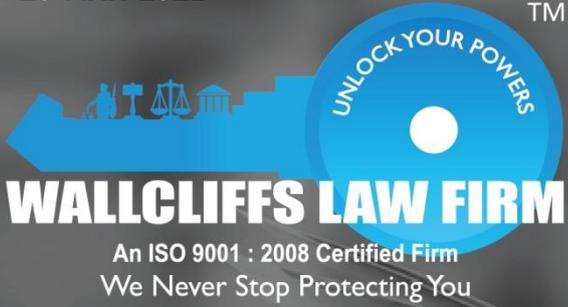


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Hon'ble Supreme Court says that the statement made during the disree/open enquiry at Pre-FIR stage cannot be said to be a statement under Section 160 CrPc and or the statement to be recorded during the course of investigation as per the Code of Criminal Procedure and therefore cannot be used against the accused during the course of trial.

Charansingh V. State of Maharashtra, Cr.A. 363 of 2021.

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Hon'ble Supreme Court says that the adjudicating authority cannot substitute by commercial term of the resolution plan approved by Committee of Creditors. If within its limited jurisdiction, the Adjudication Authority finds any shortcoming in the resolution plan vis-a-vis the specified parameters, it would only sent the resolution plan back to the Committee of Creditors.

Jaye Kensington Boulevard Apartments Welfare Association V. NBCC (India) Ltd., 2021 SCC Online SC 160.

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Hon'ble Supreme Court held that there is no bar to exercise by the Court/Tribunal of its discretion to condone delay under Section 5 of the Limitation Act, in the absence of a formal application. The Court can always insist that an application or an affidavit showing cause for the delay be filed. The Court can always insist that an application or an affidavit showing cause for the delay be filed.

Sesh Nath Singh V. Baidyabati Sheoraphuli Co-operative Bank Ltd., 2021 SCC Online SC 244.

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Hon'ble Supreme Court held that there is no justification for charging compound interest or penal interest during the period of loan moratorium which was allowed by the Reserve Bank of India. The Court says that compound interest is chargeable on wilful or deliberate default by the borrower to pay the due installment have been deferred based on the moratorium declared by the Reserve Bank of India, the non-payment of installments cannot be termed as willful. Therefore, there is no justification in charging compound interest, which is in the nature of penal interest, during the moratorium period.

Small Scale Manufactures Association (Regd) V. Union of India, 2021 SCC Online SC 246.

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Hon'ble Supreme Court held that the potentiality of the acquired land is one of the primary factors to be taken into consideration to determine the market value of the land. The question whether the land has potential value or not primarily depends upon its condition, situation, use to which it is put or its reasonable capability of being put and also its proximity to residential, commercial or industrial areas/institution.

U.P.Awas Evan Vikash Parishad V. Asha Ram (D) Thr. Lrs., CA 337 of 2021.

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Kerala High Court held that a divorced wife would not be entitled to the right of residence conferred under Section 17 of the Protection of Women from Domestic Violence Act. The Court also says that the right is available only to a woman in a domestic relationship. However, the Court says that a divorced wife occupying a shared household can be evicted only in accordance with law.

Mr.Ramachandra Warrior V. Jayasree, Crl.Rev.Pet.No. 3079 of 2009.

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Madras High Court held that no encroachment must be allowed on forest land and directed the Tamilnadu Government to take all steps to ensure that all things necessary for preservation of forest and animals well in place.

Dr. R.Murugavel V. The Principal Secretary to Government of Tamilnadu & Others, W.P.No.2545 of 2021.

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Bombay High Court held that a tender condition disallowing a contractor from participating in the process again, because his work was previously terminated, would not amount to blacklisting and also says that Navi Mumbai Municipal Corporation was entitled to impose such a condition has the “terms of invitation to tender” were not open to judicial scrutiny and the condition is neither illegal nor arbitrary.

BVG India Limited V. State of Maharashtra and others, WP. No. 4046 of 2020.

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Gauhati High Court held that once a Court renders a judgment on the issues viz-a-viz the rights of parties involved in a particular matter, such a judgment can only be revisited by the established judicial norms like review, appeal or revision. A subsequent change in law arrived at by a Court by way of any separate judicial proceeding, wherein the earlier law laid down has been held to be not a good law, will not ipso facto reverse the possession of the party viz-a-viz their rights which were declared and concluded by way of an earlier judicial proceedings.

M/s.Topcem India V. Union of India and Others, WP(C). 2918/2020.

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Calcutta High Court held that there is no bar in Code of Civil Procedure or under the Arbitration Act, 1996 in accepting immovable property as security for stay of decree. While emphasizing that the intention behind seeking security is simply to furnish an effective cushion for the decree-holder in case challenge to the decree fails. The Single Bench also held that case security is not sine-quo-non under the statutes.

Nitu Shaw V. Bharat Hitech (Cements) Pvt Ltd., AP/82 of 2021.

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This write up has been sent to you for information purposes only and is intended merely to highlight recent case laws. The information and/or observations contained in this issue do not constitute legal advice and should not be acted upon in any specific situation without appropriate legal advice. The views expressed in this issue do not necessarily constitute the final opinion of M/s.Wallcliffs Law Firm and should you have any queries in relation to any of the issues set out herein or on other areas of law, please feel free to contact us on mail@wallcliffs.com.



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