Chapter-2

HISTORICAL BACKGROUND OF JUDICIAL SYSTEM IN INDIA

The present judicial system of India was not a sudden creation. It has been evolved as the result of slow and gradual process and bears the imprint of the different period of Indian history. The period which however, have made the greatest impact on the existing system are those nearest to the present times and it is not surprising that the period preceding and following the down of independence, more particularly that one after the coming into force of the constitution have been the greatest molding factors.

Administration of justice is one of the most essential functions of the state.¹ If men were gods and angels, no law courts would perhaps be necessary though even then the skeptics might refer to the quarrels among gods, particularly in the context of goddesses. As it is, we find that though man may be a little lower than the angels, be has not yet shed off the brute. Not far beneath within the man, there lurks the brute and the brute is apt to break loose on occasions. To curb and control that brute and to prevent degeneration of society into a state of tooth and claw, we need the rule of law. We also need the rule of law for punishing all deviations and lapses from the code of conduct and standard of behavior which the community speaking through its representatives has prescribed as the law of the land. Being human, disputes are bound to arise amongst us. For the settlement of those disputes, we need guidelines in the form of laws and forums to redress the

wrongs in the form of courts. Laws and courts have always gone together. There is a close nexus between them; neither court can exist without the laws or laws without the courts.

The judicial system deals with the administration of the laws through the agency of the courts. The system provides the machinery for the resolving of the disputes on account of which the aggrieved party approaches the courts. Nothing rankles in human heart more than a brooding sense of injustice. No society can allow a situation to grow where the impression prevails of there being no redress for grievances.

A State consists of three organs, the legislature, the executive and the judiciary. The judiciary, it has been said, is the weakest of the three organs. It has neither the power of the purse nor the power of the sword, neither money nor patronage, not even the physical force to enforce its decisions. Despite that, the courts have by and large enjoyed high prestige amongst and commanded respect of the people. This is so because of the moral authority of the courts and the confidence the people have in the role of the courts to do justice between the rich and the poor, the mighty and the weak, the state and the citizen, without fear or favor.

2.1 JUDICIAL SYSTEM IN ANCIENT INDIA

History of our judicial system takes us to the hoary past when Manu and Brihaspati gave us Dharam Shastras, Narada the Smritis, and Kautilya the Arthshastra. A study of these memorable books would reveal that we in ancient India had a fairly well-developed and sophisticated system of administration of justice. In broad outlines there is considerable similarity between the system then in vogue and the system now in force. A civil judicial proceeding in ancient India

\[\text{\textsuperscript{2}}\text{ Ibid., p.72.}\]
as at present commenced ordinarily with the filing of a plaint or what was known as Purva Paksha before a competent authority. A plaint, it was required, must be brief in words, unambiguous and free from confusion. In case of disputes about property, elaborate rules laid down the requirement about giving detailed and full description of the property. Written statements known as Uttara Paksha were required to be filed by the defendants and the rules enjoined that they must not be vague and must meet all the points of the plaint. Normally, parties were required to produce their witnesses. The presence of the witnesses who were far away or would not stir out was secured by the orders of the judge. Different modes of proof for substantiating allegations were prescribed. On the conclusion of the trial, judgment known as Nīrnaya was pronounced and the successful party became entitled to Jayapatra or a document of success. Execution of the decrees could entail imprisonment, sale, fine and demand for additional security. The doctrine of res judicata known as Pran Nyaya was well-known.

In criminal law there was an elaborate classification of offences. Apart from offences like rape, dacoity and the like (which may be called conventional offences), there were other offence like not running to the rescue of another person in distress. Punishment was prescribed for causing damage to trees in city parks, to trees providing shades, to trees bearing flowers and fruits and to trees in holy places.³ It was an offence for a judge to give a wrong decision out of corrupt motive. Perjury by a witness attracted severe penalty. There were six types of punishment, namely, fine, reprimand, torture, imprisonment, death and banishment.

Theft was classified into three kinds according to the value of the thing stolen. There was also a classification of thieves. Some were considered open or

patent thieves and others secret thieves. Open or patent thieves included traders who employed false weights and measures, gamblers, quacks and persons who manufactured counterfeit articles. Secret thieves were those who moved about clandestinely.

