

How to Start Out as a Litigating Advocate in India

written by Abhiishek Bhaduri | May 15, 2019

By way of this write up, I wish to pass on some pointers and insights into the field of legal practice, hoping to aide junior law students and freshers' in their earnest endeavors. The following has been culled out from experience and would be revised as time goes on, feel free to add your own suggestions.

For all interns / fresher's working in the field of Litigation:

First Things First

- First of all, Welcome to the field of Litigation. This is a Branch of Law that excites and entices aplenty for a variety of reasons and now

that you are here, start off by doing the following.

- Alright, I am sure, as you are an Intern reading this or maybe a fresh pass out in law reading this, you may have been a good student, or you may have been average, regardless, very first thing to do is, FORGET WHATEVER YOU HAVE READ IN LAW COLLEGE. Yes you read that correct, Your marks, your knowledge, your studies and your attendance in Law college would do little

to help you in this vast arena of Litigation. As the saying goes, 'Learning starts when practise starts'. All the things that you need to know will be taught and learned now henceforth.

- Use the first few days to get acquainted to your new surroundings, your new senior, the office, the staff, and the work personnel. Visit the High Court Building in the city that you have started work at. If the

city doesn't have a High Court, then visit the Courts in which your office regular Then the Territorial Jurisdiction for adjudication (deciding) of the same issue would lay with a Competent Court in New Delhi. [Read S. 20 of The Code of Civil Procedure, 1908 (5 of 1908) for more info.] –

Pecuniary Jurisdiction

Hon'ble Courts often impose Pecuniary Limitations on the Claim Amounts in the matter that can be moved before the said Court for reliefs. Pecuniary means 'Monetary', And / Or relating to Money. Another synonymous term used for the same in the world of Economics is 'Fiscal' For Example, If your client lives and works in Mumbai, and has a claim amount of Over Rs. 1, 00, 00, 000/- (Rupees One Crore Only), then your client may move the Hon'ble High Court at Bombay, Claim amount below Rs. 1,00,00,000/- (Rupees

One Crore Only) would mean that the Case would go before the Hon'ble City Civil

Court at Bombay. Similarly before the Hon'ble High Court of Delhi at New Delhi,

the Pecuniary Jurisdiction is Rs. 2,00,00,000/- (Rupees Two Crores Only) - Civil, Criminal, Appellate, and Original Jurisdictions Another use for the word

'Jurisdiction' is in relation to the type of matter filed and the reliefs sought.

Civil –

It arises from any kind of civil dispute, wherein the Civil Rights of a person are affected and reliefs sought are mostly Payment of Rightful dues, Recompensation, Interest Payments, Status Quo (meaning the Parties will maintain the status as of this date), Status Quo Ante (Meaning the directed party will reinstate the status to what WAS prior to the institution of the Case), for Specific Performance (to get the opposing party to DO a certain act which she/he is refusing to do), for Temporary and Permanent Injunctions (to get the opposing party to STOP doing a certain act that she/he is doing at the moment) among other reliefs. Instituted as CIVIL SUITS, the most common ones are Suits, Summary Suits, Commercial Suits, Suit for Specific Performance, and Suit for Permanent Injunction.

Criminal –

These are instituted by the State against Crimes (acts proscribed by the State, affecting public at large) and result in either of Conviction or Acquittal. Criminal Matters begin with Police, Move to Magistrate Court, Thereafter Appeals go to Sessions Court, then High Court and Eventually

to the Supreme Court. Appellate – Appellate Jurisdiction refers to all those matters which have already been decided / Orders have been passed by a Subordinate Court and the Appeals are then preferred before a Higher Court, or

Appellate Forum in certain cases.

Original –

The refers to the First and foremost Court which is competent to try the matter. The Hon'ble City Civil Court almost always has Original Jurisdiction, meaning the said Court can be moved as the first court of reference. Certain Hon'ble High Courts are Courts of Original Jurisdiction (Delhi, Mumbai, Kolkata, Chennai), meaning Claims over a certain amount can be

instituted and tried at the Hon'ble High Court before referring to a Lower Court. Whereas Certain High Courts, like High Court at Allahabad are exclusive

Appellate Jurisdiction Courts, meaning that the Court will entertain no Matter

until the matter has first been decided by a Lower Court.

Now that you have a fair idea what 'Jurisdiction' means, find out the Jurisdictions in which the Court you are present at, works on.

Clerical Works

· Alright, Next you will need to shadow the Office Peon for a few weeks atleast. You will need to do everything that a

Peon does, (Believe me, its required and much needed). You will need to learn how to operate the photocopy machines, how to bookstitch documents for Original

and Appellate Sides, how to scan case briefs, how to punch holes on the large case papers (Quite a skill, I must add), how to take acknowledgment receipts

while serving copies upon the other sides, how much and where to affix the Courtfee Stamps, how and where to look for the books in the office. How to maintain the case files, how to tie the case briefs, how to take out the court

orders from the Court websites, and that is Only the tiny part a Peon's activities that takes place inside the Law Chambers. You will need to learn to do everything.

- Next you will need to follow the Office Peon into the Court and learn to do all that she/he is doing in the Court (legal Work of course), and the exact locations where she/he is visiting. To define you will need to look for the filing Counters, the certified copy counters and talk to the clerks at the place in order to elicit more information about the Court functioning. You will need to learn where to serve documents (whenever matters

are filed against the state or matters in which the state is a party, Copies of the Petition are served upon the state) and how many copies need to be served.

