

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 6 | Issue 6

---

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Civil Procedure Code: Costs in Civil Suits

---

KANISHKA GUNJIYAL<sup>1</sup>

## ABSTRACT

*The concept of 'costs in civil suits' is like an old wine in a new bottle. Although owing to its contemporary adoption, the term may give an impression of a novel concept, it still retains its connotations to the age-old common law. Costs are statutory allowances paid to the winning party as a reimbursement for their expenditure in the conduction of the suit. This leads us to the question of the significance of the imposition of costs in the Indian context. Why do we need them? The judges have undisputedly an extreme workload of cases, with numerous judgments pending. Hence, imposing costs to civil suits deters the filing of bogus suits and prevents any unnecessary delays in the justice system.*

*In this paper, we will dwell on the provisions of the Civil Procedure Code (CPC), of 1902. Then, we will dwell on the kinds of costs along with their principles. Next, we will look at the problems of the current civil code, with special emphasis on the cost cap of Rs. 3000 as compensation for vexatious suits. We will then swing into the solutions suggested in the 240th Law Commission Report for the imposition of realistic costs for the vexatious suits. Lastly, we will do a comparative analysis by juxtaposing the United Kingdom's Civil Procedure Rule of 1998 with India's Civil Code of 1902.*

**Keywords:** *Costs in Civil Suits, Civil Procedure Code.*

## I. INTRODUCTION

The concept of 'costs in civil suits' is like an old wine in a new bottle. Although owing to its contemporary adoption, the term may give an impression of a novel concept, it still retains its connotations to the age-old common law. Costs as defined in the *Ganesh Das Ram Gopal case*,<sup>2</sup> are statutory allowances paid to the winning party as a reimbursement for their expenditure in the conduction of the suit. It is used as an indemnification of the services deployed by the party for undergoing the court proceedings and defences. This is also emphasized in the case of *Mahindra Chandra Nandi*,<sup>3</sup> where the court viewed costs not through the lens of infliction of a penalty on the losing party, but rather as an indemnification in favour of the winning party.

This leads us to the question of the significance of the imposition of costs in the Indian context. Why do we need them in the first place? This is, however, answered in the Supreme Court case

---

<sup>1</sup> Author is a student at National Law School of India University, Bangalore, India.

<sup>2</sup> *Ganesh Das Ram Gopal v. Munsif*, 1975 SCC OnLine All 293, [11] (in passing).

<sup>3</sup> *Manindra Chandra Nandi v. Aswini Kumar Acharjya* [ILR (1921) 48 Ca. 427] (in passing).

of *Vinod Seth*.<sup>4</sup> The judges in the Indian judicial system have undisputedly an extreme workload of cases, with numerous judgments pending for several years. This is nonetheless exacerbated by the filing of frivolous and vexatious suits by various persons. Hence, imposing costs to civil suits firstly deters the filing of bogus and untrue suits and secondly, prevents any unnecessary delays in the justice system. Thirdly, applying mandatory costs to a suit would incentivise litigants to partake in alternative dispute resolution (ADR) measures rather than running to court with the uprising of any minor inconvenience.<sup>5</sup>

In this paper, we will first dwell on the provisions of the Civil Procedure Code (CPC), of 1902.<sup>6</sup> Then, we will dwell on the kinds of costs along with their principles attached. Next, we will look at the problems of the current civil code, with special emphasis on the cost cap of Rs. 3000 as compensation for vexatious suits. We will then swing into the solutions suggested in the 240<sup>th</sup> Law Commission Report<sup>7</sup> for the imposition of realistic costs for the vexatious suits. Lastly, we will do a comparative analysis by juxtaposing the United Kingdom's Civil Procedure Rule of 1998<sup>8</sup> with India's Civil Procedure Code of 1902.

Herewith, in this paper we will answer the following research questions:

- 1) Whether the imposition of Rs. 3000 as the ceiling cost for vexatious suits reasonable in the present times?
- 2) Whether the court can require the parties to file an undertaking prescribing the amount cost payable by them on losing the suit.
- 3) What are the similarities and differences in the civil procedure code of the United Kingdom and India regarding costs in civil suits?

