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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

- 1 Whether pre- institution mediation can be exempted when the interim relief sought is urgent?
- 2 Whether the charging of transfer fees for an advocate's enrollment from one State Bar Council to another is permissible?
- 3 Whether foreign law firms/lawyers are permitted to practice law in India?
- 4 Whether comprehensive guidelines are required to balance citizens' right to feed community dogs with concerns of public safety, residential harmony, and prevention of nuisance?



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EBC Publishing (P) Ltd. and Another Vs. Parents
Responsibility and Others
[CS(COMM) 434/2024]

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Devendra Nath Tripathi Vs. Union of India & Ors.
[Writ Petition No. 1549 of 2017]

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[CS(OS) 277/2020]



Whether pre- institution mediation can be exempted when the interim relief sought is urgent?

CONTEXT: The Plaintiffs, EBC Publishing, a leading publisher of legal textbooks, alleged that Defendants No. 1 to 7 were manufacturing and selling pirated/counterfeit versions of their books through the e-commerce platform operated by Defendant No. 8 (Amazon). These counterfeit books were found to be nearly identical to the originals, infringing the Plaintiffs' registered trademarks "EASTERN BOOK COMPANY," "EBC," and their exclusive copyright over the literary works. The Plaintiffs sought urgent intervention due to consumer complaints and the potential for irreparable loss and damage to their reputation.

① The Delhi High Court found a prima facie case of trademark and copyright infringement and granted the Plaintiffs' requests for interim relief.

② Ex-parte ad-interim injunction was granted, restraining Defendants No. 1 to 7 from manufacturing, publishing, selling, or dealing in any products, including books, that infringe the Plaintiffs' registered trademarks and copyright.

③ Defendant No. 8 (Amazon) was directed to block the listings of counterfeit products, provide addresses and details of Defendants No. 1 to 6, hand over all copies of counterfeit books to the Plaintiffs, and refrain from releasing payments to Defendants No. 1 to 6 related to the sales of these counterfeit products.

PRECEDENT:

Yamini Manohar v. T.K.D. Krithi
[2023 SCC OnLine SC 1382]

EBC PUBLISHING (P)
LTD. AND ANOTHER VS.
PARENTS
RESPONSIBILITY AND
OTHERS
[CS(COMM) 434/2024]

COMMERCIAL COURTS
ACT, 2015

ORDER XXXIX RULE 3 OF
THE CIVIL PROCEDURE
CODE, 1908

Whether the charging of transfer fees for an advocate's enrollment from one State Bar Council to another is permissible?

**DEVENDRA NATH
TRIPATHI VS. UNION
OF INDIA & ORS.
[WRIT PETITION NO.
1549 OF 2017]**

CONTEXT: The Petitioner, a practicing Advocate, sought to transfer his enrollment from the State Bar Council of Uttar Pradesh to the Bar Council of Maharashtra and Goa in 2013. Despite the Petitioner's contention that Section 18 of the Advocates Act 1961 mandates free transfer of enrollment, Respondent No. 1 (Bar Council of Maharashtra and Goa) charged him Rs. 15,405/- as transfer fees. This fee was justified by Respondent No. 1 based on Resolution No. 112 of 2010. The Petitioner further challenged the retrospective application of these fees from 2003, arguing he was not a member of the Maharashtra and Goa Bar Council during that period.

1 The High Court declared the fee charged by the Bar Council of Maharashtra and Goa for the transfer of the Petitioner's enrollment illegal, as it directly contravened the mandate of Section 18(1) of the Advocates Act 1961.

2 Referencing the Supreme Court's judgment in ***Gaurav Kumar vs Union of India & Ors. [Writ Petition (C) No. 352 of 2023]***, which established that State Bar Councils and the Bar Council of India (BCI) cannot realise fees not stipulated by statute, the court found the practice impermissible.

3 The Writ Petition was allowed, but only in terms of challenging the charging of such transfer fees, and the order was given prospective effect.

**SECTION 18(1) OF THE
ADVOCATES ACT,
1961**

Whether foreign law firms/lawyers are permitted to practice law in India?

CONTEXT: Appeals challenged conflicting judgments from the Madras and Bombay High Courts regarding the permissibility of foreign law firms/lawyers practising in India. The Madras High Court allowed temporary "fly in and fly out" visits for advice on foreign law and participation in international commercial arbitration. In contrast, the Bombay High Court held that "practise the profession of law" under the Advocates Act, 1961, covered non-litigious matters, requiring foreign firms to comply with the Act and prohibiting RBI from granting liaison office permissions.

1 The Supreme Court held that foreign law firms/lawyers can not practice law in India, whether litigation or non-litigation. However, it modified the Madras High Court's directions.

2 "Fly in and fly out" visits for advising on foreign law or international legal issues were allowed only as casual visits, not as practice, subject to rules framed by the BCI (Bar Council Of India) or UOI(Union Of India).

3 Foreign lawyers have no absolute right to conduct international commercial arbitration in India but could do so under institutional rules or the Arbitration Act, 1996, if they followed the Code of Conduct. BPO (Business Process Outsourcing) activities fall under the Advocates Act if, in substance, they amount to the practice of law.

BAR COUNCIL OF INDIA
VS. A.K. BALAJI AND
ORS.
[CIVIL APPEAL
NOS.7875-7879 OF
2015]

**SECTIONS 29, 33, 35,
47, AND 49 OF THE
ADVOCATES ACT, 1961**

**SECTION 29 OF THE
FOREIGN EXCHANGE
REGULATION ACT, 1973**

Whether comprehensive guidelines are required to balance citizens' right to feed community dogs with concerns of public safety, residential harmony, and prevention of nuisance?

DR. MAYA D. CHABLANI
VS. RADHA MITTAL AND
ORS.
[CS(OS) 277/2020]

CONTEXT: The case originated from an application by Dr. Maya D. Chablani seeking to restrict Radha Mittal from feeding stray dogs near her property. While this specific dispute was amicably resolved through an agreement on designated feeding points and times, the High Court was urged by various legal counsels to establish broader guidelines for the feeding of stray dogs to address ongoing community conflicts.

1 The Delhi High Court issued a final judgment establishing detailed "guidelines with respect to feeding of stray dogs".

2 The court affirmed that individuals have a right to feed community dogs, but this must be exercised responsibly to avoid causing harm or nuisance to others.

3 The judgment mandated the establishment of designated feeding areas, promotes harmony between residents and feeders, and constitutes an Implementation Committee to ensure these guidelines are put into effect. It also directs awareness campaigns and judicial/police sensitization.

**ARTICLES 21, 48A ,
51A(G), 51A(H), 243W,
AND 246 OF THE
CONSTITUTION OF INDIA**

**SECTIONS 3, 4, AND 11
OF THE PREVENTION OF
CRUELTY TO ANIMALS
ACT, 1960**