

Remembering S. P. Sathe

THE 9TH NATIONAL MOOT COURT COMPETITION 2015

13 – 15 FEBRUARY 2015



INDIAN LAW SOCIETY

ILS LAW COLLEGE CAMPUS

LAW COLLEGE ROAD, PUNE – 411004

MAHARASHTRA, INDIA.

Tel: 020-25656775, 020-25656780

Email: ilslaw@vsnl.com | Web: www.ilslaw.edu

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INDIAN LAW SOCIETY, PUNE

The Indian Law Society was established in 1923 as a Public Charitable Trust registered under the Societies Registration Act. It is a non-profit organization established with the sole purpose of imparting legal education. The Society is a voluntary association of persons, who came together with a pledge to launch courses on law, formal and informal, where law and legal doctrines are taught with social utility, purpose, impact and social relevance. The founder members of the Indian Law Society were great legal celebrities like Sir Narayanrao Chandavarkar, Shri J. R. Nanasaheb Gharpure, Diwan Bahadur and P. B. Shingane. Indian Law Society established ILS Law College in 1924, with a view to providing facilities for the study of law. Establishment of the Law College by the Indian Law Society was indeed a turning point in Indian Legal Education, particularly in respect to academic excellence, social relevance and professional competence. Imaginative realignment of written law or the hard law with a view to reorient them with the Indian social milieu has always been the strength of the Indian Law Society. The ILS Law College, during its 90 years of existence, has acquired the reputation of being a premier institution imparting brilliant and quality legal education in the country.

ILS LAW COLLEGE, PUNE

Established in 1924, ILS Law College is one of the oldest law schools in the country and has been playing a pioneering role in legal education and scholarship. Since its inception, ILS Law College has produced some of the most highly regarded contributors in the field of law. Three Chief Justices of the Supreme Court, Justice P. B. Gajendragadkar, Justice Y. V. Chandrachud, Justice E. S. Venkataramaiah, Former Governor of Maharashtra K. M. Reddy, Former Defence & Finance Minister and First Chief Minister of Maharashtra Y. B. Chavan, Former Minister of Commerce Mohan Dharia, Former Chief Ministers of Maharashtra, Sushil Kumar Shinde and Vilasrao Deshmukh, all received legal education from ILS Law College. Completing 90 years of its existence, ILS Law College, with its illustrious history and heritage, has contributed immensely to the growth of legal profession and has upheld its tradition of producing meritorious legal scholars who dedicate themselves to public service and reform. The generations of distinguished legal luminaries who have been nurtured by this unique institution have made a seminal contribution globally to evolution of the legal fraternity. ILS Law College has been accredited with A+ by NAAC.

REMEMBERING S. P. SATHE NATIONAL MOOT COURT COMPETITION

Dr Satyaranjan Purushottam Sathe was a distinguished legal luminary and a renowned academic in the judicial universe of India. He held various positions in Universities and Law Institutes of repute. Professor S.P. Sathe had a long association with the Indian Law Society. He was the Principal of ILS Law College from 1976 to 1991. He was also the Secretary of the Indian Law Society until 2002. He was the Founder Director of the Institute of Advanced Legal Studies. He was also the President of the Maharashtra People's Union for Civil Liberties, and a Vice-President of the National PUCL.

Professor S. P. Sathe has been an authority on Constitutional Law, within the country and abroad. He contributed extensively to the field of legal education. His recent work on 'Judicial Activism' is appreciated worldwide. More than 100 articles written by him were published in national and international legal periodicals, magazines and journals. Books to his credit are, 'Administrative Law', 'Judicial Activism in India: Transgressing Borders and Enforcing Limits', and 'Right to Know'. He also wrote in Marathi. He contributed to the Marathi Vishwa Kosh published by the Government of Maharashtra. He was invited to deliver lectures, and to participate in seminars as a resource person to different law universities, institutions within and outside India. Known for his humility, Professor Sathe endeared himself to his colleagues and students alike. His commitment to Rights and Liberties of the people was deep and abiding.