Adultery, according to Shastras, consisted of three categories. Flirting about with another man's wife, dallying with her clothes or sending her a pimp, being with her in an unfrequented place, or bathing in her company in the same pool or holding conversation with her, with winks, gallantries and smiles passing on both sides, or at any improper time constituted one of the species of adultery and was punishable ordinarily with small fines only. Sending a woman sandalwood, a string of beads, drinks, clothes or gold or jewels was another species of adultery punishable with larger fines. Sleeping together or delaying upon the same carpet or kissing, caressing, or embracing a woman or carrying her into a retired place with her tacit consent was the third and worst species of adultery, punishable with still larger fines. A mediator or go-between could also be punished with fines; and the woman was not considered exempt from punishment.

Manu prescribed the following oath for parties and witnesses: "Let the Judge cause a Brahmin to swear by his truth or sat, a Kshatriya by his chariot or the animal he rides or by his weapons, a Vaishya by his cattle, grain and gold, and a Shudra by imprecating on his head the guilt of all grievous offences."⁴ If the idea of oath, according to Bentham, is to have a ceremony composed of words and gestures by which the Almighty is engaged eventually to inflict on the taker of the oath punishment in quantity and quality in the event of his doing something which he engages not to do or omitting to do something which he in like manner engages

to do the oath administered in ancient India was perhaps more effective compared to the present lifeless recital of a formula about swearing to speak the truth.

The Tughlaq period saw the compilation of the code of civil procedure. It was called Fiqha-e-Feroze Shahi. The code prescribed details of the procedure and the law in several matters. It was written in Arabic and was translated into Persian under the orders of Feroz Shah Tughlaq. The procedure laid down in this book was followed till the reign of Aurangzeb when it was replaced by Fatawa-i-Alamgiri written in 1670. According to Fatawa-i-Alamgiri, the Qazi first prayed and craved God's help in the administration of justice. He was assisted by Katib. The Qazi was obliged to see that the evidence was correctly recorded. The plaintiff was called the Muddai and the defendant was called Muddaa Allaih. The plaint was called Daawa while the complaint in criminal cases was called Istaghasa. A party could have an agent as vakil or an attorney to represent his case.\(^5\)

The system of administration of justice and laws as we have today is the product of well thought out efforts on the part of the then British Government. No less than four law commissions and other committees were appointed during the years 1834 to 1947 to give shape to the system.

In the matter of succession and other allied matters, the parties were left to be governed by the personal law. Although the impact of the English common law was perceptible in the codified law of India, departure from the common law was also made whenever, it was considered, necessary, to local needs. In answer to the criticism that the present judicial system is unsuited to the Indian conditions and something alien transplanted on the Indian soil, it may be observed, as stated by the Law Commission, that though some of the changes in the early period of

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British rule in India were influenced by the system prevailing in England in those days, the changes did not have the effect of ousting the personal laws. No judicial system in any country is wholly immune from, and unaffected by, outside influences, nor can such outside influence be always looked upon as a bane. The laws of a country do not reside in a sealed book; they grow and develop. The winds of change, and the free flow of ideas, do not pass the law idly by. As has been observed in a report, even in procedural law, which was codified by the foreign rulers in this country, the basic principles of a fair and impartial trial, which were well-known to their predecessors, were adhered to. In the matter of substantive law as well, the British did not wholly bring in the Western concepts. The personal law of the various communities living in this country remained the determining factor in questions like succession, inheritance, marriage, caste, religious institutions, etc. New laws were enacted to provide for matters which were either not fully covered by the indigenous law, or where such laws were not clearly defined and ascertainable, or were otherwise not acceptable to the modern way of thinking. Such outside influences are, however, an integral part of the historical process of development of thought and institutions all over the world, and once the new concepts get assimilated, they cease to be alien in character. Viewed in this light, it seems hardly correct to say that the present judicial system is a foreign transplant on Indian soil, or that it is based on alien concepts unintelligible to our people. The people have become fully accustomed to this system during more than a hundred years of its existence. The procedures and even the technical terms used by the lawyers and the judges are widely understood by the large majority of litigants.6

The judicial system in essence pertains to the courts and the judges, their hierarchy and mode of functioning. By its very nature, it is inextricably connected

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6 Ibid., p.553.
with the rule of law. It tells us as to how justice is administered in the land where it is in force.

