Cassie

WEDNESDAY
30 SEPTEMBER 2026

DAILY

Court Digest

The day's most significant judgments from India's courts.

IN TODAY'S DIGEST

- **Maternity Leave | Counts as qualifying service for promotion : Mad HC**
- **Order II Rule 2 CPC | Specific performance barred without leave : SC**
- **S.439(1A) CrPC | Victim hearing mandatory before bail grant : Delhi HC**
- **S.125 CrPC | Concealed bank accounts bar maintenance relief : Cal HC**
- **S.223(1) BNSS | Complainant oath exam must precede notice : Delhi HC**

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Supreme Court

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Contracts & Business Disputes
Interim Reliefs, Injunctions & Specific Performance

SUPREME COURT

Specific performance is barred if omitted from an earlier injunction suit without leave

The dispute. The plaintiff claimed to have purchased company land for over twenty crore rupees under an alleged oral agreement. After filing an injunction suit to prevent alienation, the plaintiff withdrew it citing settlement talks and filed a fresh suit for specific performance. The trial court decreed specific performance and the High Court affirmed the decree, prompting the landowner to appeal to the Supreme Court.

The reasoning. Omitting specific performance in an earlier suit without express leave attracts the statutory bar under Order II Rule 2. Oral land agreements demand strict proof of concluded contract that unpresented cheques and conflicting testimony fail to provide.

For your practice. Litigants withdrawing injunction suits during settlement talks must seek express court leave under Order II Rule 2 to preserve future specific performance claims.

The order. The Supreme Court allowed the appeal, set aside the judgments of the trial court and the High Court, and dismissed the suit for specific performance. The parties were directed to bear their own costs.

§ Order II Rule 2, Code of Civil Procedure, 1908

Bombay Garage Ahmedabad Limited & ors. v. J P Iscon Private Ltd. & ors.

COURT	DECIDED	CASE NO.	CITATION
Supreme Court of India	29.09.2026	C.A. No.-013255-013255 - 2026	2026 INSC 1066

BENCH
J.B. Pardiwala, K. Vinod Chandran

Relationships & Family Matters

SUPREME COURT

Mutual consent divorce granted and all pending matrimonial proceedings quashed

The dispute. The parties married in December 2016 and separated in 2022 due to irreconcilable differences. Protracted litigation followed, including IPC criminal complaints and domestic violence cases. The spouses ultimately arrived at an amicable settlement to dissolve their marriage on payment of ₹35 lakh. The wife approached the Supreme Court seeking transfer and exercise of extraordinary powers to dissolve the marriage.

The reasoning. Relying on Shilpa Sailesh, the Court held that Article 142 empowers dissolution of an irretrievably broken marriage upon genuine settlement. Quashing parallel matrimonial and criminal cases is essential to do complete justice and secure a clean, final break.

For your practice. Demonstrating genuine consensus and a comprehensive settlement enables invoking Article 142 to simultaneously dissolve the marriage and extinguish all inter se criminal complaints.

The order. Divorce by mutual consent granted. The husband shall pay ₹35 lakh permanent alimony in two tranches (₹2 lakh upfront, ₹33 lakh in 4 weeks). All pending inter se civil and criminal cases stand quashed with no fresh litigation permitted.

§ Article 142 of the Constitution of India

S. v. State of Odisha & ors.

COURT	DECIDED	CASE NO.	CITATION
Supreme Court of India	28.09.2026	T.P.(Crl.) No.-000493 - 2025	2026:INSC:1060

BENCH

B.V. Nagarathna, R. Mahadevan

High Courts

6 judgments in this edition

KEEP SWIPING >>>

Government & Public Body Interactions
Service Matters of Government Employees (Transfers, Promotions, etc.)

MADRAS HC

Maternity leave counts toward qualifying service and cannot be cited to deny promotion

The dispute. A revenue assistant took sanctioned maternity leave, leaving a three-month shortfall in her mandatory two-year field tenure. Upon rejoining, the administration transferred her to another post rather than allowing her to complete the requisite service. The State rejected her relaxation plea and promoted juniors; the Single Judge directed her promotion, which the division bench affirmed.

The reasoning. Maternity leave is statutory service that cannot prejudice an employee's promotional prospects or seniority. When authorities fail to post an employee to fulfill mandatory tenure, they cannot cite that resulting shortfall to withhold promotion.