## II. ANALYSIS

### (A) Kinds of Costs in Indian Civil Suits

In India, the discretion of the amount of costs in civil suits lies with the courts. This discretion, however, should not be based on chance or caprice and should be legally sound. Further, there

---

<sup>4</sup> *Vinod Seth v. Devinder Bajaj and Another* (2010) 8 SCC. (This case dwelled on an agreement of specific performance. The appellant was an estate dealer who had commercially collaborated with the respondents through an oral agreement. However, the respondent did not comply with the agreement and hence, the appellant filed a suit against them. The court owing to the increasing burden of pending cases in the court directed the appellant to agree with an undertaking or an affidavit that, specified the amount he would be bound to pay to the respondent on account of the future possibility of losing the suit. Nonetheless, this case mostly dwelled on the costs payable in civil suits under Section 35 of the Civil Procedure Code and specifies the importance or aim for the imposition of these costs.)

<sup>5</sup> *Id.* at 48.

<sup>6</sup> Civil Procedure Code, 1908, No. 5, Acts of Parliament, 1908 (India).

<sup>7</sup> The 240<sup>th</sup> Law Commission Report.

<sup>8</sup> The Civil Procedure Rule 1998.

are largely four types of costs namely, general costs, miscellaneous costs, compensatory costs, and costs amounting from delays.<sup>9</sup> The provisions in CPC dwelling on these costs are Sec 35,<sup>10</sup> Order 20-A,<sup>11</sup> section 35-A<sup>12</sup> and Section 35-B<sup>13</sup> respectively. Firstly, general costs deal with securing the winning party with the expenses it incurred during the proceedings of the suit. It in no way serves as an enabling mechanism for the parties to make any profits.<sup>14</sup> A principle underlying it is the costs to be as a consequence of the event. This is concretized in the findings of the judgments of *Jugraj Singh v. Jaswant Singh*<sup>15</sup> and *Kali Prasad Singh v. Ram Prasad Singh*<sup>16</sup>. Next, we come across miscellaneous costs which detail various instances during which the courts can award costs to the parties under Order 20-A of the CPC.

The third type of cost is however compensatory costs under Section 35-A of the CPC. These costs are inflicted on suits filed with vexatious motives or those with no grounds. These costs, hence, act as a deterrent for the filing of such suits.<sup>17</sup> However, the maximum award that can be imposed as a cost for this vexatious suit cannot exceed Rs. 3000.<sup>18</sup> We will, however, deliberate on the reasonability of this amount in the upcoming part of the paper. A landmark case which deals with such frivolous and wholly fraudulent litigation is *T. Aravindam v. TV Satyapal*.<sup>19</sup>

---

<sup>9</sup> 8 C.K. Takwani, Civil Procedure with Limitation Act, 1963 404-417 (Eastern Book Company 2020). (The chapter of this book dealt with costs in civil suits. It firstly proposed the general rules of cost and then headed forth to the kinds of costs in civil matters. It first discussed General costs under section 35 CPC and then moved to the principles associated with it. It then dwelled on miscellaneous costs under Order 20-A and then shifted to compensatory costs under Section 35-A. This provided for the object, conditions and maximum amount prescribed in this provision. Lastly, it dealt with the costs arising from delays under Section 35-B of the CPC and used judicial precedents to bolster the same.)

<sup>10</sup> Civil Procedure Code, 1908, § 35, No. 5, Acts of Parliament, 1908 (India).

<sup>11</sup> Civil Procedure Code, 1908, Order 20-A, No. 5, Acts of Parliament, 1908 (India).

<sup>12</sup> Civil Procedure Code, 1908, § 35-A, No. 5, Acts of Parliament, 1908 (India).

<sup>13</sup> Civil Procedure Code, 1908, § 35-B, No. 5, Acts of Parliament, 1908 (India).

