



*Spreading Legal and
Economic Awareness*

A Social Initiative by
Charanjeet Chanderpal

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Inside this issue:

The liquor consumption laws on India	1
Can police investigate after long period of time	1
When can police officer conduct search?	2
When persons can claim on one another	2
Transfer of suits from one court to another	3
Laws against killing the unborn child	3
Not the right time to invest in real estate	4

Special points of interest:

- How liquor consumption laws differ with states
- Police can investigate old cases in specific situations
- Police officers can conduct search
- What are interpleader suits?
- When courts transfer cases from one court to another
- Laws against killing the female foetus
- Should one invest in real estate now?

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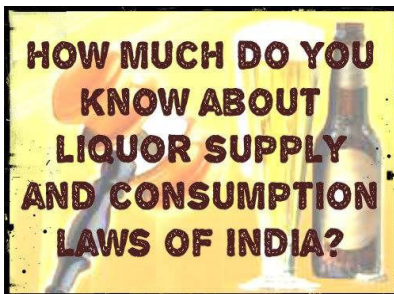
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The Liquor Consumption Laws in India

Liquor sale and consumption is banned in the states of Gujarat, Nagaland, Manipur, and Lakshadweep, while Kerala has imposed ban in a phased manner since August 2014. Ban in Andhra Pradesh and Mizoram has been lifted. Prohibition law administers the consumption and trade of liquor. Liquor trade is always under license of respective states and the state police also has powers along with prohibition officers to administer law and order. Liquor laws are related to culture of individual states and hence it surely a state subject.

Taking an illustration of the Bombay Prohibition Act, which applies to Maharashtra, the prohibition officers have powers of police also. The trade and consumption

is managed by the collector with additional authorities. Licenses to manufacture, sell, serve at hotels, country bars or bars are divided into various categories. The of-



ficers have a right to raid, take periodic stock checks, confiscate fake or spurious stock, prohibit drunken behavior and presence of drunk people in liquor shops and un-licensed premises. They also have power of arrest, penalties, fine. Imprisonment can also be done as in penal laws.

Like in other states there are important days which are declared as dry days when there is no sale of liquor.

Alcohol used for medicine and toiletry is exempted from this law. Sale of 'cheras', 'ganja' and products of 'hemp' are prohibited. It must be kept in mind that one can consume alcohol or liquor in Maharashtra only if one has a permit.

Permits are issued for one day, for a year and for life time. A minor and a person suffering from illness cannot be given a permit. Health permits are also issued for medicinal use.

Liquor shops are permitted to operate till 10.30pm, country liquor bars till 11.30pm and resto bars can serve liquor till 1.30am except during some days when extended time is granted.

Can Police Investigate After Long Period of Time?

The answer lies in section 468 of the Code of Criminal Procedure which states that all offences for which the period of imprisonment is more than 3 years, has no limitation as its

bar. This means that if an offence is punishable for more than 3 years and it has not been investigated, the Police can investigate or a Magistrate can take up the case even after three

years. This means cases of fraud, cheating, murder, rape, etc even if discovered after a period of 3 years can be registered or tried by Criminal Courts.

When Can a Police Officer Conduct Search

The provisions relating to search are written under section 93 and 94 of the Code of Criminal Procedure.

A police officer usually issues a notice to produce a thing or a document or anything which is an object of crime. Such a notice is usually issued in the case of documents and it can take them into custody on possession.

In cases where the accused or the offender is not co-operating, such as those concerning forged documents, obscene publications, copyright violated products including software, counterfeit coins the officer has to apply for a search warrant. For conducting search, the officer can use all necessary force and take all possible help in this regard.

The inventory has to be prepared before witnesses and they are then taken into custody. Strictly speaking, an

officer cannot break locks to open doors. He is required to report to the magistrate, who will order, under section 451 to 454 of the Code of Criminal Procedure, to take it into custody, the premises and then, locks, if necessary can be broken. Breaking of locks is not strictly prohibited in situations where it is absolutely necessary to prevent loss of life and damage to property or in the case of evidence which may remain concealed or may be destroyed.

It may be noted that evidence collected illegally in India-if good evidence is accepted by courts unlike America.

The magistrate can, on his own, order taking into custody of these properties. 'Searching' is a part of the process of investigation and if police does not conduct search where it is necessary, private persons can approach magistrate & take orders on

police for search.

In case where women are to be searched on their bodies, it has to be done by lady police officers and if there are ladies in a premises, usually lady police officers are requested to remain present.

For a search warrant, the magistrate has to be specific in mentioning the premises to be searched and application also has to be made by the police or private person for specific places and objects only. There cannot be a blanket search warrant issued for all the premises without any reason unless there are multiple objects of similar nature in all the premises.

If the head office is in a particular place and crime is registered over there, the magistrate can issue a search warrant to search the object any where in India as the main crime has been registered with him. In such cases issue of jurisdiction is not a bar.

When Persons Claim on one Another-Interpleader Suits

Section 88 - Code of Civil Procedure :Where interpleader suit may be instituted

Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable, or immovable from another person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants

for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself:

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

Though the above is a bare act reproduction of the Code of Civil Procedure, the explanation in simple is

that in case there is a same debt or claim in question and there are more than one persons claiming on the same, the person who is ready to pay or deliver this claim can implement an interpleader suit the competent civil court of jurisdiction and take a direction from that Court as to who shall receive this debt or claim.

