

Doctrine of Harmonious Construction

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ABSTRACT: *The term harmonious construction refers to such a construction under which equilibrium or unity is achieved between separate provisions of an enactment. Where there is more than one interpretation in the words of the legislative provision, and there is doubt as to what meaning should prevail, then the meaning by which the words better harmonize with the subject-matter and subject-matter of the enactment should be followed. The legislature is supposed to have passed a statute of a definite intent. It is therefore presumed that the legislature used precise terms to clear their eyes and leave the vocabulary of the enactment with little doubt. Moreover, since the legislature is not expected to contradict itself by presenting contradictory clauses, it is believed that all the provisions of a statute are well composed and aligned with each other. In order to prevent any repugnance, the law should also be construed in such a way.*

KEYWORDS: *Constitution of India; Harmonious Construction.*

INTRODUCTION

Rule of Harmonious Construction is based on the maxim- *Generalia specialibus non derogant*. This theory suggests that unique objects are negative from general things. So, special clauses regulate the general provisions of a law. In other words, there are no demands for general provisions in the matter, which are regulated by special provisions. Consequently, it may be claimed that a particular rule on a case-by-case basis precludes the implementation of general provisions and always overrides general provisions, although the overriding effect is limited to the degree of the conflict within certain provisions[1].

As an instrument for social evolution, rule has a very significant position. There are many intersections between social progress and civil order in a democratic system of government. The law has its origins of laws called the law of the Statute. It is readily founded, transparent and does not have to wait for recognition by the courts. A legislation is recognized by the courts because it is law, not law simply because it is recognized by the courts[1].

In the meaning of Article 300-A of the Constitution, the term 'Law' must mean an Act of Parliament or of a State Legislature, a regulation or a legislative order having force of law, that is, positive or state-made law. In the United Motors case, when Article 286(1) of the Constitution was interpreted by the Supreme Court, their interpretation was held to be the right interpretation of that article. The consequential consequences resulting from the legislation so laid down shall immediately obey, of course, the subject-matter of the restriction law or of specific laws such as *res judicata* in civil cases or *autre fois acquit* or *convict* in criminal cases provided for in the special statutes[2].

Statutes are not always rational (change this term to direct/literal) and the import of rationality in an enactment under the guise of interpretation does not be beyond the province of the court. It is here where understanding becomes essential. The adopted legislation must be seen as an effort to resolve, harmonize, change the competing statements and demands that are frequently contradictory, so that the sacrifice of the conflicting clauses is rarely made[2].

This law is used within a section or between a section and other sections of a statute to prevent any confusion and repugnance. The rule follows a very clear presumption that, as per law, each statute has a meaning and intent, and should be read as a whole. It shall prevail in an understanding that is consistent with all the provisions and makes the enactment consistent. The principle follows a settled law that it is important to prevent an explanation that results in inequality, suffering, discomfort, and paradox. It is important to choose the understanding with the nearest consistency with justice[3].

A constitutional interpretation duty is delegated to each court and it should be carried out with the greatest care and caution. In its own way, the court will still interpret law and the obligation to consider the intent of the legislature when applying the doctrine therefore lies entirely with the court. The interpretation of various laws differs in essence and it is important that the interpretation is simply and unambiguously presented. However, there would be no explanation if all clauses are vague[3].

They can only interpret where the terms are plain and the court will look at enacting clauses of the law in the event of any misunderstanding. Here, the court will apply the literal sense only and apply the common meaning. Each term has a definition with respect to the legislation, and the interpretation will become the extent and beyond the fulfillment of the purposes and reasons for which the legislation was passed in the legislature. Therefore, in its ever growing reach in the modern days, the court should consider the meaning of the 'Doctrine of Harmonious Construction' and reading of laws in general[4].

Interpretation involves the art of understanding the true sense of an enactment by giving its natural and ordinary meaning to the terms of the enactment. That is the way of evaluating the real value of the terms used in a statute. It is not assumed that the Court will view it arbitrarily and, thus, these concepts have evolved from the continuous exercise by the courts. Often these concepts are called 'laws of interpretation'[5].

The purpose of the interpretation of laws is to establish the meaning directly or indirectly expressed by the legislature in the language used. As SALMOND said, "by interpretation or construction is meant, the process by which the courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed"[5].

