

Principle of Harmonious Construction: An Indian Judicial Outlook

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Abstract

With a fundamental understanding of the topic of “Principle of Harmonious Construction: An Indian Judicial Outlook”, this article explores the role and concept of the judiciary in interpreting laws and rules. After a brief introduction to Harmonious Construction as a guide, this paper discusses the nature and purpose of harmonious construction and describes how many jurists and legal experts have expressed their opinions through the lens of judicial involvement and the important legal maxims with the reference to the Indian Constitution. This paper examines further the research of what the obstacles are in Harmonious construction and whether or not the provisions can be harmonized. In addition, with the aid of case laws and judgments, attempt to comprehend the characteristics of the law interpretations and examine the pertinent provisions. Lastly, this paper finishes with a summary of the key topics covered and a sound takeaway message taken from the author's effort.

Keywords: Harmonious construction, role, challenges, legislation, judiciary

INTRODUCTION

“The interpretation of law of nature in a common-wealth, dependent not on the books of moral philosophy. The authority of writers, without the authority of commonwealth, make not their opinions law, be they never so true”

—Thomas Hobbes

Everyone person living in the community knows the meaning of the law very well. The law has opened the way to avoid unnecessary disputes between society and people. Jurists write laws that govern society and are likely to expect that many laws will not be accurate and will contain uncertain terms and phrases.

Soon, we observed that the courts and lawyers were eager to resolve these contradictions in terms and phrases. Most of the contributions in this area are the interpretation of the law as we all know, the three levels of government are the legislative, executive, and judicial branches.

The role of interpretation enters into a picture and is to a judicial case by correctly interpreting the law performed by parliament. In most situations, the language of law and regulations is plain and simple to the proposed proposal. Interpretation is important if conforming with the provision of laws and regulations.

The ambiguity of the statute is the basic nature of language. It is not always possible to accurately translate the legislative intent into written text. It is usually good to have a different language, and it is the same as the equally unconvincing argument before the competent authority. Sometimes more

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than one language is ambiguous. The legislature has powers after the implementation of laws and regulations.

The judiciary cannot ask the legislature about the exact meaning of these statutes, because when formulating a particular statute, the legislator will not assume the diversity of conditions.

This is one of the main rules in the Indian legal system to explain the principle of Harmonious construction. The term “harmonious construction” refers to the establishment of a constructive vision for the various provision statutes of association to make them harmonious and unified.

If there are multiple interpretations of a word in a statutory clause, and the interpretation prevails, these words should be used to have a meaning that is more compatible with the subject matter and subject of statutory law [1, 2].

However, if the two provisions contradict each other, neither of them can be followed, so they must be classified as futile according to the known fundamental rights of *ut res magis valeat qauam pereat*. (It is easier for a thing to have an impact than it is for it to be considered empty, so verifying it rather than making it inactive is the best option) [3].

RULE OF HARMONIOUS CONSTRUCTION: MEANING

The main objective of harmonious construction is to explain when two or more statues or parts of statutes contradict one another. It follows a simple rule: each statute has a legal purpose and intention and should be read as a whole.

The court is responsible for avoiding a “frontal conflict” (a head-on clash) between the two parties to the same act and, whenever possible, interpreting the terms that appear to conflict so that they can be harmonized.

As Venkataraman Aiyar, J said: The rules of interpretation are very clear. When two provisions in the statute cannot be coordinated with each other, they should be interpreted as; if possible, they should have an impact on both. These are the called harmony-building rules.

That should affect both, this is the gist of the rule. Therefore, simplifying one of the regulations to “useless wood” or “a piece of paper” is not a harmonious structure. Harmony is not destruction.

It is an established rule that interpretations that lead to difficulties, injustices, inconveniences, or abnormalities should be avoided, and interpretations that support the sense of justice, established norm, should be adopted.

The Court favoured consistency with justice and fair competition and avoided unfair interpretations.

Interpretation of Article 21 of the Indian Constitution, i.e., Fundamental Rights, which indicates that “No person shall be deprived of his life or personal liberty except in accordance with the procedure established by law (Court interpreted procedure must be just)”; A landmark decision by the Supreme Court recognised the importance of fundamental rights for the people of India. The detailed interpretation of this article provides the fundamental rights of the beneficiaries and a broader implementation of article 21 [4].

The interpretation of locus standi expands the scope of public interest litigation, and anyone with a public spirit can file petitions on behalf of those who cannot enter the court through this scope.

The facts have shown that this interpretation is a good step for the judicial process in a developing country like India. In exposing its field of interpretation, the judiciary has been criticized for entering into the territory legislation and has described it as “excessive judicial activism”.

Harmonious Construction is Signified by these Two Maxims

- *Generalibus Specialia derogant*: This maxim means that special things subtly derogate basic general things. So, the type of special clauses in the statutes control the basic general clauses, which is fairly significant. In other words, the general terms have no applicability to the issues that are governed by the special provision subtly. Therefore, it can be said literally that a really special clause about something excludes the application of the general clause and always nullifies the general clauses, but this overriding effect is complete to the degree of inconsistency between them.
- *Generalia Specialibus non-derogant*: In the event of a conflict between two statutes, the general rule is that the latter will subtly repeal the former. In other words, if one of the following two conditions is met, the prior special law will mainly yield to the fairly general posterior law.
 1. In a major way, the two are inconsistent with each other, which particularly quite significant
 2. In a productive manner, the latter law would triumph slightly if one of these two circumstances were met [5].

