

Words and Phrases

1. Ad-valorem: Ad-valorem means according to the valuation. Ad-valorem duties are always estimated at a certain percent, on the valuation of the property as opposed to fixed or special duties. | **PLD 1966(Kar) 42**
2. Jurisdiction: Jurisdiction means "the entitlement to enter upon enquiry in question" The jurisdiction of HCD in revision is a limited one. The section is not directed against conclusions of law or fact in which the question of jurisdiction is not involved. Sec-115 empowers to satisfy the HCD on matter that (a) the order of the subordinate court is within its jurisdiction, (b) the case is one in which the court ought to exercise jurisdiction and, (c) in exercise of jurisdiction the court has not acted illegally. | **6 ALR(AD) 165**
3. Muslim Joint Family: There is no presumption of joint family in Muslim Law. But some times after the death of father, all the members of father's family, were in one mess and common income, any property purchased in the name of one member of said family be considered be purchased for all. | **3 XP(AD) 7**
4. Misconduct: The term "misconduct" has not been define in Bangladesh Legal Practitioner and Bar Council Order, 1972 or the rules framed thereunder. According to Black's Law Dictionary "misconduct" means "A dereliction of duty; unlawful or improper behavior." Affirmative misconduct means an affirmative act of misrepresentation or concealment of a material fact. According to the Supreme Court of India the word "misconduct" has no precise meaning and its scope and ambit has to be construed with reference to the subject matter and context wherein the term occurs. Accordingly, it can be said that the "misconduct" of an Advocate may be define as any conduct that in any way renders an Advocate unfit for exercise of his profession, or is likely to hamper or embarrass the administration of justice for which disciplinary action may be initiated. | **2 LNJ(AD) 169, 9 BLC 271, 10 BLC 230**
5. Vicarious Liability: In a tort a master is generally liable for the act of his servant performed in the course of his employment. | **4 ALR(AD) 44**
6. Land and Tenancy: The land means land. "Land" does not mean "holding" or "tenancy". Land can be divided by partition; "holding" can be divided by separation of "joma". After partition of any land by metes and bounds a co-sharer remains no more co-sharer of the Land and lose his all right, title and interest in that land and except his own share only even if the original holding, tenancy remains intact and there is no more division or separation of tenancy. | **4 ALR(AD) 107**
7. "Status Quo"-- Meaning: When a Court passes an order directing the parties to maintain *status quo*, the meaning of the expression "*status quo*" has to gathered from the plaint, petitions of parties, written objection, written statement and the petition or petitions filed by the parties praying for ad-interim order. | **8 BLD(HCD) 45**
8. Appear: On Order-9 Rule-8: The word "appear" in this rule means 'appearance in the suit'. A party may be physically present in court room but if he does not take part in the suit and it cannot be said that he 'appeared'. | **36 CWN 158, AIR 1932(Cal) 418**
9. Land Lord and Tenant: The Government has accepted rent from the plaintiff and granted rent receipts in his favor of the plaintiff at which the relationship between the Government and the plaintiff has become the 'Land Lord and Tenant'. | **8 ALR III**
10. Principle of Natural Justice :- Adverse Remarks: It is well settled principle of Natural justice that no one should be condemned unheard. In addition, strictures or scathing language should be used by the higher courts in exercise of their appellate or supervisory jurisdiction against the judges of the lower courts. Errors of the judgements should be corrected by the reasons of Law. | **21 BLC(AD) 239, 6 SCC 1**
11. Discretion: Discretion means it is said that is to be done within the discretion of the authorities that something is to be done according to the rules of reasons. It is to be not arbitrary vague and fanciful but legal and regular

and it must be exercised within limit, to which an honest man competent to the discharge of his office ought to confine himself. | **1 LM 62**

12. Cause of Action: Cause of action is a bundle of facts of the plaint which mention by disclosing the date and that the suit is maintainable. | **6 XP(AD) 183, 49 DLR(AD) 99, 47 DLR 163**
13. Doctrine of "Musha" under Principle of Mohamadan Law: Doctrine of "musha" has been defined as an undivided share of property either moveable or immoveable which formed subject matter of gift. But if by the very nature of the property or by the relationship of the contesting parties the gist of definite share cannot lead to confusion or of enjoyment in future, the "musha" rule has not been applied in such circumstances rigidly being an exception regarding gift of undivided share, Only in the above event possible not affecting the normal enjoyment of gift because of such transfer of an undivided property the gift may be valid. | **5 ALR(AD) 86**
14. Title Follows Possession: The age old maxim "Title Follows Possession". | **67 DLR(AD) 243**
15. Doctrine of "Prospective Invalidatio": In order to avoid any possible complication, deadlock, dislocation and stagnation in the functioning of the commission, those are condoned in public interest. But the Doctrine of "Prospective Invalidatio" in this regard will operate from now onwards, that is to say, from the date of pronouncement of judgement. | **21 BLC 106**
16. Necessary Party and Proper Party: Order-1 Rule-3 of C.P.C.: A "Necessary Party" is one whose presence in a judicial proceeding is enjoyment by law and whose absence no effective decision can be given. In absence of necessary party a suit cannot be said to be properly constituted and it is liable to be dismissed as being bad for defect of party. A "Proper Party" on the other hand, is one whose presence is the proceeding though not essential for passing an effective order/decreed but his presence is desirable for effectively and completely adjudicating all matters in controversy and there and there by help avoid a multiplicity of litigation. | **2 ALR 247, 2 ALR(AD) 57, 12 DLR 712**
17. Proforma: The term "Proforma" means for the sake of form only. The expression "Proforma" does not appear in any provision of the code of civil procedure. The terms are only "Plaintiff" and "Defendant" and no "Proforma" in the said code. | **40 DLR 340, 9 BLD 29**
18. জীবন বা Life: বাংলাদেশ সংবিধানের 32 নং অনুচ্ছেদে ব্যক্তি "জীবন বা Life" - এর অর্থ অনুধাবন করা প্রয়োজন। "জীবন বা Life" বলিতে রোগ, জীর্ণ, মানবেতর জীবন বোঝায় নাই। বরং জীবন বলিতে বোঝায় একটি সুস্থ, সবল, সাবলিল জীবন। | **6 ALR 292**
19. "Mandatory" and "Directory": The terms "Mandatory" and "Directory" refer to the method by which the legislator set about attaining its object. When a statute is passed for a purpose of enabling something to be done and prescribes which are essential to the validity of the thing when done are called imperative or *Mandatory*; but those which are not essential, and may be disregarded without invalidating the thing to be done, are called *Directory*. | **9 ALR(AD) 75**
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