



COURT corridor

Delay in justice delivery

Md. ZAHURUL ISLAM

OWING to the dispensation of judicial justice in the mould of the nineteenth-century as inherited from the British origin, there has been a rising flood of pending cases.

Delay defeats equity. Prolonged delay makes the litigants enormously impatient. The maxim of equity goes to say that justice should not only be done but must be shown to have been done.

Justice delayed is justice denied. As such an implicit model of mechanism must be made to play to resolve the undue delay in the disposal of cases.

Components of delay in the disposal of suits

There are a variety of suits such as civil suits, money suits, mortgage suits being disposed of by the Subordinate Judges and the Assistant Judges.

Petitions for amendment of pleadings by the parties followed by written objections create deadlock in the disposal of suits. Rejection of such petition on grounds of the change of character of the suits by the court lead to the preference of revisional applications in the Hon'ble High Court Division taking a lot of time to be disposed of.

Interlocutory matters like applications for temporary injunction, local inspection, local investigation and appointment of receiver consume much time of the courts.

Sometimes in the suits for partition and recovery of khas possession,

temporary injunctions are unnecessarily sought for owing to ill advice of the lawyers and parties. Such mala fide tendencies require to be discouraged.

Much time is spent in the submission of the reports of local inspections and investigations. Fees of Advocate Commissioners are not alluring.

Augmentation of the survey-passed Commissioners is necessary to facilitate submission of investigation reports.

Training institutions for survey, reported to have been stopped, are required to be established to



increase the number of survey-passed Commissioners.

Dismissal for default followed by miscellaneous cases under order 9 rule 4 and rule 9 of the Code of Civil Procedure for restoration of suits is a regular feature.

Appearance on the date of ex-parte disposal seeking adjournment for filing of written statements and rejection of such petitions for adjourn-

ment is followed by miscellaneous appeal creating deadlock and setting aside of the ex-parte order by the appellate courts in terms of liberal construction enabling opportunity to the other side to contest the original suit consume much time to dispose of the original suit.

Petition for abatement of suits on grounds of non-substitution of the legal heirs of the deceased party results in the filing of miscellaneous cases taking up a lot of time to be disposed of.

In some suits opinion of handwriting expert becomes necessary. Much time is consumed in getting the opinion of the expert in the form of a report.

For protection of the interest of the minors, there is provision for appointment of court guardians on payment of a nominal fees say Taka 50 (fifty).

Interrogatories and discoveries are there to bring down the surprise of trials of the other parties. Interrogatories are not supplied by the parties in time on this or that plea seeking prayer for time.

In the like manner documents are called for from the concerned Registry Office at the prayer of the parties for proof of the genuineness of such documents, but the said offices fail to supply the volume book on the plea that the books are not traceable.

Furthermore, times of the Courts are unnecessarily killed by the filing of multifarious frivolous and vexatious petitions to linger the duration of litigation. Even if these are rejected with grounds, the parties concerned go to the higher courts by filing revisional applications.

Md. Zahurul Islam is a retired District Judge. In the next issue he will trace the reasons of delay in criminal cases, appeals and revisions and will recommend the solutions.

LAW week

Four constitutional issues remain undecided

Four cases relating to constitutional issues have been waiting for a long period for disposal in the Supreme Court. These cases are 13th amendment case, 5th amendment case, 7th amendment case and the case relating to section 54 of the Code of Criminal Procedure.

Reintroduction of Gram Sarker (Village Government)

The Government plans to reintroduce Gram Sarker in 4000 villages of the country. Each ward of a Union Parishad will have a Gram Sarker, according to the proposal of the Ministry of Local Government and Rural Development (LGRD).