Every year, Professor S. P. Sathe Foundation, set up by the Indian Law Society, organizes three events at ILS Law College, Pune on a specific theme with a view to commemorate his contribution to Indian Jurisprudence and Social Action and to encourage academic pursuit of law students. The three events are: a Memorial Lecture, a Conference, and a Moot Court Competition. The year 2015 will see the ILS holding the 9th *Remembering S. P. Sathe* National Moot Court Competition.

THE 9th REMEMBERING S. P. SATHE NATIONAL MOOT COURT COMPETITION 2015 | THEME

The theme for this year's Sathe memorial events is:

“Developments in Private International Law, with special reference to India”

Personal and family or commercial situations which are connected with more than one country are commonplace in the modern world. These may be affected by differences between the legal systems in those countries. With a view to resolving these differences, States are required to adopt special rules known as "private international law" rules; these form a part of their domestic law.

Private International Law is the legal framework composed of conventions, protocols, model laws, legal guides, uniform documents, case law, practice and custom, as well as other documents and instruments, which regulate relationships between individuals in an international context. This field of law has a dualistic character, balancing international consensus with domestic recognition and implementation, as well as balancing sovereign actions with those of the private sector.

The *Remembering S. P. Sathe* National Moot Court Competition is being organised to introduce participants to practical appellate argumentation of cases consisting a foreign element. This year's competition will engage teams from across the country in arguing a moot problem touching upon marriage and succession setup in a transnational and interreligious backdrop, involving issues relating to private international law. This will promote the increasing relevance and impact of Private International Law in different areas of law, and its growing importance in India.

Remembering S. P. Sathe

**THE 9TH NATIONAL MOOT
COURT COMPETITION 2015**

COMPETITION CASE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Nilanjan Rai v. Anjali Rai & Emily Dickens

Record of Facts

1. On December 2, 1966, Emily Dickens, a young English writer, met Amir Iqbal, a travelling Indian poet, at the Royal Asiatic Society meeting held in London. They fell in love and married soon thereafter in a civil ceremony at The Royal Pavilion, Brighton on December 16, 1966 in England according to the requirements of English Law. At the time of the marriage the husband was a Muslim, domiciled in India, and the wife was a Christian, domiciled in England; after the marriage, Emily acquired her husband's domicile.
2. They travelled together to India in 1969 where subsequently Emily embraced Islam. Over time, due to incompatibility between the husband and the wife, problems cropped up in the marriage; an exasperated Emily went to England on a brief visit to meet her family in July 1974.
3. In the meantime, *Domicile and Matrimonial Proceedings Act, 1973* (which, among other things, abolished a married woman's domicile of dependency) came into force in England.
4. On August 2, 1974, Amir Iqbal gave divorce to Emily in her absence by pronouncing the triple *talaq* in India. As soon as Emily became aware of this development, in early September 1974, she reconverted to Christianity.
5. Later in January 1975, Emily met Jamini Rai, an Indian entrepreneur, at a literature festival in London. Jamini had professional interests in Europe and India, and also had substantial properties there. He was a Hindu widower with a son, Nilanjan, from his earlier marriage.
6. Emily and Jamini liked each other and on finding each other suitable, they decided to get married. Emily became a Hindu and began practising Hinduism. On May 8, 1975, Emily and Jamini, got married in London, in a religious ceremony according to Hindu rites. At the time of the marriage, both were domiciled in India.

7. After a few years of stay in London and intermittent travel through Europe, they went to Hyderabad, India in 1980 intending to stay there permanently. On April 21, 1984, they were blessed with a daughter, Anjali.
8. In 2006, Jamini met with a tragic road accident in Hyderabad. He died intestate leaving behind his share in ancestral (movable and immovable) properties in Hyderabad. He also had self-acquired movable and immovable properties in Mumbai (India), Paris (France), and London (UK).
9. In June 2006, Nilanjan Rai, Jamini's son from his first marriage, filed a suit before the District Court, Hyderabad, for a declaration that he is the sole successor to both the immovable as well as movable property of Jamini Rai. The suit was challenged by Emily along with Anjali, claiming that they are the legal heirs of Jamini Rai and that they were entitled to a share in all the property of Jamini Rai.
10. The trial court accepted Nilanjan's contention that Emily was not the lawful wife of Jamini Rai as her earlier marriage was not dissolved according to civil marriage law of England and the triple *talaq* divorce of Emily's first marriage was invalid, rendering her subsequent marriage to Jamini void. Therefore, it was held that Emily would not inherit any share in Jamini's property.
11. The Court further held that Anjali being the illegitimate child of Jamini Rai, Nilanjan will remain the sole successor to his father's ancestral property. The trial court ruled in his favour, stating that while Anjali could inherit her father's self-acquired property she was not entitled to a share in her father's ancestral property.
12. On appeal, the High Court upheld the order of the trial court. However, noting the complexity of the case and for further clarification of the legal issues involved in the case, leave to appeal under Article 136 was granted. The matter is now before the Supreme Court of India.