For your practice. Practitioners must now argue that maternity leave is service for promotion, rely on Circular No.4/2010 to challenge denials of relaxation, and ensure consequential benefits are granted from the effective date of promotion.

The order. Twelve weeks' time from 29 September 2026 to comply with the Single Judge's order dated 23 January 2026; promotion to Tahsildar from the date immediate juniors were promoted, with all consequential monetary and service benefits; no costs awarded.

§ Rule 7(a) of Tamil Nadu Revenue Subordinate Service Rules

The Secretary vs S. Menaka

COURT	DECIDED	CASE NO.	CITATION
Madras High Court	29.09.2026	WA(MD).1385/2026	2026:MHC:4001

BENCH
C.V. Karthikeyan, R. Sakthivel

Criminal Issues
Bail, Arrest & Custody Issues

DELHI HC

Hearing the victim before granting bail in sexual offence cases is mandatory and non-waivable

The dispute. A woman lodged a first information report alleging rape, leading to the immediate arrest of the accused. Within three days of the arrest, the trial court granted regular bail to the accused without issuing notice to the complainant or hearing her. The prosecutrix petitioned the High Court to set aside the bail order for denial of her mandatory statutory right of audience.

The reasoning. Affording a hearing to the victim in specified sexual offence bail applications is a mandatory statutory obligation. The victim's right of audience is substantive and independent, and the State's presence cannot substitute for her participation.

For your practice. Practitioners must now serve notice on the informant or her authorised representative before any bail hearing under Sections 376/376AB/376DA/376DB IPC and verify compliance; failure risks the bail order being set aside.

The order. The Court set aside the impugned order dated 03.07.2026 granting regular bail, remanded the bail application for fresh hearing after providing the prosecutrix an opportunity to be heard preferably within two weeks from judgment, and clarified the accused shall not be re-arrested.

§ **Section 439(1A), Code of Criminal Procedure, 1973**

MS G vs STATE NCT OF DELHI AND ANR

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	28.09.2026	CRL.M.C.-4970/2026	2026:DHC:8405	Saurabh Banerjee

Relationships & Family Matters
Maintenance for Spouse & Children

CALCUTTA HC

Concealing bank accounts bars maintenance relief but warrants de novo inquiry into dependency

The dispute. An estranged wife claimed complete destitution and dependence on her ailing father when seeking statutory maintenance from her husband. During cross-examination, she admitted holding joint bank deposits exceeding ₹6 lakh that were concealed from her disclosure affidavit. The magistrate dismissed her maintenance application for suppressing material facts, and the wife challenged the rejection in revision.

The reasoning. Suppressing material financial assets violates the clean hands doctrine and bars equitable maintenance relief. Because statutory support serves social justice, concealment warrants a fresh inquiry into true dependency rather than permanent dismissal.

For your practice. Practitioners must now ensure full disclosure of assets and liabilities in maintenance proceedings; any suppression will likely lead to dismissal of the claim. The husband's duty to maintain his wife persists regardless of her education or her parents' wealth, reinforcing the social justice purpose of Section 125 Cr.P.C.

The order. The court set aside the order that had denied maintenance and directed the wife to file a fresh application under Section 125 Cr.P.C within four weeks and to serve a copy on the husband.

§ Section 125, Code of Criminal Procedure, 1973

N.G. v. D.D.

COURT	DECIDED	CASE NO.	BENCH
Calcutta High Court	29.09.2026	CRR/5060/2024	Chaitali Chatterjee Das

Criminal Issues
Summons and Warrants

DELHI HC

Magistrates must examine complainants on oath before issuing pre-cognizance notice to accused

The dispute. Private complaints were filed against the petitioners alleging criminal offences under the new penal codes. Before recording the complainants or their witnesses on oath, the magistrates issued notice to the prospective accused to afford a pre-cognizance hearing. The petitioners challenged the notices, prompting a reference to the Division Bench on the proper procedural sequence under Section 223(1).

The reasoning. The word 'while' in Section 223(1) embeds complainant examination within the cognizance process rather than subsequent to it. Issuing notice earlier renders the hearing right futile, as the accused cannot meet unverified allegations.

For your practice. Magistrates cannot issue pre-cognizance notices on bare complaints, giving defence counsel an immediate threshold ground to seek quashing of premature hearing notices.

The order. The Court held that examination on oath and a prima facie view on maintainability must precede notice under Section 223(1). Formal cognizance may be taken only after the accused is heard.