DISCUSSION

The fundamental essence of vocabulary is the basis for the complexity of laws. The actual meaning of the statute will not always be correctly translated into written language. The flexibility of language necessarily suggests that two opposing meanings would always have similarly successful or equally unconvincing claims. Many times, the provisions have more than one interpretation or the wording is vague. Upon enacting the statutes, the assembly becomes *functus officio*. The interpreters should not go back to the legislature and inquire for the precise meaning of the legislation since the lawmakers may not have expected such a broad spectrum of situations before creating that specific statute[6].

It is then solely up to the judges to view both clauses in such a way that both are successful. Legislation has given us the key principles of interpretation to prevent more ambiguities. Only two of the rules will be addressed here, and a fair comparison between them will be made. The

two rules to be discussed as a principle are Harmonious Construction and Advantageous Construction and are contrasted with each other according to the same uses and on different heads[6].

Interpretation is the technique by which the word's actual meaning or meaning is interpreted. The importance of an English word's ordinary sense is not a matter of law. According to Gray, the form by which a judge derives a concept which he either assumes to be that of the legislature from the terms of a statute book, or which he proposes to assign to it, is interpretation. Salmond defines interpretation as the mechanism by which the courts attempt to evaluate the intent of the legislature by the means of presenting it in authoritative ways[7].

Where there is a disagreement between two or more statutes or two or more sections of a statute, then it is appropriate to follow the concept of harmonious construction. The rule follows a very clear presumption that, as per law, each statute has a meaning and intent and should be read as a whole. It is necessary to follow an interpretation compatible with all of the terms of the law. In the event that it is difficult to harmonize the two clauses, the judgment of the court on the law shall prevail[7].

The law of harmonious architecture is the thumb rule regarding every statute's reading. The purpose of the courts should be an understanding that renders the enactment a cohesive whole, and a building that prevents confusion or repugnance between the separate portions or pieces of the legislation should be embraced. In the terms of the Supreme Court, 'a head on collision' should be avoided by the courts between the various sections of an enactment and the dispute between the relevant provisions should be tried to be harmonized[8].

Consistency should be the usual assumption and it should not be presumed that what is provided by the legislature in one side is requested by the other to be excluded. The Supreme Court thus tersely clarified the concept of harmonious construction, "When there are two provisions in an enactment that cannot be reconciled with each other, they should be interpreted in such a way that both should be affected if possible." As harmonization is not equal to death, a design that renders one part of the enactment a dead letter should be avoided[9].

Harmonious Construction Doctrine According to this rule, a statute should be read as a whole and one provision of the Act should be construed in order to make a standardized enactment of the whole statute with respect to different provisions within the same Act. Such an interpretation is helpful either within a section or between a section and other sections of the law to prevent any inconsistency or repugnance[10].

The law is created by the government and situations of uncertainty, disputes, repugnance, etc. are possible. The laws of application of legislation come into play in certain cases and the provisions are designed to give them full force and to render justice to the case at hand. The theory of harmonious construction has allowed judges to readily interpret the two confrontational rules and has proven to be successful in supplying society at large with justice. It is also one of the essential instruments in the judiciary's side when reading the laws and subordinate statutes[10].

CONCLUSION & IMPLICATION

The legislation is created by the legislature and circumstances of uncertainty. The law of reading of laws falls into play under certain cases, and the regulations are designed to give them full effect. The theory of harmonious architecture has allowed judges to easily understand the two confrontational rules and helped to provide society at large with justice. It is also one of the most critical devices in the hands of the courts when some reading of the laws is being undertaken.

The conclusion of the distinction between the Harmonious Construction rule and the Advantageous Construction rule is the final analysis. Harmonious construction is only used when there is a discrepancy in the interpretation of two separate provisions and the meaning of which clause is to be enforced by the courts in a problematic situation? Whereas, in situations where any building will favour society or any group of persons, the Advantageous Construction rule is applied and is essentially applied in socio-economic rules. There is no dispute here between the words of any of the two clauses and their attributed meanings. The Harmonious Construction and Advantageous Construction Laws thus both play an important part in the reading of statutes and are two important laws of law.

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