

Para 277: Imposition of heavy costs is the only medium to send a glaring message to restrict the unscrupulous and frivolous litigants from wasting valuable judicial time for wrongful gains. ***Actual realistic costs should be imposed as a matter of practice to discourage such frivolous litigation.***

Para 278: The importance of imposing costs on those unscrupulous litigants who seek equity with unclean hands and engage in frivolous litigation has been dealt with in several pronouncements of the Supreme Court (Ref: (2012) 6 SCC 460 – Padmawati v. Harijan Sewak Sangh; (2011) 8 SCC 249 – Ramrameshwari Devi v. Nirmala Devi; and (2012) 5 SCC 370 – Maria Margarida Sequeira Fernandes v. Erasmo Jack De Sequiera). ***It was mandated that costs must be awarded to discourage the dishonest and unscrupulous litigants from abusing the judicial system.*** It was observed that, the court was recommending imposition of costs “not out of anguish”, but following the fundamental principle that “***wrongdoers should not get benefit out of frivolous litigation***”.

Para 279. In Ramrameshwari Devi on the aspect of awarding costs to disincentivize such unscrupulous litigants from wasting the scarce judicial time, the Supreme Court noted thus:

“43. ... We are clearly of the view that unless we ensure that wrongdoers are denied profit or undue benefit from the frivolous litigation, it would be difficult to control frivolous and uncalled for litigations. ***In order to curb uncalled for and frivolous litigation, the courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that court's otherwise scarce and valuable time is consumed or more appropriately, wasted in a large number of uncalled for cases.***”

Para 280: The object of imposition of costs is that it should act as a deterrent to frivolous litigation and when a party is sued without cause, costs should invariably follow. ***They should be in the nature of incidental damages allowed to a party for successfully vindicating their rights in court and the party to blame shall pay costs to the party without fault.*** (Ref: ILR (1921) 48 Cal 427 – Manindra Chandra Nandi v. Aswini Kumar Acharjya and (2010) 8 SCC 1 – Vinod Seth v. Devinder Bajaj)

Para 282: This court has also noted the ***huge strain caused by unnecessary and dishonest litigation on the limited judicial resources, which it is compelled to spread unnecessarily and valuable time thereon.*** (Ref: 138 (2007) DCT 62, Goyal MG Gases Pvt. Ltd. v. Air Liquid Deutschland GmbH and ILR (2012) IV DEL 110, Punjab National Bank v. Virendra Prakash.)

Para 283: In Ashok Kumar Mittal v. Ram Kumar Gupta, (2009) 2 SCC 656, expounding on the object and scope of the jurisdiction to impose costs, the ***Supreme Court emphasized that a more realistic approach relating to costs needs to be adopted to act as a deterrent to vexatious litigation.*** It observed thus:

“9. ***The present system of levying meagre costs in civil matters (or no costs in some matters), no doubt, is wholly unsatisfactory and does not act as a deterrent to vexatious or luxury litigation borne out of ego or greed, or resorted to as a***

“buying-time” tactic. More realistic approach relating to costs may be the need of the hour.”

Para 284: On the aspect of what should constitute costs and quantum thereof, in the pronouncement reported at (2005) 6 SCC 344 Salem Advocate Bar Association v. Union of India, ***the Supreme Court observed that costs awarded should be the actual realistic costs including the cost of the time spent by the successful party, the transportation and lodging, if any, or any other incidental costs besides the payment of the court fee, lawyer's fee, typing and other costs in relation to the litigation.*** It was also articulated that these ‘actual realistic costs’ should be realistic and nominal.

Para 296. It is also necessary to advert to the power of the court under Section 151 of the CPC. This statutory provision specifically states that ***“Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court”***. ... Section 151 therefore, enables a court to pass orders as may be necessary for the ends of justice, or to “prevent abuse of process of the court” which is beyond the “false and vexatious” litigation covered under Section 35A and are wide enough to enable the court to pass orders for full restitution. It is trite that an order imposing reasonable and realistic costs is necessary to do the right and undo the wrong by an unscrupulous litigant in the course of administration of justice. ***This court, constituted for the purpose of doing justice,* must be deemed to possess the power to pass an order necessary to prevent the abuse of the process of the court*** in exercise of its appellate jurisdiction under the Delhi High Court Act and the Code of Civil Procedure

Para 297: The instant case manifests abuse of judicial process of the worst kind. ***Filing of frivolous application, adopting dilatory tactics by taking adjournments time and again, pleading contradictory stands before this court, non-payment of costs imposed and pressing pleas contrary to settled legal positions tantamount to the grossest abuse of the judicial process. More so, the entirety of this litigation is misconceived and without any merit.*** It has had the effect of entangling valuable rights of the defendants in this legal tussle.

Kusum Kumria V/s Pharma Venture (India) Pvt. Ltd., **2015 SCC OnLine Del 13042**