This situation can arise in the case of dispute between legal heirs, claimers of prize money, claimers of delivery consignments, award of tenders, etc.

Transfer of Suit from One Court to the Other

Section 24 of the Code of Civil Procedure: General power of transfer and withdrawal

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion-without such notice, the High Court or the District Court may at any stage-

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any court subordinate to it and competent to try or dispose of the same; or

(b) withdraw any suit, appeal or other proceeding in any court subordinate to it; and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-

section (1), the Court which [is thereafter to try or dispose of such suit or proceeding] may, subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred or withdrawn.

There are situations which may arise which may arise where parties or sometimes even the Court may want that a particular suit should be transferred to a particular court. An application in this regard has to be made to the Principal Judge of the City Civil Court or the District Court and in cases of branches of City Civil Court, as per the assignment of the Chief Justice of the State High court, to the Additional Principal Judge of that branch.

If suits arise in the Original Side Jurisdiction of that High Court, then the Chief Justice of that High Court or the Judge assigned the task of the same. It may here be noted that reasons and grounds for transfer can be varied. Please note that this transfer can be done at any stage. Note that in Marimonial Cases like in that of Hindu Law, the transfer can be done by the High Court under the Hindu Marriage Act.

The list of reasons given below is illustrative and not exhaustive:

01. Grounds of Bias.
02. Overloading of work in a particular court,.
03. When two or more suits are there on same cause of action or connected cause of action.
04. When courts are vacant for a long period of time.
05. when a matter is part heard in one case on a very important question of law, and there are a group of suits on the same question of law in same or similar circumstances, then all matters can be decided by the same court.
06. when there are several suits between same parties and it is prudent to place them before one Court only which knows the facts of the entire problem between two parties, like in the case of family disputes, disputes between two rivals, etc.
07. When there are directions from a Higher court in matters of special importance or public interest.
08. such other situations.

Laws Against Killing the Unborn Girl Child

The pre conception and pre natal diagnostic techniques (prohibition of sex selection) act 1994 provides for the prohibition of Misuse for sex determination leading to female foeticide. Techniques such as Amniocentesis and Sonography are useful for the detection of genetic or chromosomal disorders or congenital malformations or sex-linked disorders. Genetic clinics, counselling centres, laboratories, sinologist,etc are prohibited from conducting such tests to determine the sex of an embryo. No infertility clinic, medical genetecist, registered medical practitioner, paediatrician, specialist or registered medical practitioner, or any other person shall conduct or help in conducting by himself or herself or through any other person such tests. If found guilty, the appropriate authority can cancel the registration of such clinic or centre. The medical practitioner can also be suspended for a period of five years. Fine and imprisonment for three years and for repeated offence up to five years are also prescribed. Under this law, advertisements for the above techniques are also not allowed and are punishable.

Chanderlawpal's

300/1&2
Rishabh Apartments
Off SK Bole Road
Dadar West

Phone: 022 2432 8949

Mobile: 9819 657 780

E-mail:

charanchander74@rediffmail.com

*A law and economics knowledge
sharing initiative*

Edited by Harjot Kaur

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Chanderlawpal.com is an online legal advisory portal, for people from all over the world, seeking legal advice on Indian or/and international laws.

This newsletter is an initiative by Advocate Charanjeet Chanderpal for making public aware about the laws that exist in India for protection of common man. Legal jargons and financial language are seldom understood by laymen and this causes public to lose faith in legal and economic (financial) systems.

-An attempt to restore this faith and to help people use the existing machinery to become self reliant.

Not the Right Time to Invest in Real Estate

Investing in real estate would not be a smart move-not atleast now!

1. Real estate prices are rocking high, and it is a near-bubble situation. Large inventory unsold, therefore prices will fall further. Though brokers will tell you that stocks are being sold, but the reality is that whatever is being sold, is being bought by investors and investors are not retail sales. When flats are sold to people who want to use the property, is a real sale.
2. The economy is weak and the retail demand is low. Since builders have unfinished projects on hand, they need funds. Many have already defaulted on debt, they need cash inflows. With no or low demand, builders have nowhere to turn for cash, but potential buyers. And that is the reason why they are coming up with sweet 'dream home' offers and discounts. They do not want the real estate market to correct due

to the notional loss that they would face. Its high time they understand that clutching on to high prices wont pay for long.

3. The strategy is that woo buyers to buy on basis of discounts and 'chocolates' and pump the money into existing projects and complete them. Give possession to existing buyers at the high rates promised at the time of boom, get that money into newer projects promised to you and keep the rates high and not let the markets correct.
4. This situation has risen due to inflation in prices of raw materials, transportation and other out of pocket expenses more than expected, and thus profits have fallen.
5. Do not fall prey to the meagre discounts and offers these days. Even of brokers and builders tell you to buy due to the huge profits they will give you in future, like they

did in the past, the calculations show that properties purchased long time ago has not given profits that are largely over and above what fixed deposits of similar period have given.

6. Beware that history is not the mirror of future. Stock market jumped. Earlier, global markets were strong and foreign investors invested in real estate, thus benefiting local investors too. This time it is not so. World economy is uncertain and thus investors are not putting in money in emerging markets.

Due to all the above facts, real estate prices are bound to fall further if retail investors stop buying at this point. Do not be mundane enough to fall prey to the offers and discounts builders are offering presently. They have huge hidden profits at your cost.