<sup>14</sup> *Nandlal Tanti v. Jagdeo Singh*, 1960 SCC OnLine Pat 200 [13]-[19]. (in passing)

<sup>15</sup> *Jugraj Singh v. Jaswant Singh*, (1970) 2 SCC 386 [15]. (This case deals with the fact situation of a mortgagor's son who authorizes power of attorney to sell the property to the respondents. However, the respondents issued a redemption of the mortgage, which upsets the plaintiff. The plaintiff on technical grounds hence, by relying on the Indian Registration Act declares the first attorney power to be unauthenticated and issues another power of attorney claiming the latter to be effective. The court in the final paragraph of the judgment however holds the costs to be in consequence of the event and that it should not be rendered for the parties to be borne themselves. Here, the case was held to be against a party and hence, there should be awarding of costs.)

<sup>16</sup> *Kali Prasad Singh v. Ram Prasad Singh*, (1974) 1 SCC 182 [7]. (Here, the suit was framed by the property dispute between the appellants and the defendants, who were a part of the family. One party however instituted a suit granting all his property as a gift to Kali Prasad, which was later contended by a relative. The matter was however litigated for 17 years before coming to the Supreme Court. The losing party argued that there should be no awarding of costs by the court since they have won and lost in different cases and that there was enough spent by them in the proceedings of litigation. Which the court rejected their argument and reiterated the principle of costs as unavoidable and to be mandatorily paid by the party who loses.)

<sup>17</sup> *Priya Wart B.K.D. Dubaldhan v. State of Haryana*, (1982) 2 SCC 142 (in passing); *S.A. Kini v. Union of India*, 1985 Supp SCC 122 [1], [4], [10] (in passing).

<sup>18</sup> Civil Procedure Code, 1908, § 35-A (3), (4), No. 5, Acts of Parliament, 1908 (India).

<sup>19</sup> *T. Arvindam v. T.N. Satyapal* (1977) 4 SCC 467. (This case dwells on a decree that evicted the tenants and gave them a period of 6 months to vacate the premises. The landlord, however, tried the execution of the decree but the tenant's son kept on filing frivolous and baseless suits for preventing the execution. The contestation of the suit hence, continued for several years, until the Supreme Court decreed them as frivolous in nature. The said

This 1977 judgment dwelled upon an eviction of a tenant against whom a decree to vacate within six months had already passed. However, the tenant's son to prevent its execution, formulated suits of a vexatious nature. These lasted for several years until the Supreme Court dismissed them under Section 35-A CPC as groundless. It is further the judgment of *Ganesh Das*<sup>20</sup> which defined the word vexatious and frivolous. The court, in this case, equates vexatious as an intention to harass, and frivolous as something with no reasoning or correlation within fact or law.

At last, we have the costs birthing out of delay tactics devised by the parties for postponing execution.<sup>21</sup> These costs are, however, also of compensatory nature that is vital for reimbursing the deployment of judicial infrastructure. These costs would persist regardless of the outcome of the judgment. Moreover, the proceeding should not advance further until the cost of delay as previously decreed is duly served to the court.<sup>22</sup>

We further dwell on the Karnataka Civil Rules of Practice Act 1967,<sup>23</sup> whose Chapter Eight deals with costs. Section 99(1)<sup>24</sup> of this act explicitly mentions the forms in which the cost is incorporated under a civil suit. However, clause 2 of Section 99 lays down that the Section 35-A CPC costs, costs for acquiring adjournments, and any costs arising from unreasonable, improper, and vexatious interrogatories are to be excluded from costs under this section. Further, section 100 of this act<sup>25</sup> provides for the inclusion of the advocate's fees under costs.

### **(B) Meagre costs: an impediment to the cost provisions in CPC<sup>26</sup>**

One of the major loopholes of the current cost provisions of CPC is that in practicality they do not impede the filing of frivolous suits. To understand this, we heavily rely on the 2009 judgment of *Ashok Kumar Mittal*.<sup>27</sup> This judgment dwelled on a specific performance suit of a

---

instance was however said to be covered under section 35-A of the CPC and was asked for compensation of the same.)

<sup>20</sup> *Ganesh Das Ram Gopal v. Munsif*, 1975 SCC OnLine All 293, [6]. (In passing)

<sup>21</sup> Section 35-B of the Civil Procedure Code 1908.

