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Section 151 of the Civil Procedure Code in India: Critical Examination of its Concept, Principles, and Legal Standing

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ABSTRACT

This paper offers a thorough critical study of Section 151 of the Civil Procedure Code (CPC). Courts are given the inherent power to issue orders under Section 151 in order to uphold the rule of law and prevent the abuse of the legal system. The paper dives into the idea and principles of Section 151, tracing its origins and examining its function within the Indian legal system. The paper investigates the position of Section 151 in India, concentrating on judicial creativity over this section and the scope of its application. The study looks into the various conflicts and difficulties that may arise when these powers are used to the extent of discretion and rise to the possibility of abuse. The paper also offers alternative revisions and future orientations for this provision, aiming at improving its effectiveness in answering the current demands of Indian civil litigation, through a critical analysis of the body of existing literature and legal precedents.

Keywords: Section 151, Inherent Power, Civil courts, Principles.

I. INTRODUCTION

The inherent powers of the court are covered in Section 151 of the Code of Civil Procedure (CPC). Nothing in the CPC is meant to be interpreted as limiting or otherwise affecting the court's inherent authority to issue orders that are required for the purposes of justice or to prevent misuse of the legal system, according to the provision in the CPC.

When there is no clear legal provision, the court's inherent power gives it the option to administer justice in those cases. The court can utilize its inherent authority to uphold the rule of law and guard against misuse of the legal system. Hence, Section 151 acknowledges the court's inherent authority to issue orders that are required for the proper administration of the proceedings. The importance of Section 151 resides in its acknowledgment of the court's inherent power, which is necessary for the fair administration of justice. It permits the court to exercise flexibility and guard against abuse of its procedures. The inherent authority of the court is subject to legal restrictions and is not unrestricted. Lord Hewart CJ established a judicial

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concept of “Not only must justice be done, it must also be seen to be done”, while this concept was upheld recently by Justice Arun Mishra while deciding petitions under *Pune Municipal Co. & Anr v. Harakchand Solanki & Anr.*

II. PRINCIPLES ENSHRINED UNDER SECTION 151 OF CPC

- Principle of Natural Justice
- Principle of Equity
- Principle of Public Interest
- Principle of Judicial Economy
- Principle of Good Faith

III. INTERNATIONAL POSITION OF SECTION 151 CPC

As the above principles underlying Section 151 are recognized as fundamental principles of justice in many legal system worldwide. These principles are the guiding force of the courts in various jurisdictions around the world.

1. The right to fair trial and the right to access justice are recognized as Basic Human Rights in **Articles 10** and **Article 8** of the Universal Declaration of Human Rights, as well as **Articles 14** and **Article 26** of the International Covenant on Civil and Political Rights.
2. The interest of justice and fair trial enshrined in Section 151 are also consistent with International human rights principles.

IV. RELEVANT CASE LAWS

1. In *Taru Puri v. A. Sheikh aka Malaika*², the Delhi High Court made the observation that just because the Code of Civil Procedure does not explicitly provide for in-camera sessions, it does not imply that they are prohibited. Because of this, the Court decided that, when necessary and when the facts and circumstances of the case so warrant, the Court may, in accordance with Section 151 of the Code, make any order for the conduct of the proceedings in secret. The court also cited *NS Mirajkar v. State of Maharashtra*³ in pointing out that Section 151 of the Code gave it the authority to issue any instructions it deemed necessary for the pursuit of justice or to prevent abuse of the judicial process.
2. Justices Krishna Murari and Hima Kohli held that only when there is no other remedy

² CS(OS) 91 of 2023

³ 1966 3 SCR 744.

available under the current legal rules is Section 151 of the CPC applicable.⁴ Such inherent power may not evade statutory restrictions or enact remedies that are not provided for by the Code. It is a suitable situation under Section 151, where the Court's inherent authority should be used to overturn the ex parte decree. It is ruled in *K.B. Dutt vs S S Shaheb*, that the ex parte decree must be reversed since court has good reason to believe such.⁵

3. In *Ramesh Chander v. Savitri Devi*⁶, the Supreme Court determined that, if there is a good reason for the default, the court may exercise its inherent powers under Section 151 of the CPC to reinstate an appeal that has been dismissed for default.
4. In the case of *Dhananjay Sharma v. State of Haryana*⁷, the Supreme Court ruled that the inherent powers of the court under Section 151 of the CPC should only be used in extreme circumstances.
5. In *Padam Sen v. State of U.P.*⁸, it was observed by Supreme Court that Power under Section 151 are supplementary to those powers, so it must be held that the judiciary is at ease to use them for the objectives listed in Section 151 of the Code as long as doing so does not conflict in any way with what is expressly stated in the Code or go against the legislative intent. It is also widely acknowledged that the inherent power must not be used in a way that is in conflict with or dissimilar from the procedure that is clearly outlined in the Code.