§ Section 223(1), Bharatiya Nagarik Suraksha Sanhita, 2023

DR RITA BAKSHI vs SEEMA BAJAJ & ors.

COURT	DECIDED	CASE NO.	CITATION
Delhi High Court	29.09.2026	CRL.M.C.-2551/2025	2026:DHC:8460-DB

BENCH
Navin Chawla, Ravinder Dudeja

Government & Public Body Interactions

DELHI HC

GST Penalties reach non-taxable beneficiaries but apply prospectively from January 2021

The dispute. The tax authorities confirmed demands exceeding twenty-four crore rupees against a trading company for fraudulent input tax credit availed between 2017 and 2020. The adjudicating authority simultaneously imposed identical personal penalties on several directors under Section 122(1A). The directors filed writ petitions challenging the personal penalties, arguing the statutory provision was prospective.

The reasoning. The phrase 'any person' includes non-taxable individuals who retain fraudulent benefits and conduct the transactions. However, because the penalty is penal in character, it cannot apply retrospectively to acts committed before 1 January 2021.

For your practice. Show cause notices issued to corporate directors must demonstrate personal benefit retention and active transaction conduct rather than relying on designation alone.

The order. The High Court disposed of the petitions, granting the directors four weeks to approach the appellate authority under Section 107. Appeals filed within this window shall be decided on merits without limitation objection.

§ Section 122(1A), Central Goods and Services Act, 2017

PARAG GARG vs ADDITIONAL COMMISSIONER AND ANR

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	29.09.2026	CW - 53/2026	2026:DHC:8390-DB	Anil Kshetarpal

Property & Asset Disputes
Tenancy and Lease Matters

DELHI HC

Notarisation alone does not prove execution of a rent agreement without proof of signature

The dispute. Landlords sued their commercial tenant for possession, rent arrears, and mesne profits following the expiry of an eleven-month lease. The tenant resisted eviction by denying his signature on the notarised rent agreement, claiming the document was forged. The trial court decreed possession, arrears, and mesne profits based on admissions, prompting this appeal by the tenant.

The reasoning. Mere notarisation does not prove document execution under Section 67 when signature is disputed. However, admissions proved the tenancy, and courts may take judicial notice of urban rent trends to determine mesne profits.

For your practice. Disputed agreements require direct signature proof rather than notarisation, while mesne profits can rest on judicial notice of urban rent inflation.

The order. The High Court dismissed the appeal and upheld the decree for possession, arrears of ₹87,000, and damages of ₹2,000 per day. Mesne profits at ₹25,500 per month with a 15% triennial increase were affirmed.

§ Section 67, Indian Evidence Act, 1872

SIDDHANTH MENDIRATTA vs MADHU CHAWLA & ors.

COURT	DECIDED	CASE NO.	CITATION	BENCH
Delhi High Court	28.09.2026	RFA-1008/2026	2026:DHC:8401	Neena Bansal Krishna

Tribunals

1 judgment in this edition

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Government & Public Body Interactions

ITAT

Cash settlement to retiring partners attracts no tax without actual capital asset transfer

The dispute. A Pune real estate firm reconstituted its partnership when three partners retired and incoming partners introduced Rs 160 crore fresh capital. The firm paid Rs 144.86 crore in monetary settlement to the outgoing partners, debiting the sum to a retiring partner account. The Revenue appealed after the Commissioner (Appeals) deleted an assessment treating the settlement as taxable capital gains under Section 45(4).

The reasoning. Section 45(4) requires an actual transfer of capital assets, so monetary payments made to retiring partners are not taxable. Because the firm held its land as stock-in-trade, no capital asset was distributed upon reconstitution.

For your practice. In pre-2021 disputes, counsel can defeat Section 45(4) additions by showing purely monetary retirement settlements without any transfer of capital assets in specie.

The order. The ITAT dismissed the Revenue's appeal, upholding the deletion of the Rs 144.86 crore addition under Section 45(4). The assessee's returned income of nil for assessment year 2019-20 was confirmed without costs.

§ Section 45(4), Income Tax Act, 1961

Dy Commissioner Of Income Tax, ... vs Jairaj Realty Unit 9Llp, Pune

COURT
Income Tax Appellate Tribunal

DECIDED
29.09.2026

CASE NO.
ITA No.713/PUN/2026

BENCH
R. K. Panda, Vinay Bhamore

Also decided today

§ Section 23, Land Acquisition Act, 1894 — SUPREME COURT

Contiguous lands acquired for a unified project require uniform market value across villages

Contiguous lands acquired for a unified project share similar potential and warrant uniform valuation without radial cuts. Severance compensation under Section 23(1) Thirdly must reflect diminution in value of unacquired land rather than acquired parcels.