<sup>22</sup> *Hakmi v. Pitamber*, 1978 SCC OnLine P&H 36. (In this case, there was a dispute instituted on the contestation of land possession. While the suit was pending, the plaintiff died. Hence, her legal representatives then based on a will, took her position. To this, the defendant contested and the court demanded to produce evidence of the legal representation. However, in the hearing, the evidence was not produced, and the plaintiffs demanded an adjournment. However, in the adjournment, the same was not produced. The court, in the end, invoked Section 35-B of the civil court and invoked costs against the party for deliberately delaying the suits.)

<sup>23</sup> Karnataka Civil Rules of Practice Act 1967, No. SPL 1,1962 (Karnataka).

<sup>24</sup> Karnataka Civil Rules of Practice Act 1967, § 99(1), No. SPL 1,1962 (Karnataka).

<sup>25</sup> Karnataka Civil Rules of Practice Act 1967, § 100, No. SPL 1,1962 (Karnataka).

<sup>26</sup> Akрати Modi and Harshul Bangia, *Provision of Cost under Civil Procedure Code: A Need for Change in today's Time*, MANUPATRA (April 4, 2021), <https://articles.manupatra.com/article-details/Provision-of-Cost-under-Civil-Procedure-Code-A-Need-for-Change-in-Todays-Time> .

<sup>27</sup> *Ashok Kumar Mittal v. Ram Kumar Gupta* (2009) 2 SCC 656. (This judgment discussed a case of specific performance of a suit. The High Court held both the plaintiff and defendant to have undergone perjury. Thence, the court on grounds of Section 35-A of vexatious motive, imposed Rs. 1 lakh as compensation. The parties

contract to sale. The High Court deciphered from its observances, that both the plaintiff as well as the defendant parties were lying under oath. Thence, they both should be subjected to the exorbitant compensatory cost of 1 lakh.<sup>28</sup> The parties consequently moved to the apex court, highlighting the upper-cost limit of Rs. 3000 under Section 35-A of the CPC. The Supreme Court, however, held, that although the discretionary powers of the court to inflict costs are absolute, they should be mandatorily subjected to the conditional clauses as provided under the statutory laws in force.<sup>29</sup> Therefore, they suggested the enforcement of Section 35-A be done strictly with a ceiling value of Rs. 3000. This court, however, also recognized the need to vary this meagre price. This lower price barely acted as an estoppel to the ego-filled vexatious suit of the litigant. The luxurious persons can simply buy time off the court this way and extinguish the judicial infrastructure expenditure.<sup>30</sup>

This principle of abiding by the statutory limitation and not inflicting exemplary costs on the parties is also highlighted in the famous case of *Juhi Chawla*.<sup>31</sup> Herewith, Chawla had filed before the original civil jurisdiction of the Delhi High Court a suit against the 5G technology. Her reasoning underlined its grave repercussions on the environment.<sup>32</sup> The court, however, said that the suit was filed for mere publicity purposes and thence, imposed 20 lakhs costs against her.<sup>33</sup> The ratio again, framed the court to have exercised judicial overreach by circumventing the mandatory Section 35-A CPC provision by charging beyond Rs. 3000 as costs. Next, we move to the case of *Sanjeev Kumar*,<sup>34</sup> which was based on a contention of tenancy rights. The appellant here was decreed to pay 45 lakhs to the respondents. The value amount prescribed in Section 35-A CPC however, lingered as valid. The court, however,

---

consequently moved to the Supreme Court, highlighting the limitation imposed by the statute of Rs. 3000 under Section 35-A. The Supreme Court, however, held, that although the discretionary powers of the court to inflict costs are absolute, they should be mandatorily subjected to the conditional clauses as provided under the statutory laws in force.)

<sup>28</sup> *Id.* at 2.

<sup>29</sup> *Id.* at 6.

<sup>30</sup> *Id.* at 7.

