruction rather than justice. These applications are often misused by litigants to stall the proceedings, leading to prolonged trials and delays in the delivery of justice. Addressing the delays caused by interlocutory applications requires a multifaceted approach involving various mechanism. Courts are urged to adhere strictly to procedural timelines and discourage adjournments to expedite the resolution of cases. Implementing these strategies can significantly enhance the efficiency of the justice system, ensuring timely and fair outcomes for all parties involved.

*Long Back Francis Bacon once said “ Hope is good breakfast,
but it is a bad supper.”*

THANK YOU