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Endeavour to 'rein in' the judicial dispensation, avoidable and unenviable

Justice S. D. Anand (Retd.)

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Nishant Ahlawat
Cyber Law practitioner

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MY PROSPECTIVE

Endeavour to 'rein in' the judicial dispensation, avoidable and unenviable

Justice S. D. Anand (Retd.)

1. The Indian Judiciary having already established its competence, full of integrity content, in rising to the occasion whenever a trying moment appeared therefor, is in focus currently, though for reasons not attributable to it.
2. While the knowledgeable and the concerned are still debating the potential of NJAC and the Judicial Standards and Accountability Bill vis a vis their anticipated influence upon the independence of judiciary, the ball is in the Court of the Executive to legislate and provide for the minimum cooling off period for all before anyone can be considered for induction into a post-retirement placement.

WELCOME ANNOUNCEMENT

State Judicial Services preparations Guidance facility

Finding necessity for guidance for all those preparing for State Judicial Services Competitions Examinations, Paramount Law Consultants Ltd. has decided to help with valuable guidance. Interested persons are welcome.

Legal Audit and Moral Audit Services

Paramount Law Consultants Ltd., Delhi has completed its research and is taking up legal audit and moral audit services for the Corporates.

Subhash Nagpal
Chairman
Paramount Law Consultants Ltd. Delhi

3. The element of propriety ought to be equally dear to the members of Judicial fraternity, even if the interpretation is in denial of an appointment immediately after retirement. In an article published in the Indian Express, Upendra Baxi rightly bemoaned the want of a healthy constitutional convention to confine Executive power. All right thinking people, in respective of their political affiliation, would nod in affirmative.

4. History beckons introspection about what preceded the assumption of unfettered Executive power. I would always advocate respect for the wisdom of each dispensation forming the foundation of democracy. It is a matter of concern and a subject for pondering by the legal fraternity about why doubts have come to be entertained that the passage of the relevant legislation (on ratification by the State Assemblies in the required number) would affect the neutrality and independence of judiciary. Personally speaking, I am sure that the dignitaries in currency at any given point of time would protect the cherished independence of functioning. The ideal scenario would have emerged if the conclusion of the legislation had been preceded by a larger measure of deliberation. The events, wittingly or unwittingly, give an impression of a hasty outcome.



CYBER WORLD

WHAT WILL HAPPEN TO YOUR VIRTUAL PROPERTY AFTER YOUR LIFE TIME?

By Nishant Ahlawat

Introduction

1. Lately a lot of my clients have raised queries about getting legitimate access to virtual accounts and e-properties of their deceased loved ones. Analyzing these queries I intend to explain the complexity and solution to simplify legal and practical issues so emanating out in form of a virtual property will.
2. In today's world use, of computers, storage devices and software(s) is no more an option or utility but a necessity. While this virtual reality opens gateway to new form of user experience(s), gaming, data depositions, creative, social interactions and revenue generation models it also calls for an interpretation of existing laws from a new spectrum.

Virtual Property

3. Have you ever thought why you are able to access large number of virtual/ internet services for no cost at all? The answer lies in their usage by large number of users including you. Knowingly- Unknowingly not only you contribute to increased valuation of these e-commerce models, but also participate in enhancing and supplying your data and trends to these services. With increased traffic these services earn revenues from various options like sharing trends and data created by users, selling ads on these platform etc. The current trends of virtual development is aggressive to the extent that warrants legislative or judicial attention. Dynamic architecture of these virtual structures, evolved by developers of virtual worlds, are revealing new legal issues, particularly dealing with an individual's actual, real world rights to virtual property. Confusion exists partly because individuals are pumping actual money in and out of these virtual worlds and alternatively because their rights are governed by contractual agreements.

Virtual assets created by users

4. In day today uses of virtual world and services, individuals depend and explore various services like emails, social networking, clouds, audio- video sites, e-wallets, virtual vaults, and virtual world games. Not only personal data is created and stored in virtual accounts, but invaluable intellectual property rights are created in form of creation and enhancements of literary, source code, design, artistic and other such contents.