<sup>31</sup> *Juhi Chawla & Ors v. Science and Engineering Research Board & Ors.*, CS (OS) 261/2021. (The case dwelled on a petition filed by Juhi Chawla on account of the rolling in of the technologically branded 5G. She contended that this is detrimental to the environmental interests, to which the court replied by stating that she is wasting the court's time and is filing a petition for mere publicity. Consequently, the court charged her with the amount of Rs. 20 lakhs for filing suit with a vexatious motive. Chawla hence stated this to be a breach of the statutory limit imposed under Section 35-A of the CPC. The ratio was that the court's discretion must be subjected to the statutory law in prevalence, and hence, Rs. 3000 is the upper limit of compensation to be paid.)

<sup>32</sup> *Id.* at 14.

<sup>33</sup> *Id.* at 41.

<sup>34</sup> *Sanjeev Kumar Jain v. Raghubir Saran Charitable Trust and Others* 2010 (166) DLT 528. (This case dealt with the fact scenario of an appellant who was a tenant in the residence of the respondents. They had a dispute owing to the premises he was given tenancy rights. A suit was filed for the same and the court then charged the appellant to pay the respondent's advocate's fee amounting to Rs. 45 lakhs because of losing the suit. To which the appellant raised the statutory bar of Rs. 3000 and the court owing to the established precedents had to abide.)

discussed how the cost limit for vexatious suits was earlier Rs. 1000 which was increased only with an amendment in the year 1977, increasing it to Rs. 3000. This has however, remained unaltered since. The court herewith recognized the need for charging a realistic actual cost to the parties.<sup>35</sup>

### **(C) The legality of filing undertakings for future costs**

We will now dwell on a case of judicial high-handedness in *Vinod Sethi v. Devinder Bajaj*.<sup>36</sup> This case dealt with an oral agreement involving specific performance, that had reached the doors of the Delhi High Court. The contentious part arose when the court demanded the plaintiff to issue an undertaking/ affidavit for agreeing to pay Rs. 25 lakhs on account of losing the suit to the defendant as damages. The Supreme Court (SC) however held this power exercised by the High Court to be judicial vigilantism.<sup>37</sup> The apex court held that although CPC provides safeguards for discouraging vexatious suits, it in no way, enables the court to direct a plaintiff to issue an undertaking detailing the damages it would pay on account of losing the suit. Further, CPC in the absence of any application or inquiry dealing with the value of damages or without any proof of the performance of the wrongful act, during the pendency of the suit, cannot determine the quantum of damages payable by the plaintiff in the future possibility of losing the suit. This undertaking for a possible future indemnification is unlawful in a suit.<sup>38</sup>

Consequently, the order was declared *in terrorem*. The SC declared that merely because the court is unable to dispose of cases expeditiously, they cannot infer such high costs on the litigators to deter them from reasonably knocking on the doors of the courts to attain justice.<sup>39</sup> Any court direction, even though its objective lies in deterring frivolous cases, should in no manner impede access to courts for the public.<sup>40</sup>

### **(D) Realistic Costs**

The 2005 judgment of *Salem Advocate*,<sup>41</sup> however, proposed solutions to the above-mentioned

---

<sup>35</sup> *Id.* at 14.

<sup>36</sup> *Vinod Sethi v. Devinder Bajaj and Another (2010) 8 SCC*. (This case dwelled on an agreement of specific performance. The appellant was an estate dealer who had commercially collaborated with the respondents through an oral agreement. However, the respondent did not comply with the agreement and hence, the appellant filed a suit against them. The court owing to the increasing burden of pending cases in the court directed the appellant to agree with an undertaking or an affidavit that, specified the amount he would be bound to pay to the respondent on account of the future possibility of losing the suit. Nonetheless, the court decreed that CPC does not empower the courts to demand the parties to file an undertaking detailing the amount payable by them on the occasion of losing the suit. Future probable damage undertaking or affidavit is not allowed whatsoever.)

<sup>37</sup> *Id.* at 34.

<sup>38</sup> *Id.* at 21-26.

<sup>39</sup> *Id.* at 34.

<sup>40</sup> *Id.* at 37.

