



Analysing the delay in disposing civil suit- insights from Uttarakhand civil courts

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Abstract

The disposal of the civil suits in a prescribed time is one of the most important elements in providing justice to the parties as it is rightly said that “Justice delayed is justice denied” The Judiciary has lacked in maintaining the prescribed time in the disposal of suits as most of the civil suits gets a judgement after a long period. This research paper tries to highlight the reasons for the long duration for the disposal of the civil suits and to understand the changes that are needed for the speedy disposal of that where the problem lies with the party or in the procedure followed by the court.

Keywords: Delay, pretrial stage, court, pending cases

Introduction

The timely disposal of civil suits is fundamental to ensuring that justice is served fairly and efficiently. However, in many jurisdictions significant delays in the resolution of civil cases have become a pervasive issue, undermining the effectiveness of the legal system, and eroding public trust in judicial institutions.

The disposal of the suit is necessary for the justice and the efficiency of the Judiciary depends upon the serving of justice in a timely manner. The speedy disposal of Court business is a matter which requires the earnest attention of every judicial officer. Delays of law are notorious in this country, and tardy justice is often no better than injustice. Despite various reforms aimed at reducing case backlogs and expediting proceedings, delays in civil suits remain a persistent problem, leading to prolonged uncertainty for litigants and increasing the costs of legal proceedings.

The objectives of this research paper are-

1. To understand the procedure followed by the court in the civil matters with respect to the time limits
2. To understand the reasons for the delay in the disposal of the cases
3. To understand the solutions by which the delay can be prevented.

Literature Review

1. Ghai (2017) in her paper on judicial reforms in India emphasizes the urgent need to streamline case management processes, focusing on improving administrative efficiency in courts. She argues that procedural rigidity, combined with insufficient resources in the judiciary, leads to backlog, making timely disposal of cases impossible. Judicial bottlenecks—such as inadequate staffing, delays in filing, and slow-paced hearings—are often blamed for the backlog in civil cases.
2. Liberal (2011) argues that while the Indian judiciary has formal rules designed to expedite the trial process, the lack of effective implementation and judicial indifference often causes significant delays. Courts also lack adequate infrastructure to manage the increasing number of cases, contributing to slow disposal times.
3. Rathore (2019) delves into how litigants may strategically delay proceedings by filing unnecessary

adjournments or using stalling tactics during the litigation process. This behaviour, coupled with a backlog of cases, is identified as one of the primary obstacles to timely justice. In many cases, parties in dispute may delay hearings to extend the litigation, particularly in commercial or family law matters.

Hypothesis

The delay in the disposal of the civil suit is due to the non-adherence of the procedure in an effective way by the parties.

Research Questions

- A. What is the civil procedure followed by the court in the disposal of suits in respect of the time limit at various stages.
- B. What are the reasons for the delay in the disposal of the suits.
- C. What are the workable solutions which will help in the speedy trial of the suit.

Disposal of pending cases in courts is within the domain of the judiciary. No time frame has been prescribed for disposal of various kinds of cases by the respective courts. Government has no role in disposal of cases in courts. Timely disposal of cases in courts depends on several factors which, inter-alia, include availability of adequate number of judges and judicial officers, supporting court staff and physical infrastructure, complexity of facts involved, nature of evidence, co-operation of stake holders viz. bar, investigation agencies, witnesses and litigants and proper application of rules and procedures. There are several factors which may lead to delay in disposal of cases. These, inter-alia, include vacancies of judges, frequent adjournments, and lack of adequate arrangement to monitor, track and bunch cases for hearing. The Central Government is fully committed to speedy disposal of cases in accordance with Article 21 of the Constitution and reducing pendency. The Government has taken several initiatives to provide an ecosystem for faster disposal of cases by the judiciary. “Substantive law is that which we enforce while procedure deals with the rules by which we enforce.”^[1] Hon’ble the Apex Court in *Sushil Kumar Singh Vs. State of Bihar*,^[2] The mortality of justice at hands of law

troubles a Judge consigns and point an angry interrogation at the law reformer. The processual law so dominates in certain system as to overpower substantive rights and substantial justice. The humanist rule that procedure should be handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be inequitable. Justice is the goal of jurisprudence-processual, as much as substantive.

In *State of Punjab Vs. Shamlal Murari*,^[3] Hon'ble the Apex Court stated – Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a restraint in the administration of justice.

There have been incentives for wrongful litigation but if the court and the judges venture to strictly apply some of the provisions of the CPC intended to curb the misuse of the process of the court, the result would be entirely different. For example, the provisions regarding first hearing are not applied in actual practice. If the Court direct each party to give full details of his claim to title and-possession as required under O10 CPC together with discovery, production and admission/denial-of all document (Order 11 and 12) and then pending trial, call for security for costs and ultimately while deciding the matter not miss out on the mesne profits, costs and penalties (Sections 34,35 CPC), including a prison term to one who resorted to a false suit on the basis of a false affidavit or forged document (s/340Cr.P.C) the unscrupulous litigation to a large extent will be checked.