Coming to the hierarchy of courts, we find that there are courts at different levels- the trial courts, the courts of appeal and sometimes the courts of second appeal. Even amongst the trial courts, there are different categories. Some cases are dealt with by the munsiffs in some States and by subordinate judges of second or third-class in other States. Suits of higher value are dealt with by subordinate judges or subordinate judges of first class. In some States subordinate judges exercise unlimited jurisdiction in civil suits, while in other States suits of higher valuation are dealt with by district judges or city civil court judges. In certain metropolitan cities, original jurisdiction for trial of suits beyond particular value is vested in the High Court. Apart from the above, jurisdiction is vested in the court of small causes for trial of certain types of cases in which the pecuniary claim is not very high. On the criminal side, most of the cases are tried by the courts of magistrates. Cases involving serious crimes and attracting severer punishment are dealt with by the court of sessions.

Judicial Procedure in Ancient times

In the early Vedic times, we do not find any reference as regards the establishment of judicial procedure. However, the Rigveda gives, for the first time some clue as civil law and it is on this basis that Roth and Zimmer accept the existence of mediator and judge in the early society. Generally justice was administered by the King’s judges. A clear reference to judicial procedure is available from the time of Brahmans. But justice was still to be done with the help of the mediator.\(^7\)

\(^7\) A.S. Altekar, op. cit., p.245.
The republics had their own laws and the Hindu legal authorities recognized the law of the (Kula State) as well as those of the Ganas. In a mixed constitution of aristocracy and democracy, we find the existence of Kulika court. The republics of Ganas had their own system of law which has been highly praised in the Mahabharata. Their courts were well organized. Amongst the Vajjis, there was a board of eight kulikas for the investigation of criminal cases. Appeal proceeded from Kula courts to Gana Courts.⁸

The popular element with regard to the procedure of local courts was that the cultivators, artisans, trade guilds, artists, money-lenders, religious mendicants and even robbers were empowered to resolve their disputes according to the rule of their own profession. Similarly, families, craft guilds and local assemblies were authorized by the king to dispose law suits among their members except such as concerned violent crime.

There are no limits to the jurisdiction of courts in civil matters. They could not, however, try criminal cases of serious nature. Minor offences, including accidental homicides, could however, be disposed by them. As regards the civil procedure, voluntary arbitration appears to be an earlier form of judicial procedure, in which the plaintiff (the Prasnin), the defendant (Abhi-Prasnin) and the arbitrator or judge (Prasna- Viveka) figure. Ordeals were rarely used for deciding civil suits, but their use as an evidence in civil law is proved by the case of Vatsa who demonstrated his purity of descent by walking through fire without sustaining any injury.

Ordinarily, a decision was taken on the strength of evidence both oral and documentary that the party may choose to adduce in support of their respective case. Sometimes it so happened that no evidence was forthcoming and it become very difficult for the judge to ascertain the truth. In such cases religious aid was

⁸ Ibid., p.72.
sought for. The result was that there were two special modes of Trials, namely trial by oath, and trial by ordeals.

2.2 JUDICIAL SYSTEM IN PRESENT INDIA

The judicial system provided by the Constitution of India is comprised the three type of courts. At the top, it is Supreme Court, at middle the High Courts and at bottom the subordinate Courts in addition to the Constitution, there are other laws and rules which direct the composition, power and jurisdiction of these courts. Here discussion is given of all the three types of courts.

2.2.1 The Supreme Court

Chapter IV of Part V of the Constitution provides about the topic. It is the highest court of the land seated at New Delhi, comprised of one Chief Justice twenty other judges. Every judge of the Supreme Court shall be appointed by the President of India. Qualification to be appointed as judge is that he should be citizen of India, should have been Judge of High Court for at least five years or an advocate of High court for at least 10 years or is in the opinion of the President a distinguished jurist. The Judge of Supreme Court holds office up to the age of sixty five years unless he resigns earlier or removed on the ground of proved misbehavior and incapacity. The jurisdiction of Supreme Court is classified as under:

Original jurisdiction\textsuperscript{9}

The Supreme Court has exclusive original jurisdiction to hear dispute between the Centre and the States or the States interest. Also it has original but not

\textsuperscript{9} Article 131, Article 32 of Constitution of India.
exclusive jurisdiction to enforce Fundamental Rights provided under Constitution of India by way of writs.