<sup>41</sup> *Salem Advocate Bar Association, T.N. v. Union of India (2005) 6 SCC 344*. (The facts of the case dealt with a formation of a committee that was established for ensuring that the two amendments of 1999 and 2002 of the

cost limitation problem of Section 35-A of CPC. The case made explicit the need for a reasonable cost which in its actuality is inclusive of incidental costs and transportation costs of the winning party. The court further recognized that the current cost limit of Rs. 3000 is not adjusted to inflation and is virtually ineffective and infructuous in deterring the litigants from filing vexatious suits. It thus requires a realistic revision of the amount by inflicting an actual reasonable cost to the parties. Hence, an amendment is considered the need of the hour.<sup>42</sup>

Now, we will dwell upon the meaning of the term actual realistic cost. The court mentions these costs to consist of a nexus to practicality which simply cannot be whimsical or fanciful in expenditure. This gives rise to the question of whether the financial capacity of the parties is an important factor in determining these amended costs. For instance, if one party has the luxury to get four counsels each charging lakhs per hearing, then is the other party liable for the payment of this humungous amount in the occasion of losing the suit? The answer lies in the negative and replies with the deployment of only a nominal fee. The court promulgates that the losing party should demand only realistic costs that a 'normal' advocate would charge in a 'normal' suit of the same nature.<sup>43</sup> Hence, normalcy accounts for the actuality or reasonability of the amount sought. Imposition of actual realistic costs also served as one of the primary suggestions in the 240<sup>th</sup> Law Commission report<sup>44</sup> and it is high time to enforce the amendment to the 1977 cost limit.

### **(E) Comparative Study between India and the UK**

In our analysis of this comparative study, we will juxtapose the Civil Procedure Rules 1998 (CPR)<sup>45</sup> of the United Kingdom (UK) to that of the Civil Procedure Code 1908 (CPC) of India. Our first juxtaposition dwells on security for costs. This digs deep into the financial incapacity of the party and suspects the implausibility of the reimbursement of the costs. For instance, if defendant B is scared owing to plaintiff A's financial status, that A would not be able to reimburse him on the instance of B winning the suit, then he can ask the court to furnish security costs for the court proceedings. This would serve as a security for B to get his litigation expenditures compensated regardless of A's paying capacity. The provision dealing with security for costs under CPC is Order 25 Rules 1 and 2, and under CPR is Part 25 II from Rule

---

Indian CPC are efficiently implemented and led to better justice. The report had made several issues of contentions whose validity was brought to court. However, we just rely on Section 35-A part where the court stated that the amount cap of Rs. 3000 is highly unreasonable and unpractical in present times. It needs to be amended to incorporate the current inflation, and deter the filing of vexatious suits.)

<sup>42</sup> *Id.* at 37.

<sup>43</sup> *Supra* note 33, at 11.

<sup>44</sup> The 240<sup>th</sup> Law Commission report.

<sup>45</sup> the Civil Procedure Rules 1998.

25.12 to 25.15. We, however, see that CPR under Rule 25.13 (2)(c) explicitly enables companies to get security in their favour. There is however no such explicit mention in CPC. Allowing companies to be the receivers of securities, is however vital. Concerns regarding the adjustment of the finances of the company for the paying of the court fees can always be puzzling. Hence, explicitly enabling securities in favour of the companies for costs in a civil suit is a vital move for them to account for ways for making payments to the suit.

Our second comparative analysis, however, dwells on CPR's Part 36 offer. Its CPC equivalence is Section 89 i.e., settling disputes outside court. Part 36 of CPR aligns with a contract, where the plaintiff can offer the settling of the dispute, however, the defendant can accept or reject the same. Rule 36.10 of CPR further mentions that once the defendant accepts the offer, then he must reimburse all the costs deployed in the proceedings to date by the plaintiff in court proceedings. Hence, this rule serves as a way of settling the already involved costs in the civil suit, before switching to other methods of dispute resolution. Any similar provision dealing with the cost settlement before relying on other dispute resolution methods is, however, not explicitly mentioned under Section 89 of the Indian CPC.<sup>46</sup>

The third comparative analysis is, however, discontinuance of suit. This is provided under Part 38 of CPR. Rule 38.6 of CPR specifically provides for a situation, where if the plaintiff discontinues a suit, then he is legally bound to bear the costs of the defendant. Its equivalence is however Order 23 Rule (4) (b) of CPC. It too provides on occasions of abandonment or withdrawal of a suit, with costs for such discontinuance.