Hon'ble The Apex Court in *Morgan Stanley Mutual fund Vs Kartik Das*^[4] held that there is an increasing tendency on the part of the litigants to indulge in speculative and vexatious litigation and adventurism which the court seems readily to oblige. We think such a tendency should be curbed.

Pretrial Stage

▪ Admission of suit

Section 26 and O4 R 1 of CPC are relevant provisions regarding institution of suits on presentation of plaint. The stage of issuing of summons to the defendants does not use the term admission. It merely says that when a suit has been duly instituted, a summon may be issued to the Defendant to appear and answer the claim and to file written statement of his defence within 30 days. What is institution is given in O4 R1 according to which a plaint is instituted on presentation with duplicate copy and the plaint should comply with the rules contained in order 6 and 7. It has been held in AIR 1989 SC 2259 that the date of institution of the proceeding is the day on which an action in the court commences, on the filing of a claim in accordance with the prescribed procedure before the authorities empowered to receive it and not on the day when the court takes up the plaint for consideration and applies its mind to the merits of the matter. The provision simply mandates that when a plaint is presented complying with the provision of O6 and O7 the suit shall be deemed to be instituted. What are the things that needs to be checked by the court concerned at this stage has been laid down in O6 and 7 which are as under^[5].

1. Pleading should be signed and verified by the parties O6 R14, 14A & 15
2. Facts alleged in the plaint is supported by affidavit sworn by the parties or recognized agent.

3. Documents referred to in the plaint are filed along with the pleadings in original O7 R14. If it is not filed at this stage it can not be admitted in evidence without the leave of court.

4. The pleading discloses a cause of action which is not barred by any law. If the suit is barred by limitation or it does not disclose any cause of action the plaint can be rejected. Where the suit is barred by limitation it is not curable by application of Section 5 of the Limitation Act.

There is a legal duty under Section 3 of the Limitation Act to see whether the plaint has been presented in time or not.

5. The court shall satisfy itself on the question of Jurisdiction. ---If the plaintiff relies on the defendant's residence or place of business as giving jurisdiction, the facts showing this must be stated in the body of the plaint. These time limits are not adhered to by the parties leaving in the delay of the disposal of the suits^[6].

1.O 7 R 9- Requisites for issuance of summons, to be filed within seven days of date of order of filing requisites.

2. O8 R1 – Written statement to be filed within 30 days and can be extended by further 60 days for reasons to be recorded in writing. Section 148 CPC provides for further enlargement of time of not more than 30 days.

Hon'ble The Supreme Court in *Kailash Vs Nankhu*^[7] held that though O8 R1 is directory but may not be understood as nullifying the entire force and impact, the entire life and vigor of the provision in its amended form. Extension should not be granted as a matter of routine it can be granted only by way of exception and for reasons assigned by the defendant and recorded in writing by the court to its satisfaction, how so over brief they might be. Court must spell out the reason for departure from the time schedule was because the circumstances were exceptional, occasioned by reasons beyond control of defendant and the extension was required in the interest of justice.

Time for Filing Written Statement, Default and Consequences

Order 8 Rule 1 prescribes a 30-day time from the date of service of summons to present a written statement. The proviso provides that the court may extend the time of filing of the written statement beyond 30 days for reasons to be recorded in writing, but it will not be later than 90days. Rule 10 provides for the consequences upon default in filing the written statement within time.

Hon'ble the Supreme Court in *Kailash Vs. Nankhu*^[8] observed as under:

“The extension of time shall be only by way of exception and reasons to be recorded in writing, howsoever brief they may be, by the court. In no case the defendant shall be permitted to seek extension of time when the court is satisfied that a case of laxity or gross negligence on the part of the defendant or his counsel. The court may impose cost for dual purpose (1) to deter the defendant from seeking any extension of time just for the asking, (2) to compensate the plaintiff for the delay and inconvenience caused to him”.

Hon'ble Jharkhand High Court in *Shibu Sahu Vs. Lacchan Devi*^[9], held that where there is delay in filing the written statement and reasonable explanation was given by defendant for causing the delay in filing the written statement, it was held that the filing of written statement

ought to have been allowed by trial court by imposing some cost upon defendant in the interest of justice.

