



FACULTY OF JURIDICAL SCIENCES

COURSE: LLM TWO YEARS Constitutional & Administrative Group /Criminal group/ corporate & business group

Semester-II

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Lecture-28



Jurisdiction of Gram Nyayalaya.

The Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act. And act according to the Code of Criminal Procedure, 1973 or the Code of Civil Procedure, 1908 or any other law for the time being in force. The Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall-
try all offences specified in Part I of the First Schedule; and

try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

Civil jurisdiction.

The Gram Nyayalaya shall have jurisdiction to according to provisions contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, and shall

Try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule;

Try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of section 14 and by the State Government under sub-section (3) of the said section. (2) The pecuniary limits of the Gram Nyayalaya shall be such as may be specified by the High Court, in consultation with the State Government, by notification, from time to time.

Civil Disputes :

Disputes arising out of implementation of agrarian reform and allied statutes

Tenancies -protected and concealed and contested.

Boundary disputes and encroachment.

Right to purchase.

Use of common pasture.

Entries in revenue records.

Regulation and timing of taking water from irrigation channel.

Disputes as to assessment.

Property Disputes:

Village and farm houses (possession).

Easements : Right of way for man, cart and cattle to fields and courtyards.

Water channels.

Right to draw water from a well or tubewell

Family Disputes:

Marriage.

Divorce.

Custody of children.

Inheritance and succession — share in property.

Maintenance.

Other Disputes:

Non-payment of wages and violation of Minimum Wages Act.

Money suits either arising from trade transaction or money lending.

Disputes arising out of partnership in cultivation of land.

Disputes as to use of forest produce by local inhabitants.

Complaints of harassment against local officials belonging to police, revenue, forest, medical and transport departments.

Disputes arising under the Bonded Labour System (Abolition) Act, 1976 and the Protection of Civil Rights Act, 1955.

The Gram Nyayalaya must have jurisdiction to try all offences which can be tried under the Code of Criminal Procedure, 1973, by the Judicial Magistrate First Class.

Though undoubtedly, the Family Courts Act, 1984 has been enacted and brought into operation, since custody of children has a distinct local flavour, the Gram Nyayalaya must have jurisdiction to deal with matrimonial disputes arising in rural areas.

The Gram Nyayalaya would be a body for administration of justice, and a legislation for the same would squarely fall under Entry 11-A of the Concurrent List.

At the end of the trial, if the decision is not by consensus between the parties, the Presiding Judge shall draw a brief statement of the dispute, the evidence led, the decision and the reasons in support of the decision. It shall be signed by all the three Judges. In the event of a difference of opinion, the decision of the majority will be binding. On a question of law, the view expressed by the Presiding Judge shall be binding on the lay Judges.

If the Gram Nyayalaya finds that it has no jurisdiction, it may make over the case to the District Court having jurisdiction for transfer of the case to the Court having jurisdiction.

As a first step, it is advisable to retain the procedure prescribed in the Code of Criminal Procedure, 1973 for trial of offences before the Gram Nyayalaya. An attempt, however, should be made to devise a still simpler procedure which may stand the test of Article 21 of the Constitution. The Evidence Act as such stricto sensu would not apply.

The parties appearing before the Gram Nyayalaya will be entitled to appear through lawyers of their desire both in civil and criminal proceedings. But the Gram Nyayalaya shall not adjourn the case, or change the venue, to accommodate the lawyer. The proposed National Legal Services Act should assign two lawyers to be attached to each Gram Nyayalaya who would be independent of party influence and who would assist as court officers in disposal of the disputes, and also would be readily available to the parties if they so desire.

The Gram Nyayalaya will have power to:

Enforce the attendance of any person and examine him on oath;

Compel the production of documents and material objects;

Issue commissions for the examination of witnesses or if the witness is unable to appear before it on account of physical incapacity; and

Do such other things as may be prescribed.

The proceedings before the Gram Nyayalaya shall be conducted in the State language permitting the dialect of the locality to be used. Records shall be maintained in the State language and copies shall be furnished to those who desire the same. The decision shall be, if not by consent of the parties, recorded in the language of the court. No court fee shall be levied in the proceedings before the Gram Nyayalaya.

No appeal would lie against any decision of the Gram Nyayalaya except the one in which at the end of a criminal trial a substantive sentence is imposed. A revision petition would lie to the District Court of the district in which the Gram Nyayalaya is functioning. Only errors of law can be corrected by this revisional forum. Even if it comes to the decision that another view is possible, it would have no jurisdiction to interfere with the decision of the Gram Nyayalaya. A decision by peers should not be interfered with by a court presided over by a Judge considering the matter from a purely technical legal approach.

An appeal would lie to the Sessions Court against the decision by a Gram Nyayalaya in a criminal case in which a substantive sentence of imprisonment has been imposed. The appeal would be both on questions of fact and of law. The appeal should be dealt with according to the provisions of the Code of Criminal Procedure applicable to the appeals entertained against the decision of

a Judicial Magistrate, First Class. Any other view is likely to infringe Article 21 of the Constitution.

The jurisdiction of the Gram Nyayalaya is exclusive to the extent that in respect of matters covered by the jurisdiction conferred on the Gram Nyayalaya, the jurisdiction of any other court is ousted; such jurisdiction is not optional.

A simple method for execution of its orders must be provided for. The nature of the execution would depend upon the relief granted by the decision of the Gram Nyayalaya. Depending upon the relief granted, the fruits must be made available forthwith or soon thereafter. No prayer for granting interim stay till the party aggrieved by the decision prefers a revision petition should be entertained.

All authorities -revenue, police, forest -- operating at village and Tehsil level should be put under an obligation to assist the Gram Nyayalaya in discharging its functions and performing its duties. Failure on their part shall be treated as misconduct, and a Gram Nyayalaya should be empowered to take effective action against such defaulting authority.

For a uniform pattern of functioning of the Gram Nyayalayas, a simple code may have to be drawn up by the State Government in consultation with the High Court.

A liaison officer with a legal background should be appointed and attached to each Gram Nyayalaya. It shall be his duty to move around the villages regularly and as soon as he comes across violation of individual or group rights, on their behalf, take recourse to the court. A statutory provision shall be made not permitting his locus standi to be questioned by the party against whom the action is commenced.

Every Gram Nyayalaya will be furnished with a copy of a list drawn up by the State Government of non-governmental voluntary organisations operating in rural areas. The Gram Nyayalaya may enlist their help in reconciliation proceedings before resorting to adjudication. The list may also be useful in selecting the panel of lay Judges. This will make the participatory process far more effective.

The treble objects behind devising this new forum for resolution of disputes at grass-level is to provide a participatory system of justice; expeditious disposal of disputes; and justice taken to the doorstep of the people.