ABSTRACT

Precedents are one of the most important sources of law along with customs & the legislation. They are the previous judicial dictions upon which the matters in issue before the bench are decided. The researcher has carefully considered the Place of Precedent in The Pre-Independence Era. The Post Independence Indian Legal System has been depicted with illustrative charts. The Role of Precedent has been considered under the Doctrine of Stare Decanis & the Theories of Adjudication are properly discussed at proper place. The researcher has also considered the Constitutional Status of Precedent in India. The Modus Operandi of the Application of Precedent in India is studied by considering the various Arguments against Precedent. The researcher has provided his valuable Recommendations in relation to the status of precedent in Indian Legal System. India became an independent nation on 15-8-1947. The Sup. Co. of India is the highest judicial forum & final Constitution of India Court of Appeal under the , Constitutional Court the highest, the Power of Constitutional Review. The law declared S. C. becomes binding on all Courts within India & thus it is a great Court of Record.

The Thesis analyzes the position of the precedent under the doctrine of Stare Decanis which is a legitimate standard by which judges are committed to regard the point of reference set up by earlier choices. Honest to goodness setting, this is grasped to infer that courts ought to for the most part submit to point of reference & not bother settled matters.

Thesis further analyzes the Constitutional position of precedent in India. He was one of the great Constitutional Expert of the world.

Article 129 & Article 215 are regarded as the important part of the Constitution of India. Recording for them the Sup. Co. of India & the respective Hi. Co.s of the constituent states are the Courts of Record. Their judgments are to be followed in the respective lower courts as the Binding Force of Law.

There are also some arguments against the application of precedent this one. In the common law countries, the courts decide the law applicable to a case by interpreting statutes & applying precedents which record how & why prior matters had been
decided. For example in all the Commonwealth Realms under Her Majesty, all the lower courts must follow the precedents of the Privy Council. In the Civil Law or the hybrid law systems precedent is not binding. Lord Denning, throughout his life & the longest judicial career of the world, struggled hard to curtail importance of precedents & its binding force. It seems that he must have been impressed by the civil law systems. Which gives enormous independence to the judges? There are five kinds of prerogative writs. They are- Writ of Habeas corpus; Writ of Mandamus; Writ of Prohibition; Writ of Certiorari & Writ of the Warrantor.

The Researcher wants to provide the following suggestions-

**Key terms:**

The Constitutional Law of India; Importance & the Meaning of Precedent & the Legal Precedent, the Crown Court, The Privy Council, the Constituent Assembly, The S.C.I as a Court of Record, the Hig. Co.s& the Sub-ordinate Judiciary in India. The Sup. Co. of India & the Enforcement of the Universal Human Rights & the Fundamental Rights including the Six Golden Freedoms; Stare Decanis, Per Curium, Per In curium, Collegiums, Law Lords, Equity, Common Law, Civil Law, Mixed Law, Ratio Decided, Obiter Dicta, History of Law Reporting in the UK & India, All India Reporter, All England Reports, Her Majesty’s Most Honorable Privy Council.