Further, Rules 44.3 and 44.5 of the CPR provide for the circumstances and factors that the courts should consider before processing costs on a civil suit. This is synonymous with Section 35 of the Indian CPC. Lastly, CPR has a provision for cost capping under Rule 44.18 of the CPR. This is a one-of-a-kind clause, that takes into cognizance the imbalance in the financial position between the parties. This cost cap order is aimed at limiting the value of the future costs that are reimbursable by the other party. This measure is considered vital on account of the interests of justice. Such provision is however absent in CPC, and is hence, urged for the adoption of the same.

### **III. CONCLUSION**

In this paper, we have dwelled on the provisions of costs in civil suits in the Indian CPC. We first dealt with the four different kinds of costs namely, miscellaneous, compensatory, general

---

<sup>46</sup> Civil Procedure Code, 1908, § 89, No. 5, Acts of Parliament, 1908 (India).

and the ones arising from delays. Second, we discussed the cost cap of Rs. 3000 under Section 35-A as unreasonable and felt the need to make amends to the meagre costs prescribed in the code. Third, we relied on numerous case laws to argue for the imposition of actual realistic costs. Fourth, we discussed the illegality in the court's directions to parties for filing undertakings for a future possible indemnification of civil costs. Fifth and lastly, we relied on the UK's CPR and India's CPC for a comparative study of civil suits. Herewith, we juxtaposed the provisions dealing with cost-capping, security of costs, costs on account of discontinuance or withdrawal of suits and costs payable before relying on other alternative measures for settling the dispute. Hence, we comprehensively dwelled on the subject matter of costs in civil suits.

\*\*\*\*\*

#### IV. REFERENCES

##### (A) Article

- Akрати Modi and Harshul Bangia, *Provision of Cost under Civil Procedure Code: A Need for Change in today's Time*, MANUPATRA (April 4, 2021), <https://articles.manupatra.com/article-details/Provision-of-Cost-under-Civil-Procedure-Code-A-Need-for-Change-in-Todays-Time>

##### (B) Book

- 8 C.K. Takwani, *Civil Procedure with Limitation Act*, 1963 404-417

##### (C) Cases

- *Ashok Kumar Mittal v. Ram Kumar Gupta* (2009) 2 SCC 656.
- *Ganesh Das Ram Gopal v. Munsif*, 1975 SCC OnLine All 293.
- *Ganesh Das Ram Gopal v. Munsif*, 1975 SCC OnLine All 293.
- *Hakmi v. Pitamber*, 1978 SCC OnLine P&H 36.
- *Jugraj Singh v. Jaswant Singh*, (1970) 2 SCC 386.
- *Juhi Chawla & Ors v. Science and Engineering Research Board & Ors.*, CS (OS) 261/2021.
- *Kali Prasad Singh v. Ram Prasad Singh*, (1974) 1 SCC 182.
- *Manindra Chandra Nandi v. Aswini Kumar Acharjya* ILR (1921) 48 Ca. 427.
- *Nandlal Tanti v. Jagdeo Singh*, 1960 SCC OnLine Pat 200.
- *Priya Wart B.K.D. Dubaldhan v. State of Haryana*, (1982) 2 SCC 142.
- *S.A. Kini v. Union of India*, 1985 Supp SCC 122.
- *Salem Advocate Bar Association, T.N. v. Union of India* (2005) 6 SCC 344.
- *Sanjeev Kumar Jain v. Raghbir Saran Charitable Trust and Others* 2010 (166) DLT 528.
- *T. Arvindanam v. T.N. Satyapal* (1977) 4 SCC 467.
- *Vinod Seth v. Devinder Bajaj and Another* (2010) 8 SCC.
- *Vinod Sethi v. Devinder Bajaj and Another* (2010) 8 SCC.

##### (D) Legislations

- The Civil Procedure Code (CPC),1902.
- The Civil Procedure Rule 1998.

**(E) Reports**

- The 240<sup>th</sup> Law Commission report

\*\*\*\*\*