**Appellate Jurisdiction**

It can hear appeal against the decision of the every High Court on the granting of certificate by the High Court if substantial question as to the interpretation of the Constitution is involved or in a civil case a substantial question of law of general importance involved and the High Court thinks that the question needs the decision of the Supreme Court or in a criminal case is fit one to be heard by the Supreme Court.

The Supreme Court can hear the criminal appeal even without the certificate of High Court against a decision of a High Court in which death sentence has been pronounced after reversing the acquittal order passed by the lower Court or after withdrawal of case from the lower court.

It also enjoy extra ordinary jurisdiction to allow an appeal in any matter against the decision of any court or tribunal by way of special leave petition except the tribunals concerning Armed Forces. The Supreme Court can transfer or withdraw the cases from any High Court. It can review any judgment pronounced or order made by it. The law declared by the Supreme Court is binding on all courts within India. It can make its own rule of government with the approval of the President. It is a Court of record and has power to punish in contempt of it.

**Advisory Jurisdiction**

The Court can report to the President its opinion about a question of public importance referred to it by the President.

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10 Article 132, 133 and 136.
11 Article 143.
2.2.2 The High Courts

Chapter V of part VI of the Constitution contains the provisions regarding the High Court. Which are discussed here in brief?

Establishment

There is to be High Court for each state or one High Court for more than one State. There are the judicial Commissioner Courts in the Union Territories of Manipur, Goa and Tripura. The High Court can be established for Union Territories.

Court of Record

Each High Court is to be a Court of Record having the powers to punish for contempt of itself.

Appointment

The Judges of a High Court are appointed by the President after consulting the Chief Justice of India, the Governor of the concerned and the Chief Justice of the concerned High Court.

Number of Judges

The number of judges of a High Court is fixed by the President from time to time. In this way, flexibility is maintained with respect to the number of Judges in a High Court which can be settled by the Central Executive keeping in view the quantum of work before the Court.

Qualifications

A person to be eligible for appointment as a High Court Judge must be a citizen of India and must either have held a judicial office in India for 10 years or been an Advocate of a High Court for at least ten years.

Tenure

The Judges have a fixed tenure and they retire at the age of sixty two years. They cannot be removed earlier except when the two Houses of Parliament pass
an address on the ground of proved misbehavior or incapacity by a majority of not less than two thirds of the members present and voting.

**Salary**

The salaries of the Judges have been prescribed in the Second Schedule to the Constitution and so cannot be varied without a constitutional amendment. The expenses of a High Court are charged upon the consolidated fund of the State.

**Conduct Discussion**

The conduct of a High Court Judge in the discharge of his duties cannot be discussed in any legislature, Central or States except on a motion for his removal as mentioned above.

**Concerning Revenue**

The antiquated restriction which had been in force since 1915 on the original jurisdiction of the High Courts of Calcutta, Madras and Bombay on their taking cognizance of revenue matters has now been done away with.

**Writ Jurisdiction**

From the point of view of the writ jurisdiction, the High Courts did not enjoy a co-equal status in the pre-constitutional era. No high Court except, the High Courts of Calcutta, Madras and Bombay, had any inherent power to issue the prerogative writs. The three High Courts enjoyed this power as inheritors of the jurisdiction of their predecessors. Now every High Court has power to issue various writs under Article 226 of the Indian Constitution

**Superintendence**

Article 227 which authorize every High Court to have superintendence over all Courts and Tribunals within its territorial jurisdiction.

The High Courts thus occupy high position of respect, dignity and authority in the Judicial System of India.
2.2.3 Subordinate Courts

Chapter VI under Part VI of the Constitution provides the provisions regarding subordinate courts. Below the High Court there is the Court of District Judge which is top court among subordinate courts. The appointment, posting and promotion of District Judge are made by the Governor of the concerned State in consultation with the concerned High Court. As regards eligibility for the post of the District Judge, a person not already in the service of the Union or of the State shall only be eligible to be appointed as District Judge if he has been for not less than seven years an Advocate or a Pleader and is recommended by the concerned High Court.

Appointments of a person other than District Judges to the judicial service of the State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with concerned State Public Service Commission and with concerned High Court.