Remembering S. P. Sathe

**THE 9TH NATIONAL MOOT
COURT COMPETITION 2015**

COMPETITION RULES

PART I GENERAL

1. INTRODUCTION

- 1.1. The 9th *Remembering S. P. Sathe* National Moot Court Competition is convened through 13 – 15 February 2015 by the Indian Law Society, Pune at the ILS Law College, Pune.

2. PARTICIPATION AND ELIGIBILITY

2.1. TEAM MEMBER ELIGIBILITY

- 2.1.1. Students enrolled in a full-time or part-time bachelors or masters law programme at the time of the competition are eligible to compete in the Competition. Each College/Law School or University may enter one team only.

2.2. TEAM COMPOSITION

- 2.2.1. A team shall be composed of either:
- Two Members: both speakers, OR
 - Three Members: two speakers and one researcher.

2.3. NUMBER OF PARTICIPATING TEAMS

- 2.3.1. Twenty-four (24) teams only shall participate in the Competition, on first come first served basis, including the team of ILS Law College, Pune.
- 2.3.2. In case there is an odd number of participating teams, ILS Law College, Pune will nominate a non-competing dummy team that will not proceed beyond preliminary rounds.
- 2.3.3. Team members must carry current identity-cards issued to them by their institution. Team members will not reveal their identity or of their institution during the progress of the competition, in the memorials, and even if requested by judges, failing which the team will face disqualification.

3. OFFICIAL LANGUAGE

- 3.1. The official language of the Competition is English. All Competition Rounds including the written submissions (Memorials) will be in English.

4. DRESS CODE

- 4.1. The teams are expected to follow a strict dress code of western or Indian formals. Advocate's gown and white band are *not* essential.

5. CLARIFICATIONS TO THE COMPETITION MODULE

- 5.1. Teams may submit written requests for clarifications regarding the Module, comprising the Competition Case file and the Rules. Teams may submit requests for clarifications by email to sathemoot2015@gmail.com.
- 5.2. Requests for Clarifications must be received by us by **January 15, 2015**. All clarifications will be issued within 3 days of receipt of said clarification request.

PART II REGISTRATION

6. REGISTRATION FORM

- 6.1. The duly completed Registration Form and scanned copy of with all team details must be submitted by email to: sathemoot2015@gmail.com by **January 20, 2015**.
- 6.2. Hard copy of the Registration Form must reach ILS Law College, Pune on or before **January 25, 2015**.
- 6.3. No change in the names of the participants shall be permitted after the receipt of the Registration Form, except at the sole discretion of the Organisers.
- 6.4. All teams shall be given a “Team Code” by the Organisers on validation of their Registration Form and Demand Draft.
- 6.5. Thereafter the teams shall use their designated “Team Code” for all correspondence with the Organizers.
- 6.6. The same team code must be used by the teams during the submission of Memorials and during all the Rounds of the Competition.

7. REGISTRATION FEE

- 7.1. Registration fee for participation in the Competition is **INR 3000/- (Rupees Three Thousand Only), exclusive of accommodation**.
- 7.2. Registration fee is to be paid by **Demand Draft** drawn in favour of “**Principal ILS Law College Pune**” payable at Pune.
- 7.3. The scanned copy of the Demand Draft must be submitted by email to: sathemoot2015@gmail.com by **January 20, 2015**.