C.A. No.-003800-003803 - 2026 · 2026 INSC 1068 · 29.09.2026

§ Section 19, Micro, Small and Medium Enterprises Development Act, 2006 — CALCUTTA HC

Challenging an MSME award requires seventy-five percent pre-deposit even for restoration

Pre-deposit of 75% of the award is a mandatory jurisdictional prerequisite to entertain a challenge against an MSME arbitral award. A petition dismissed for default cannot be restored without simultaneous compliance, regardless of grounds for default.

AO-COM/20/2026 · 28.09.2026

§ Section 8(8), Prevention of Money Laundering Act, 2002 — DELHI HC

Homebuyers' association cannot seek restitution of attached assets before framing of charges

Restitution of attached assets is restricted to individual victims suffering direct loss rather than representative welfare bodies. An application for restoring attached property remains premature until the special court formally frames criminal charges.

CRLR - 87/2026 · 2026:DHC:8463 · 29.09.2026

Also decided, continued

§ Section 482, Code of Criminal Procedure, 1973

DELHI HC

Quashing matrimonial cruelty proceedings on compromise requires a formal decree of divorce

Inherent powers cannot be exercised to quash criminal proceedings on compromise where matrimonial status remains legally unresolved. Without a formal decree of divorce, non-compoundable matrimonial offences continue to subsist in law.

CRL.M.C.-2486/2026 · 2026:DHC:8480 · 29.09.2026

§ Section 17, Guardians and Wards Act, 1890

ALLAHABAD HC

Welfare of Child Paramount in Habeas Corpus Custody

Practitioners must now emphasize the child's total welfare over parental rights in habeas corpus custody cases, prepare detailed evidence of financial and residential capacity, and propose structured visitation schedules that balance the child's emotional bonds with both parents.

HABEAS CORPUS WRIT PETITION No. - 779 of 2026 · 28.09.2026

§ Section 65B, Indian Evidence Act, 1872

CALCUTTA HC

Emails Establish Consensus Ad Idem For Specific Performance Without Section 65B Compliance

Lawyers filing specific performance suits can now rely on email/WhatsApp trails to establish consensus ad idem at injunction stage without Section 65B compliance certificates, shifting focus to proving contractual ingredients rather than evidentiary formalities.

FMA/593/2026 · 2026:CHC-AS:1651-DB · 28.09.2026

Also decided, continued

§ Section 17, Protection of Children from Sexual Offences Act, 2012 — HIMACHAL PRADESH HC

Providing accommodation and transport for child sexual abuse constitutes punishable abetment

Facilitating sexual assault of a minor by providing transport and premises constitutes abetment punishable like the principal offence. Post-conviction suspension of sentence cannot be granted absent demonstrable grounds showing a fair chance of acquittal.

CRMP/3054/2025 · 2026:HHC:41999 · 29.09.2026

§ Section 24, Civil Procedure Code, 1908 — ORISSA HC

Transfer Allowed Due to Wife's Inaccessibility, Virtual Appearance Permitted

Practitioners filing transfer petitions under Section 24 CPC should emphasize the petitioner's travel constraints, especially lack of escort and distance, and be prepared to propose virtual appearance safeguards. Courts may impose strict timelines for record transmission and prohibit unnecessary adjournments to ensure expeditious disposal.

TRP(C)/252/2024 · 28.09.2026

§ Section 36B, Central Excise Act, 1944 — CESTAT

Electronic records are inadmissible to sustain duty demands absent strict statutory compliance

Electronic data cannot sustain duty demands absent strict compliance with statutory certification conditions. Unretracted investigative statements and independent records retain probative value to re-determine liability despite denied cross-examination.

Excise Appeal Nos. 41774 and 41775 of 2018 · 29.09.2026

Does requiring magistrates to examine complainants on oath before issuing pre-cognizance notice under Section 223(1) BNSS genuinely safeguard prospective accused persons from vexatious litigation? Or will inserting an adversarial hearing at the threshold overburden subordinate courts with mini-trials before process is even issued?

18 judgments **3** Supreme Court **13** High Courts **2** Tribunals

Every judgment here, analysed in full.

The facts, the reasoning and the precedents each court engaged with.

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