CHALLENGES OF HARMONIOUS CONSTRUCTION

The challenges have started there whether provisions can be harmonized or provision cannot be harmonized.

We take a few leading cases below and discuss where the provisions can be harmonized or not.

When two or more provisions of the equivalent statute are contradicted, the court will interfere to construe the provisions in such a way, if possible, to give effect to both by harmonizing them with each other. The courtroom may additionally do so with the aid of concerning two or more interestingly conflicting provisions as dealing with separate conditions or by protecting that one provision in simple terms provides for an exception to the prevalent rule contained in the other. The question as to whether or not separate provisions of the equal statute are overlapping or are collectively extraordinary may, however, be very tough to determine. The foundation of the precept of harmonious construction likely is that the legislature has to now no longer have meant to contradict itself. This rule has been followed in a very large number of cases managing with the interpretation of the constitution. It sometimes may be assumed that once the legislature offers something by one hand it does no longer get rid of the same with the aid of the other Any provision of the same act is no longer rendered useless by one of its provisions. The legislature can't be presumed to contradict itself via way of means of enacting provisions withinside the identical act.

Commissioner of Income Tax (CIT) v. Hindustan Bulk Carriers [6]

The following guidelines for the law of harmonious construction were established by the Supreme Court.

- The courts must interpret Act provisions that seem to contradict with one another in a way that harmonises them rather than allowing them to directly clash [7].
- Unless the court is unable to resolve their differences despite best efforts, the provision of one section cannot be used to invalidate the provision of another [8].
- The courts must interpret conflicting clauses in a way that gives both of them as much weight as feasible when it is difficult to fully reconcile the discrepancies between them.
- The court must also take into account that it would not be a harmonious construction to view one provision as meaningless numbers or dead [9].
- To harmonise does not mean to eliminate or nullify any statutory provision [10].

Kesavananda Bharati v. the State of Kerala [11]

The supreme court overcomes the controversy over whether the fundamental rights have triumphed over the values of the directive principle of state policies or vice versa by applying the principle of harmony construction. The directive standards are a restrictive role of the state and they are not law

enforceable. In this case, the court struck down both the constitutional rights of the directive principles, because the main object of the harmonious construction rule is that no clause or entry should lose its meaning. The court's goal is to strike a careful balance between personal interests and the considerable needs or well-being of society. Subsequently, the 42nd amendment to the constitution of India expanded the scope of article 31C, clause 1, to include any legislation that implements any DPSPs mentioned in part IV of the constitution within its terms of reference, not limited to article 39 (b) or (c).

MSM Sharma v. Shri Krishna Sinha [12]

The question facing the supreme court is whether the constitutional rights referred to in Article 19(1) take precedence over Article 194(3) of the constitution, which encourages the state assembly to prohibit freedom of speech and press following the powers, privileges, and immunities of the state legislative assembly. By the principle of harmonious construction, the court decided that article 19(1) has priority over Article 194(3) because the first is a general rule and the second is a special rule. It adopts the method of constructing general terms and eliminating specific terms.

Venkatramana Devaru v. State of Mysore [13]

Article 25(2) (b) and Article 26 (b) of the fundamental rights clause conflicted. The supreme court held that the right of any denomination to manage its religious affairs is subjected to a law enacted by the state, which provides for social welfare and reforms the public Hindu religious institutions. All categories and parts of Hinduism.

CRITICISM, SUGGESTION, AND CONCLUSION

Laws enacted by the legislature can lead to uncertain situations and are inherently unpredictable. The law of interpretation is particularly useful in this situation, and the purpose of formulating regulations must be to give them a particularly comprehensive effect.

In general, the harmony construction theory makes it possible for judges to easily understand these two controversial laws and fundamentally provide justice for the entire society. It is also one of the most crucial tools in the arsenal of the judiciary when reading the law in a very significant way.

Since each provision of the statutory law has its specific importance, this doctrine has made a great contribution to protecting the meaning of these provisions and thereby protecting the rights and interests of the entire society.

In short, the sanctity of the law or all other provisions must be covered by this doctrine, which is contrary to popular belief. When it is really necessary to interpret clauses or legislation, judges must not return to parliament for deliberations; therefore, their interpretation by the judiciary is very important and is contrary to popular opinion. In addition, it is difficult for parliament to draft a completely correct law, or cover any element conceivable for all intents and purposes.

Due to all human intentions and purposes human vulnerability, especially literally in subtle ways, has uncertainty, resentment, and redundancy. To a large extent, this requires that the interpretation of the law be necessary, which is quite important. The theory of harmony construction simplifies complex issues, thus accelerating the transmission of justices because deferred justice essentially denies justice in general.

Harmony construction has helped judges to easily interpret these two opposing laws, and it is indeed effective in bringing justice to the wider society in a very important way. This does not kind of mean that judicial interpretation always predicts the truth and is based on legislative intent, contrary to popular belief.

More or kind of less its explanatory power has provided them with a space where their general ideas can flourish, which is very important. Although, in most cases have tried their best to make the most of the miserably worded statutes meaningful, which is fair significant.

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