

Rajasthan State Judicial Academy, Jodhpur
WORKSHOP / SEMINAR AT DISTRICT HEADQUARTERS
for Third Block, 2011-12 (January, 2012 to March, 2012)

Topic (1):

Procedure when the right to sue survives and the interest is devolved upon legal representative, assignee etc.

Amended General Instructions

Besides overall general discussions, the deliberations to cover the following points:

1. Scope and application of Order 22 CPC.
2. Co-relation of substitution of Legal Representatives under Order 22 CPC and addition of parties under Order 1 Rule 10(2) CPC.
3. Duty of Pleader to inform the Court about the death of party and effect of non-compliance of Rule 10 A of Order 22 CPC.
4. Connotations of the expressions "Legal Representatives" and "Legal Heirs".
5. Effect of non joinder of all Legal Representatives.
6. Defences/ pleas available to Legal Representatives of deceased defendant.
7. The rule "*Actio personalis moritur cum persona*" & its exceptions.
8. Principles regarding substitution of Legal Representatives in the following cases:
 - (a) Co-plaintiff dies in a suit for redemption of mortgage.
 - (b) Plaintiff dies after passing of preliminary decree but before final decree.
 - (c) Execution proceedings under CPC.
 - (d) Defendant dies before service of summons.
9. Meaning and import of expression "abatement"; the principles for setting aside abatement.

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Topic (2):

General provisions of enquiry and trial (Chapter XXIV Cr.P.C.) with special reference to double jeopardy; summoning a witness u/s 311 Cr.P.C.; the provisions regarding oral/ written arguments; and the power to proceed against other person u/s 319 Cr.P.C..

General Instructions

Besides overall general discussions, the deliberations to cover the following points:

1. Meaning and application of "*Autrefois acquit*" and "*Autrefois convict*".
2. Scope and applications of Section 300 Cr.P.C. in regard to:
 - (i) Second or subsequent complaint on same facts and against same accused in case of rejection of first complaint.
 - (ii) Continuing offence.
 - (iii) Lesser offence and grave offence.
3. Meaning and scope of term "any court" and "at any stage" in section 311 Cr.P.C.
4. Rights available to the prosecution and to the accused in regard to the witnesses summoned by the Court *suo motu*.
5. Stage and mode of advancing arguments.
6. Meaning and scope of the following terms used in Section 319 Cr.P.C.:
 - (i) "it appears from the evidence"
 - (ii) "the witnesses re-heard".
7. Difference in scope of appreciation of evidence at different stages in a criminal case viz.,
 - (i) The stage of taking cognizance;
 - (ii) The stage of framing of charge;
 - (iii) The stage of proceeding against other person under Section 319 Cr.P.C.
8. Applicability of Section 319 Cr.P.C. wherein prosecution sanction is necessary.