As regards control over subordinate courts, including the matters of posting, promotion, leave etc., the concerned High court is vested with the power to have control over subordinate courts but the High court is to exercise the control in accordance with the conditions of service under the law applicable in relation to subordinate courts.

The Governor may by public notification direct the application of the provisions of Chapter VI of the Constitution and the rules made there under on any class or classes of magistrates in the concerned State subject to any exception or modification.

2.2.4 Panchayats

Part IV of the Constitution embodies the Directive Principles of State Policy. Under this part, Article 40 lays down that the State shall take steps to organize
village Panchayats and endow them such powers and authority as may be necessary to enable them to function as units of self-government. The Panchayats had been discharging judicial functions since ancient time including during British rule. Panchayats are at lowest rung in our judicial system dealing with petty civil and criminals matters through informal and simple procedure with the endeavor to make conciliation or compromise between the parties under disputes. Different State laws had been enacted concerning Nyaya Panchayats having diversities of provisions therein about its composition and power. The Punjab Gram Panchayat Act 1952 was a State Act. This Act was having two tier systems i.e. at lowest level the Gram Panchayats and at upper level the Block Smiti. The same was applicable in Haryana also. Ultimately, the Gram Panchayat Act 1994 (a Central Act) was passed applicable on entire country. The Act comprised of three tier system viz., at lowest level there is Gram Panchayats, at medium level there is Block Samitis and at upper level Zila Parishad. The limits of wards from minimum to maximum have been prescribed for Zila Parishad as 10-30, for Block Samiti 10-30 and gram panchayat 6-20. Under this Act all these bodies have been granted some judicial powers in petty matters only.

During British Rule separation of judiciary and executive could not be maintained satisfactorily. This separation has been given proper place in Article 50 of the Constitution which read as “The State shall take steps to separate the judiciary from the executive in the public services of the State.” Therefore a cadre of judicial magistrates was created separate from the executive magistrate even their functions were separated. The judicial officers have been put under the control and superintendence of the High Court’s protecting them subordination of the executive authorities. Whereas executive magistrate have been kept under the control of the Executive organ of the Government.
2.3 THE LITIGATION PROCESS

Generally, there are two types of legal cases - civil and criminal. Proceeding of each type of cases is slightly different which can be studied as under:

Civil litigation

Civil litigation is a lawsuit whereby a party seeks damages against another party. The damages can come in the form of money or the modification of some type of conduct. The first stage of civil litigation is the pleading stage. The pleading stage simply refers to the filing of the complaint against the party that is the defendant. The next stage of civil litigation is discovery. Discovery is simply the process of learning what evidence each side has regarding the dispute. Once discovery comes to a close, the defendant will often file something known as a motion for summary judgment. A summary judgment motion is simply an argument by the defendant that the evidence provided by the plaintiff in the case does not support a claim against the defendant. In moving for summary judgment, the court considers the law on the books and the evidence provided by the plaintiff. Assuming the plaintiff survives a motion for summary judgment, the next technical step of a lawsuit is to actually go to trial. Before that happens, however, the parties are usually sent to an arbitration hearing in which a mediator tries to cut a deal between the parties. This process is also known as a settlement conference. If they settlement cannot be reached, the court will then set the matter for trial and off you go. At the end of the day, the average civil lawsuit will take a while to get from filing of the complaint to trial. The exact time is dependent upon the State you live in and how busy the courts are.

Criminal litigation

The criminal justice process typically begins when a police officer places a person under arrest. After a criminal suspect is arrested, the next steps in the case are the processing of the person into police custody and a determination of his or
her eligibility for release from custody in exchange for the posting of a set amount of money (bail). After a criminal defendant is formally charged with a crime (and in the absence of a guilty plea), the case proceeds to the trial phase. After a defendant is convicted or pleads guilty, a judge will decide on the appropriate punishment (or sentence) during the sentencing phase of a criminal case. Sentencing for criminal offenses can range from probation and community service to prison and even the death penalty. A person who has been convicted of a crime has a number of options for seeking additional relief from the criminal justice system -- including filing an appeal to have a criminal conviction overturned or sentence reduced.

2.4 ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISMS

It is generally wise at the outset of any litigation proceeding to review the potential and prudence of an out-of-court settlement. Indeed, most matters settle before reaching the trial stage. Settlement can be discussed by any party at any time during litigation and is often a cost-effective alternative to trial. Usually the court does not require the parties to discuss or attempt settlement, but most courts have procedures by which a party can request the court's assistance in settlement.