Their Value

5. While these assets may or may not have commercial value in market, they might be of very high emotional, social, relative values to individuals or communities.

Why a virtual property will?

6. A blog, website, parked domain names, mobile application, or an e-commerce venture etc run by an individual may be generating revenues. Besides being of high emotional value, data stored on storage devices or in virtual accounts like scanned copy of property related documents, photographs stored in virtual albums, audio-video files, and chat conversations may be of very high evidentiary value.
7. Assets purchased in online games and structures that have current or future potentials of being sold at a higher value, virtual currency convertible into real money, accounts like paypal etc. all have a monetary characteristics attached to them.
8. An individual in his lifetime ends up creating lot of valuable data by using computing and virtual devices. While this data is more personalized than physical world data, in the event of death of an individual the fate of this data /virtual property stands in doubt based on silence of legal trends in our country.
9. As is a known fact a lot of this data is governed by terms of services of these service provider agreed by individuals. While many of these service providers

feeling the need of after death policies, have defined policies to cater to the need of such rights being transferred to next of kin/ legal heirs.

10. Now the most important question here is that, as per the laws of land, virtual properties created by an individual/user being of self-acquired nature, issue of its disposal after the death of an individual in absence of his will becomes a complicated one.
11. An individual might not want to grant his wife or children access to his very personal chat or other media files even after his death. There might be some data that one do not wish to share with anyone or otherwise share specifically to particular individuals.

Effect

12. Even to define legal heir /next of kin for the purpose of compliance of after death policies of various data service providers or to establish a case to such service providers in absence of such policies, a will declaring disposal, dissemination of virtual properties become of very high relevance.
13. Thus it is recommended that every individual in his/ her lifetime must get an e-will created irrespective of being of young or old age. My next write up shall detail about essential ingredients and structure of an e-will.

For any suggestions, queries and inputs you
may contact me on
nishant@technolegals.com



VILLAGE COURTS

Dr. S. K. Kapoor
Ved Ratan

Different social life formats

1. India has different social life formats of its cities and villages.
2. Cities and Villages permit differentiation for many reasons.
3. From education to traditions, there is a big range of parameters of differentiation of city from a village.

Village Courts

4. Subjective knowledge aspect of one villager having about other co-villagers is one such factor which cannot be expected in case of city dwellers. The documentation mentality of city dwellers and oral contracts approach of villagers is another feature which weighs heavily for having village courts with different procedural codes for adjudications.
5. These and many other reasons convinced the legislatures to go for establishment of village courts. So much and so far is all right. But there being no further practical initiative, which make village courts a Reality. It is alarmingly missing and this is the concern.

Functioning Challenges

6. No doubt, a lot of functional challenges would confront and that too very frequently. But this all, is bound to be there whenever there would be any initiative towards it. This, that way, does not mean that we shall delay the initiative out of fears of unpreparedness. As this is, bound to be there at whatever point of time such initiative would become a reality.

Social churning process

7. The movement village courts would start functioning, with the same would start the social churning process. And its momentum shall soon add to the values of our social fabric at village level. It is not only the

speed of justice delivery system but also the quality of justice delivered as well is bound to be there.

Civil Causes domain

8. The present day concept of civil causes as well is bound to be transform. The civil causes domain would get exponentially enlarged. With it, the dark zones of our social fabric would start disappearing.

Dark zones of our social life

9. The inherent value of village courts shall be making dark zones of our social life to disappear is one aspect but, this in itself is sufficient to justify expediting for establishment of village courts.

The Dormant areas of services

10. The area of public utility services, consumer causes, reconciliation initiatives and all that are at present are in dormant state in villages. Public utility service providers are lethargic towards villagers genuine needs. It would no more continue to remain in their existing state with village courts becoming operational.

Village secretariats

11. Making Village courts a functional apparatus would that way make village secretariats as the nucleus of village administration.
12. Village secretariats is not going to be simply a building. It is going to be the headquarter of village administration. From village court to village Panchayat and whole range of village administration machinery would get housed in one building. Post office to bank to e-café, everything would come adjacent to each other.

... To be continued.