In *Salem Bar Association Vs. Union of India* ^[10] a three Judge bench of the Supreme Court explained the object behind the amendment of Order 8 Rule 1 and the way it is to be construed. It has been held that the use of the word 'shall' in the provision by itself is not conclusive to determine whether the provision is mandatory or directory. The object which is required to be served by this provision and its design and context in which it is enacted must be ascertained. The rule in question has advanced the cause of justice and not to defeat it. On the failure of the defendant to file written statement the court has been given discretion to pronounce judgment or make such other orders in relation to the suit as it thinks fit under Order 8 Rule 10. With regard to the default judgment as contemplated under Order 8 Rule 10 the Supreme Court observed in *Modula India Vs. Kamakshya Singh Dev* ^[11], observed: These rules are only permissive in nature. They enable the court in an appropriate case to pronounce a decree straight way based on the plaint and averment contained therein. Though the present language of Rule 10 says that the court 'shall' pronounce judgment against him, it is obvious from the language of the rule that there is still an option with the court either to pronounce judgment on the basis of the plaint against the defendant or to make such other appropriate order as the court may think fit. Therefore, there is nothing in these rules which makes it mandatory for the court to pass a decree in favour of the plaintiff straight way because a written statement has not been filed.

Causes for Delay

As a result of annual inspections, it has been found that the delay in the disposal of cases is due to the following errors:

1. Orders for the issue of notice to parties and summonses to witnesses are given without specifying the date by which process-fees must be paid into Court. Two days should be the usual time allowed.
2. On failure of service, orders for the issue of fresh process are given without ascertaining the cause of the failure of the service and fixing the responsibility, therefore.
3. Documents, instead of being accepted either with the plaint or at the first hearing, are accepted at every stage of the case.
4. Applications for the issue of interrogatories, which should be accepted at the earliest stage of the case only, are accepted at a late stage.
5. Witnesses, who are present in Court are often sent away un-examined on all kinds of inadequate pretexts.
6. Cases are not proceeded with from day to day, and evidence is taken in dribbles.
7. Adjournments are granted for the preparation of arguments at all stages even in the matter of interlocutory orders.
8. Un-necessary long adjournments are granted, when adjournments are unavoidable.
9. Suits are dismissed or restored without adequate reasons. Orders are written by the Reader instead of the Presiding Officer. Personal attention is not paid to service of processes.
10. The adjournment on insufficient grounds on cases which have already become old.

11. Fixing many cases for a particular day and then postponing some of them for want of time.
12. Delay in the disposal of appeals against preliminary decrees, etc.

Findings

1. The delay in the execution of a civil suit is mostly observed in a frequent manner.
2. The delay in the disposal of the civil suit is mostly at the pretrial stage rather than at the stage of trial.
3. The main causes of delay in the pretrial stage are the following:
 - Delay in summons and process service
 - Incomplete paperwork of the parties
4. The delay also takes place at the trial stage and that is due to the following reasons:
 - Frequent adjournments
 - Overburdened Judiciary
 - Nonappearance of witnesses or parties.
5. The sample believes that the parties are one of the major reasons for the delay in the disposal of the civil suits.
6. The filing of the frivolous applications and non-cooperation in proving evidence are the major practices that are used by the parties or their pleaders to delay the suit.

Conclusion and Recommendations

The court shall take into consideration the following recommendations:

- All district and taluka-level courts must ensure the timely and proper execution of summons, with monitoring by Principal District Judges.
- Use of technology like e-platforms.
- Expedient timelines at pretrial and trial stages.
- Written statements should be filed within the prescribed limit, preferably within 30 days, and courts must provide written reasons if extending the time limit beyond 30 days.
- After the completion of pleadings, parties should be called upon to appear on a designated day for the recording of admissions and denials. The court should also encourage parties to opt for alternative dispute resolution methods outside the court.
- If parties do not choose an alternative dispute resolution, the court should frame the issues for determination within one week, preferably in an open court.
- Trial dates should be set, and trials should proceed as much as possible on a day-to-day basis.
- Trial judges should maintain a diary to ensure that only a manageable number of cases are handled each day to prevent overcrowding and adjournments.
- Courts should enforce the provisions for the payment of costs to discourage adjournments and compensate the opposing party when adjournments are granted.
- Every presiding officer should send statistics on cases pending for over five years to the Principal District Judge once a month. These statistics should be collated and forwarded to the review committee established by the respective High Courts.

- The committees constituted by the Chief Justices of the respective states should meet at least once every two months. They should prescribe corrective measures as needed and maintain constant monitoring of old cases, especially those pending for more than five years.

It is found that delay is a curse in our civil litigation. Every year many suits are instituted in the Civil Courts of Uttarakhand and only a few suits are disposed of. On the other hand, the amount of judges in the Civil Courts is very few. The court remains vacant for a long time. Our litigants are poor. The administration of justice must feel for them and come forward to do the sacred duty of meting out justice to all without any delay.

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