V. CRITICAL ANALYSIS

A substantive provision that grants the right to get any type of relief is not Section 151 CPC⁹. It is merely a procedural rule that enables a party to demand that a lawsuit's procedures be conducted in a way that is consistent with justice and equity. The same is true for inherent powers; they cannot be used to reopen settled disputes¹⁰. To that degree, the Legislature's abrogation of the Court's inherent powers must be considered. An express prohibition against the use of inherent power is not required; it may even be implied. At the request of someone who was not a party to the lawsuit, inherent power cannot be utilized to stop a decree's execution. Such power is obviously necessary to uphold the goals of justice and defeat its

⁴ My Palace Mutually Aided Co-operative Society v. B. Mahesh And Ors

⁵ AIR 1930 Cal 488

⁶ II (2003) DMC 328

⁷ (1995) 3 SCC 757

⁸ AIR 1961 SC 218

⁹ K. Veluswamy v. Palaniswamy CIVIL APPEAL No. 2795-2796 OF 2011

¹⁰ Mahboob Ali vs Suresh Dixit

shortcomings.

Unless where specifically prohibited, the Court may use any method of justice. Unless there is a State revision in this regard, no article of the Code provides for the consolidation of lawsuits. So, where a shared factual and legal issue arises, the same can be done in the exercise of the powers; nevertheless, the same must not include a misjoinder of parties. The failure to consolidate two or more lawsuits is likely to result in the filing of numerous lawsuits, opening the possibility of conflicting rulings on the same matter, which may be shared by the two or more lawsuits that are sought to be consolidated.

As stated by the court in *D.D. Mahasabha v. Sukdev Ary & others*¹¹, The law is clear on this point, and it states that the inherent powers outlined in S. 151 CPC may only be used when no other provision provides a remedy. If a party gained a judgment or order by deception of the court, or if the court erred in issuing the judgment or order, the court may be justified in correcting the error by either recalling the original judgment or in issuing a new judgment that is more appropriate.

One criticism of Section 151 is that it gives the court unrestricted power to issue orders as it sees fit without any set rules or restrictions. This may result in the court's inherent power being used arbitrarily, which could have inconsistent and unpredictable effects. Another objection is that the inherent authority of the court under Section 151 is regularly utilized to avoid particular legal requirements, which can be detrimental to the rule of law. Only in extraordinary situations, where there is no particular legal provision to address the matter, could the court use its inherent authority. A party cannot use Section 151 as cover to claim historical wrongs, make them right, and get over procedural safeguards incorporated into the CPC.

VI. SUGGESTIONS

As the section is not all-inclusive and there will always be cases and precedents that are not covered by the code's stated provisions and that the legislature cannot predict, we do not regard this as a compelling argument against the creation of specific indicative tests. While it is true that the legislature cannot foresee every circumstance in which the section will be relevant, it may undoubtedly foresee the scope of the need for its application. The section can be further “divided into subsections to provide for control over court procedures and control over particular courts”¹². According to the concept of “Actus Curiae Neminem Gravabit”¹³ (an act

¹¹ [(1990) 1 SCC 189].

¹² Exploring Limitations Of Section 151 Of The Civil Procedure Code, rsrr.in/2022/05/07/section-151-civil-procedure/

¹³ The maxim states that any unjust or unfair advantage obtained to a party claiming the Court's jurisdiction in a

of the court shall prejudice no one), the party must be made whole and compensated for the injustice that was done to it¹⁴.

“Similar to this, inherent powers cannot be utilized to reopen settled disputes. To that point, the legislature must be seen as having revoked the Court's inherent powers. A restriction on the use of inherent authority does not have to be explicit; it could simply be implied.”¹⁵ A person who was not a party to the lawsuit cannot halt the execution of a decree using inherent power. Such power is unquestionably necessary to uphold the goals of justice and defeat its shortcomings. The text of the provision can be constrained, and an explicit list can be provided. Therefore, the word "specifically" can be introduced to restrict the court's powers.

VII. CONCLUSION

Former Chief Justice N V Ramana stated, "A party cannot find solace in section 151 to allege and correct historical wrongs and circumvent procedural safeguards embedded in the CPC." Judicial powers known as inherent powers help to reduce litigation, minimize multiple proceedings, and provide total justice between two parties. To provide uniformity, procedural clarity, and the elimination of confusion is one of the main goals of CPC. This goal is hampered by the current Sec 151 of CPC. The overall outline of this section is painted by court's use of precedent-based reasoning when interpreting "inherent powers," with the presiding judge filling in the details as they see fit. The existence of a rigid framework that offers certain guidelines would be extremely advantageous to the courts and the parties involved in the litigation.

matter ought to be neutralized. In other words, no man should be harmed by a flawed legal system or a protracted legal process, Jang Singh vs. Brijlal and Ors. (20.02.1963 - SC): MANU/SC/0006/1963

¹⁴ Deb, Bishal. (2021). The Inherent Power of the Court: A discussion under Civil Procedure Code. 10.13140/RG.2.2.19396.55684.

¹⁵ The law of the Court's use of its authority under Section 151 of the CPC in cases of fraud is further clarified in Ram Prakash Agarwal v. Gopi Krishan, (2013) 11 SCC 296, which was decided in 2013.