Alternative Dispute Resolution (ADR) consists of several techniques being utilized to resolve disputes involving a structural process with third-party intervention. ADR system avoids the rigidity and inflexibility of traditional and orthodox procedures. It is not to supplement traditional method of resolving disputes through litigation. In fact, it offers only alternative option to litigation.¹² Mainly there are following commonly practiced alternative dispute resolution mechanisms – Arbitration, Mediation, Conciliation, Negotiation and Lok Adalat.

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Arbitration

Arbitration is an adversarial proceeding in which the parties select a neutral third party, called an arbitrator, to resolve their dispute. The process is abbreviated and less formal than trial. Arbitration often arises from private agreement, but many courts also require the parties to smaller disputes to explore arbitration as an option to trial. Parties who agree to settle their dispute using "binding" arbitration usually cannot appeal the arbitrator's ruling to the court.

Mediation

Mediation also involves a neutral third party, but it is the mediator's job to assist the parties' settlement efforts. The parties select the mediator, who meets privately with each party to discuss the strengths and weaknesses of each side's case. The mediator helps the parties identify the risks of the case and encourages them to consider how those risks can affect their goals.

Conciliation

Conciliation is an alternative dispute resolution (ADR) process whereby the parties to a dispute including future interest, disputes agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. They do this by lowering tensions, improving communications, interpreting issues, providing technical assistance, exploring potential solutions and bringing about a negotiated settlement.

Negotiation

Negotiation is a dialogue between two or more people or parties, intended to reach an understanding, resolve point of difference, or gain advantage in outcome of dialogue, to produce an agreement upon courses of action, to bargain.
for individual or collective advantage, to craft outcomes to satisfy various interests of two people/parties involved in negotiation process. Negotiation is a process where each party involved in negotiating tries to gain an advantage for themselves by the end of the process. Negotiation is intended to aim at compromise. Negotiation occurs in business, non-profit organizations, and government branches, legal proceedings, among nations and in personal situations such as marriage, divorce, parenting, and everyday life.

**Lok Adalat**

In the recent times, Lok Adalats had grown well as an alternative dispute resolution mechanism and the system became very popular too. The very expression “Lok Adalat” means “People’s Court”. The system is more based on morality and honesty, the real pillars of our traditional society.

Lok Adalat is not a new concept in our country and the evolution of this system can be traced back even to vedic times. We find a reference to this system in the ancient classics of Koutilya, Gautama, Brihaspati and Yagnavalkya. These were known as Panchayats, Gram Sabhas, Peoples Courts or Popular Courts, Kula Courts or Sreni Courts. Whatever may be the nomenclature of the system, the concept had been and continues to be substantially one and the same. Though during the Muslim regime the traditional system of Lok Adalats were slightly disturbed there was no total destruction of the system. However, the advent of the British rule had totally replaced this system with the present legal system. Under the Lok Adalat programme, the first Lok Adalat was held on 14-3-1982 at Junagadh of Gujarat State.¹³ Lok Nyayalaya was commenced in 1984 in the State of Maharashtra. The first Lok Adalat in Uttar Pradesh was organized in 1984 and in the State of Orissa at Cuttuck on 24-11-1985 and this system had gained very

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good movement in Assam, Kerala, Bihar, Haryana, Delhi, Pondicherry, Mizoram, Meghalaya, Jammu & Kashmir, Punjab, Goa, Sikkim, West Bengal etc. The Legal Services Authorities Act, 1987 can be termed as a composite Act of Legal Aid and Lok Adalat.

The Lok Adalat is based on the principles of honesty, fair play and moral character as embodied in Indian culture and civilization. It endeavours to restore the confidence of a common man in the judicial system and contemplates the justice where strict provisions of Evidence Act, Limitation Act, Criminal Procedure Code an Civil Procedure Code are not rigidly followed and are relaxed whenever necessary in the ends of justice. It hears and settles the disputes in the language of the people in the public presence. Moreover, it earnestly endeavours to invent new prospects for resolution of disputes, which is not possible under the conventional justice delivery system.14

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14 S.D. Sharma, op. cit., p.170.