- 7.4. The Demand Draft (along with the hard copy of the Registration Form) must reach ILS Law College, Pune on or before **January 25, 2015**.

PART III

FORMAT OF THE COMPETITION

8. ROUNDS

- 8.1. The competition will be held in three rounds.
- 8.2. In the preliminary rounds, each team will present arguments for both sides in different courts. Eight teams will proceed to the semi-final rounds in two courts on the basis: firstly by total wins, secondly by total marks in the preliminary rounds, and lastly (in case of tie) by total marks of memorials of such teams.
- 8.3. The winner from each of the two courts in the semi-final will proceed to the finals.
- 8.4. Researcher's Test will not be conducted.

9. PROCEEDINGS

- 9.1. In the preliminary and semi-final rounds, each team will have 30 minutes for argument. Each team member shall argue for at least 12 minutes.
- 9.2. In the final round, each team will have 45 minutes for arguments, and each team member shall argue for at least 20 minutes. This time includes the time for rebuttals or sur-rebuttals. Only one speaker can speak in rebuttal or sur-rebuttal.
- 9.3. Each team and its members shall be seated in the court room through the proceedings of that court.
- 9.4. Any team member shall not visit any court room other than his own until that round is over.
- 9.5. Teams can use laptops during proceedings such that it shall not interfere with the court proceedings.
- 9.6. Judges' decision on conduct of proceedings will be final in their court.

PART IV
MEMORIALS

10. SUBMISSION OF MEMORIALS

- 10.1. All memorial submissions must conform to the following general criteria. Teams will be penalized for failure to abide by these requirements.
- 10.2. Soft copies of the memorials must be e-mailed to sathemoot2015@gmail.com on or before **February 2, 2015**.
- 10.3. Four (4) hard copies of the memorials from each side (i.e., 4 copies from Appellant side + 4 copies from Respondent side = total 8 memorials) must be sent to the following address, postmarked **February 2, 2015**:

The Coordinator
Remembering S. P. Sathe National Moot Court Competition
C/o The Principal, ILS Law College,
Law College Road, Pune 411004
(Tel No. 020-25656775)

- 10.4. Hard copies of the memorials should reach ILS Law College, Pune by **February 5, 2015**.

11. CONTENTS OF MEMORIALS

Memorials must contain the following:

- i. Cover page stating Title of the Competition, Name of the Court, Name of the Case, Title of the document (viz. "Memorial for the ___"), and Team Code
- ii. Table of Contents
- iii. Index of Authorities
- iv. Statement of Jurisdiction
- v. Statement of Facts
- vi. Issues
- vii. Summary of Arguments
- viii. Arguments
- ix. Prayer.

12. FORMAT OF MEMORIALS

Memorials shall be made and submitted as follows:

- i. **Microsoft Word document** (compatible with Windows)
- ii. **Cover:** Do not use plastic, leather bound or hard bound material. Use ordinary card paper.
- iii. **Cover Page:** Blue cover for Appellant; Red cover for Respondent.
- iv. **Paper:** White paper inside; A4 size.
- v. **Printing:** Both sides of sheets
- vi. **Page Count (Total):** Maximum 35; (Page = one side of sheet)
- vii. **Page Count (Arguments):** Maximum: 20; (Page = one side of sheet)
- viii. **Numbered:** Bottom-Centre.
- ix. **Font:** Times New Roman, 12 points for text, 10 points for footnotes
- x. **Line Spacing:** 1.5 for text, 1 for block quotes of more than 50 words in the text; 1 for footnotes.
- xi. **Para Spacing:** 2 for text, 1.5 for footnotes.
- xii. **Mode of Citation:** Oxford University Standard for Citation of Legal Authorities (OSCOLA), 4th Edition. Link to Free PDF of OSCOLA:
http://www.law.ox.ac.uk/published/OSCOLA_4th_edn_Hart_2012.pdf
Additional reference for citations under OSCOLA:
<http://www.law.ox.ac.uk/publications/oscola.php>
- xiii. **Soft copies:**
 - Memorial for each side shall be a single document.
 - The document file shall be named: “(TEAM CODE)_Memorial for Appellant” and “(TEAM CODE)_Memorial for Respondents”.
 - The subject of the mail submitting memorials shall be: “Memorial – Name of your institution”; e.g.: “Memorial – ABC College”.
- xiv. Do not write the name of your institution on the memorials.

