

Bill No. 91 of 2019

THE VEXATIOUS LITIGATION (PREVENTION) BILL, 2019

By

DR. SANJAY JAISWAL, M.P.

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BILL

to prevent the institution or continuance of vexatious proceedings, in civil and criminal matters in the High Courts and Courts subordinate thereto and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Vexatious Litigation (Prevention) Act, 2019.

Short title,
extent and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) An application for declaring a person as a vexatious litigants, may be filed in the appropriate High Court—

Declaration
of a person as
a vexatious
litigant.

(a) by the Advocate General or in absence of Advocate General, by a senior advocate nominated by the High Court in this behalf; or

10 (b) by the Registrar General of the High Court; or

(c) with the leave of the High Court, by a person against whom the proceedings, civil or criminal, have been instituted or are being continued.

(2) If, on application being filed under sub-section (1), the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings, civil or criminal, in any court, whether against the same person or against different persons, the High Court may, after giving the person who has instituted such proceedings, an opportunity of being heard, declare that person as a vexatious litigant and shall also order as provided under sub-section (1) of section 4: 5

Provided that if an application is filed by any person referred to in clause (b) or (c) of sub-section (1), the Advocate General or, in the absence of Advocate General, such senior advocate, as may be nominated by the High Court in this behalf, shall also be heard. 10

Leave of Court necessary for vexatious litigant to institute or continue any civil or criminal proceedings.

3. (1) Subject to the provisions of sub-section (2) when the High Court under sub-section (2) of section 3 or under sub-section (2) of section 6 declares a person as a vexatious litigant, it shall also order that—

(a) no vexatious proceeding, civil or criminal, shall be instituted by the said person in the High Court or in any other Court subordinate to that High Court; and 15

(b) no vexatious proceeding, civil or criminal, already instituted by the said person in the High Court or in any other court subordinate to that High Court, shall continue without obtaining the leave of the appropriate Court or appropriate Judge.

(2) It shall not be necessary for the person declared as a vexatious litigant to obtain leave in the following cases— 20

(a) where such person has instituted a proceeding in the appropriate Court before the appropriate Judge for the purpose of obtaining leave; or

(b) where, in any matter instituted against him, such person proposes to file or take appropriate proceedings to defend himself; or

(c) where, in a proceeding instituted or continued by such person after obtaining leave from the appropriate Court or the Judge, the said person proposes to file or take appropriate further proceedings. 25

(3) The leave under sub-section (1) shall not be granted unless the appropriate Court or the appropriate Judge, as the case may be, is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* reasonable ground for granting leave to institute or continue proceedings by the person declared as a vexatious litigant. 30

Publication and communication of order.

4. (1) Every order made under sub-section (2) of section 3, declaring any person as a vexatious litigant, shall be published in the Official Gazette and may also be published in such other manner as the High Court may direct. 35

(2) Every order referred to in sub-section (1) shall also be communicated to all the courts subordinate to the High Court which passed such order.

Proceedings, civil or criminal, instituted or continued without leave of the appropriate Court to be dismissed and other consequences.

5. (1) Where any proceedings, civil or criminal, is instituted or continued in any court by a person against whom an order under sub-section (1) of section 3 has been made without obtaining the leave required to be obtained from the appropriate Court or appropriate Judge, such proceedings shall be dismissed by the said court. 40

(2) The court while dismissing the proceedings under sub-section (1) shall, in addition, further direct such vexatious litigant to pay costs.

(3) Every person referred to in sub-section (1) who has instituted or continued any proceedings without leave as aforesaid, may also be liable for punishment for contempt of the High Court which had passed the order under sub-section (1) of section 3. 45

5 **6. (1)** Where any person against whom an order under sub-section (1) of section 3 has been made by a High Court, institutes or continues any proceedings, civil or criminal, in another High Court or in a Court subordinate to such High Court, then the person referred to in sub-section (1) of section 2 may make an application to such High Court for declaring such person as a vexatious litigant. Declaration and order by more than one High Court.

10 (2) If, on an application filed under sub-section (1), the High Court is satisfied that any person has been declared as a vexatious litigant under sub-section (2) of section 2, by another High Court, the High Court may, after giving an opportunity of being heard to the person who has instituted or continued any proceeding, civil or criminal, declare that person as a vexatious litigant and shall also order as provided under sub-section (1) of section 3.

(3) Where an application under sub-section (1) is filed, the provisions of sub-sections (2) and (3) of section 2, and sections 3, 4 and 5 shall apply in relation to such application.

7. (1) Every High Court may make rules for implementing the provisions of this Act.

Power of High Court to make Rules.

(2) All rules made under this section shall be published in the Official Gazette.

15 **8.** The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law providing for striking out vexatious pleadings or prevention of abuse of process of law, or which require consent, sanction or approval in any form of any other authority for the institution or continuance of any civil or criminal proceeding. Saving.

STATEMENT OF OBJECTS AND REASONS

Indian courts face a big challenge of pendency of cases filed therein. There are many factors responsible for huge pendency of litigation in courts, and frivolous and vexatious litigation plays an important role in creating this backlog. Looking at the gravity of the situation, the Law Commission of India made credible efforts to prepare its 192nd Report on Prevention of Vexatious Litigation in June, 2005. This Bill is an extension of the recommendations as put forward by the Commission. Hon'ble Supreme Court has also asked about a nationwide law to prevent non-genuine litigants from overburdening the courts.

The main purpose of enacting a law on the subject is to prevent a person from instituting or continuing vexatious proceedings habitually and without reasonable ground in the High Courts and subordinate courts. It fills an important area where there has been a vacuum in the past nearly five decades in this country.

Hence this Bill.

NEW DELHI;
June 10, 2019.

SANJAY JAISWAL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the concerned High Court to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Dr. Sanjay Jaiswal, M.P.)