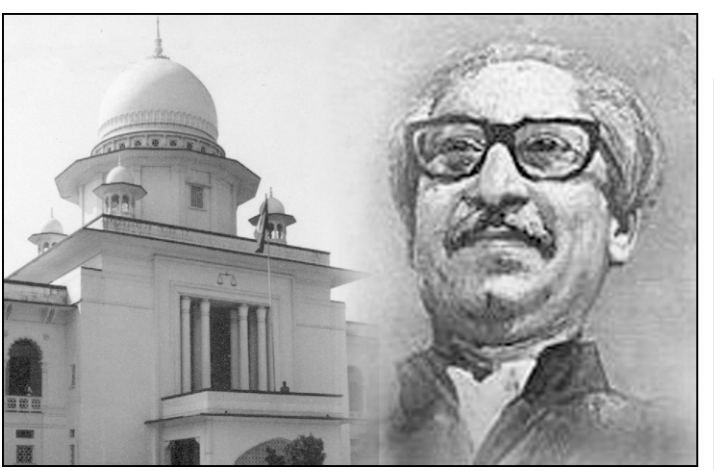
Diverse reaction over increased court fees

Increase of court fees has created mixed reaction among the lawyers. They protested it by abstaining from the court. In the current fiscal year court fees for different cases have been increased.

LAW letter

How long do we have to wait?

The Bangabandhu Murder Case is reportedly waiting for an adhoc justice in the Appellate Division to be disposed of and without it the case is not possible to be heard until 2004 (Daily Bhorer Kagoj, 13 July).



Waiting for justice

Justice in the High Court Division and Justice Md Fazlul Karim was the third Justice who heard the divided judgement of the High Court Division. Three of the seven justices were embarrassed to hear the case.

Simi, Jui and Lopa

Bakhsibazar, Dhaka.

When does a VIP resign?

I thank Mr. Maznu-Nul Huq for his write-up 'Let us learn to "Resign" and say "No" when situation demands' published in the Daily Star on August 4, 2002 in Law & Our Rights section.

guts to "Resign" and say "No" when situation demands'. In the case of our public universities where VCs were appointed by election only, one cannot expect an honest and qualified teacher with strong sense of self-respect and dignity for the post.

Ashraf New DOHS, Mahakhali

LAW lexicon

Act of God Act of God refers to an event which is caused solely by the effect of nature or natural causes and without any interference by human whatsoever.

Alternative dispute resolution Alternative dispute resolution or ADR is a method by which legal conflicts and disputes are resolved privately and other than through litigation in the public courts.

Caveat It is a Latin word meaning "let him beware". It refers to a formal warning. Caveat emptor means let the buyer beware or that the buyers should examine and check for themselves things which they intend to purchase and that they cannot later hold the vendor responsible for the broken condition of the thing bought.

Source: The 'Electric Law Library's Lexicon & Duhaime's Law Dictionary.

LAWSCAPE

A woman was being questioned in a court trial involving slander. "Please repeat the slanderous statements you heard, exactly as you heard them," instructed the lawyer.

The witness hesitated. "But they are unfit for any respectable person to hear," she protested.

A doctor and a lawyer were talking at a party. Their conversation was constantly interrupted by people describing their ailments and asking the doctor for free medical advice.

READER'S queries

Your Advocate



Your advocate is Mr. Probir Neogi of the Supreme Court of Bangladesh. His professional interests include civil law, constitutional law and banking law.

Q: I am a government employee. I joined the Directorate General of Family Planning (DGFP) of Health and Family Welfare (MOHFW) as a Medical Officer (MO) in June 1988.

Your Advocate: I am sorry to say that your statements are neither adequate nor unambiguous enough to enable me to make an effective reply to your query.

Corresponding Law Desk

Please send your mails, queries, and opinions to: post - Law Desk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955, 8124966; fax 8125155, 8126154; email dsllawdesk@yahoo.co.uk; interactive email lawdesk20@hotmail.com

Deterioration of law and order hinders EC visit

A European Commission (EC) diplomat said on 11 August that deterioration of law and order in Bangladesh would remain a bar against getting assistance from the development partners.