

Reference can be made to the observation made by Supreme Court in *Kailash v. Nanhku* 2005(4) SCC 480, wherein it has been held as under:-

“All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the Statute, the provisions of the [CPC](#) or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice. The observations made by Krishna Iyer, J. in *Sushil Kumar Sen v. State of Bihar* (1975) 1 SCC 774, are pertinent:-

“The mortality of justice at the hands of law troubles a Judge’s conscience and points an angry interrogation at the law reformer.

The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the 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 wholly inequitable. Justice is the goal of jurisprudence – processual, as much as substantive.”

In *State of Punjab and another v. Shamlal Murari* (1976) 1 SCC 719, the Court approved in no unmistakable terms the approach of moderating into wholesome directions what is regarded as mandatory on the principle that :

“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 resistant in the administration of justice.”

In *Ghanshyam Dass v. Dominion of India* (1984) 3 SCC 46, the Court reiterated the need for interpreting a part of the adjective law dealing with procedure alone in such a manner as to sub-serve and advance the cause of justice rather than to defeat it as all the laws of procedure are based on this principle.

The aforesaid view has further been reiterated by the Apex Court in *Rani Kusum v. Kanchan Devi* 2005 (6) SCC 705.”