Always serve the same with a covering letter, on which you will need to take an

acknowledgment. It will take quite a few round trips to the Court before you get a proper hang of it but it will come eventually. Most important of all, you

need to know, when is the LUNCH HOUR. Department people take Lunch Hours very seriously and usually won't entertain anybody, so you need to know the time when to approach and when not to.

Academic Reading

- Now coming to actual academic stuff.

You need to go through the HIGH COURT RULES for whichever State you're working

at. There are Different Original and Appellate Side Rules for High Courts which

have an Original Side. The High Court Rules are your BIBLE if you are working at the High Court. Similarly, other Courts have their Own Rules, namely, NCLT Rules, Securities Contract Regulation Rules, City Civil and Sessions Court Rules, DRT Rules, Consumer Protection Rules, so on and so forth. These need to

be learned. Now books can be voluminous, so take it slow and be consistent.

- Further you need to be thorough with the Procedural Laws, namely:

- Code of Civil Procedure, 1908 (5 of 1908)
- Code of Criminal Procedure, 1973 (1 of 1974)
- Evidence Act, 1872

Do not read the commentaries if not required, At least go

through the Bare Acts. (For those who do not know) The Yellow Universal Published Books and Orange Coloured Professional Published Books are called 'Bare Acts' which contain the basic Text of the Enactment with very little comments, if any.

- While trying to read Commentaries (the Big Fat books that form a huge part of any law office), Read at least 30 pages everyday, within

a

month, you'll notice, you have finished a 900 page book. Inside the Court

- INSIDE COURT PREMISES, always carry a red pen, a blue pen, a black pen, (a Green pen as well if you're working in Mumbai), a pencil, a highlighter, a Marker, Court fee stamps worth Rs. 100 of varying denominations, fevistik, a stapler, post it notes/ flags, few blank legal size papers, visiting cards belonging to your senior, ON YOUR PERSON AT ALL TIMES

- Inside Courtrooms, it's easy to doze off, especially while waiting for matters to reach (Reach = when the matter is called out for hearing).

Afterall at a junior level, listening to Counsels argue about unknown cases talking in a language that resembles Greek can get a bit boring after a while. When feeling sleepy, get up immediately and walk outside the Courtroom for 10 seconds, take in deep breaths, only walk back in when you are fully wide awake. DO NOT LET THE JUDGE OR ANYONE ELSE CATCH YOU SLEEPING.

For the Smartphone User

- For TECH SAVVY People. Keep your smartphone on vibration at all times of the day. Download the E-courts App which will help you access Case Status on your phone at any time of the day. Keep Mobile data On to facilitate easy communication over WhatsApp. Download and keep the CamScanner App in order to quickly scan any and all documents that

you get your hands on. ALWAYS SCAN / CLICK a picture of any Document as soon as

you get hold of it. Not with the bulky case files, that you will need the proper scanner to scan. Some High Courts have the Display Board App as well so

get that App as well, which will allow you to know what serial number is proceeding before which Court.

- Try to curb social media networking at work, it has a tendency of sucking you in for hours at a stretch thereby rendering you unable

to work. Try to restrict conversations with friends and family while in office.

It doesn't look good as well, if seniors at office catch you staring at your phone almost all the time they see you (regardless of whether you are doing case research or not). But Remember

- Always, Always finish office work at office and try NOT to take it home. Nights are meant for sleeping not working, keeps the mind fresh during the day. So try and avoid late nights at all costs. Of course there would be the odd occasion when you might need to stay at office late for finishing up urgent work, but ensure to catch up on the missed out sleep the next night.

General Rules

- Always arrive at office before your senior does.
- Never refuse to take up any duty, no matter how hard or (how minuscule) it might be. There would be no better teacher than a difficult task.
- Sometimes you might find yourself in the middle of too much work and you may feel you're unable to cope up with

it, learn

how to Manage, later on in life, it'll stand you in good stead when you discover that you have matters clashing in different Courts.

- Be courteous at all times. Greet everybody with respect and folded hands. Advocates, especially the senior ones have tremendous Egos.
 - Be patient. The more patience you exhibit at the beginning of your career, that much further you'll find yourself on the success meter later on.
 - Pecuniary benefits might not be commensurate with your efforts in the beginning and it might start to get frustrating, but don't let it drag you down. In a few years' time, things would get better immensely.
 - Keep yourself motivated at all times, by watching good movies, TV Shows, listening to good songs or reading good books.
 - Build a strong team around you, support them during times of need, and they will support you when you need them.
- Rules for Chamber Related Work
- Prepare an immediate 'List of Dates and Events' as soon as you receive a Case Brief
 - Read the 'Prayer Clause' first thing when you receive a file, you will know what is being claimed
 - Be meticulous with the case preparations, remember the facts and dates of the case you are working on, it would become easier by repetition and writing
 - When Appearing in a matter, always prepare personal notes on what happening before the Court on that particular day
 - Give precedence to reading books over Indian kanoon, or a General Search on Google.
 - Make yourself indispensable to your senior
 - While drafting documents on a pc/laptop, always remember to mail it to yourself upon finishing with it, that way, you'll have a record and also a format reference during Times of need.
 - While preparing any draft which you intend to get proof read by your senior, ALWAYS KEEP IT DOUBLE SPACED. This will help the senior immensely in making corrections and writing in between the lines. Your senior will love you for this.

GOLDEN RULE FOR ADVOCACY

The True skill of an Advocate is to summarize the contents of 1 (one) page into 1 (one) Paragraph, and to condense the summary of 1 (one) Paragraph into 1 (One) Line.'

Mr. Aspi Chinoy, Senior Advocate, High Court at Bombay

Lastly, Don't forget to Breathe.

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