13. ADHERENCE OF MEMORIALS TO PRESCRIBED FORM AND CONTENT

13.1. Memorials that do not comply with above specifications will suffer penalty points.

13.2. Marks of memorials will not be counted in the preliminary or semi-final rounds, unless there is a tie.

13.3. Memorials of other team received during a round shall be returned to the Court-clerks immediately after the round is over. Teams shall not put any mark or matter on such memorial received.

**PART V
ADJUDICATION**

14. MARKING CRITERIA

14.1. ORAL ROUNDS

14.1.1. Each judge in each round will mark each team member according to criteria given below.

Sr. No.	Criteria	Maximum Marks	
		Speaker 1	Speaker 2
1.	Knowledge of facts and identifying issues	10	10
2.	Knowledge, statement and understanding of legal provisions and principles	15	15
3.	Arrangement, presentation and content of argument	10	10
4.	Logical reasoning, clarity, brevity and ingenuity of arguments	10	10
5.	General Presentation, Court Etiquettes, Advocacy Skills, Time Management	5	5
Sub-Total		50	50
TOTAL		100	

14.2. MEMORIALS

14.2.1. Each memorial will be marked as given below:

Sr. No.	Criteria	Max Marks
1.	Proper and articulate analysis of issues arising out of facts	10
2.	Understanding and ability to explain the legal principles clearly	10
3.	Presentation and content of argument	10
4.	Use of legal sources	10
5.	Variation in approach	10
	Maximum marks	50
	Less penalty points	
	Total marks for the memorial (50 minus penalty points)	

15. AWARDS

15.1. Prizes for the competition are as follows:

- Winning Team: Rolling Trophy, and a trophy to carry to the Institution.
- Runners-up team: A trophy
- Best and Second-Best Memorials
- Best and Second-Best Student Advocates of the Competition
- Best Speaker of the Finals
- Justice V. A. Naik Prize for the Best team from Maharashtra.

15.2. Member of each team will receive certificate of participation.

PART VI MISCELLANEOUS

16. ACCOMMODATION

16.1. Participants can avail accommodation for the days of the competition only, i.e. 13th, 14th and 15th of February, 2015.

16.2. Teams which require accommodation must mention the same in the Registration Form and make additional payment accordingly. Accommodation charges for the days of the Competition is Rs. 2000/- (Rupees Two Thousand Only) per participant.

17. CONFIRMATION OF TRAVEL ITINERARY

17.1. Participating Teams must confirm their travel itinerary by **February 2, 2015** and communicate the same to the Organisers by email on **sathemoot2015@gmail.com**.

18. ORGANISERS' EXTRA-ORDINARY POWER

18.1. All Participants are expected to maintain decorum in the Court during the competition and are expected to conduct themselves in a manner befitting the legal profession. The Organisers reserve the right to take appropriate action for any unethical, unprofessional and immoral conduct.

18.2. The Organisers decision as regards the interpretation of rules or any other matter related to the competition will be final and binding.

- 18.3. If there is any situation which is not contemplated in the rules, the Organisers decision on the same shall be final and binding.
- 18.4. The Organisers reserve the right to vary, alter, modify, or repeal any of the above rules without any prior notification, if so required and as they may deem appropriate.
- 18.5. Any issue or matter concerning the Competition will be decided by the Conveners. Any grievance may be addressed to the Principal, ILS Law College, whose decision will be final.

19. DISCLAIMER

- 19.1. The material in the Competition Case is not intended to and does not attempt to resemble any incident or any person living or dead. Material in the Competition Case is fictitious and any resemblance to any incident or person, if any, is not intended, but merely co-incidental.

TIMELINE FOR THE COMPETITION

Release of Competition Module	08 January 2015
Last Date for sending clarifications to Competition Module	15 January 2015
Participants will receive responses to clarifications latest by	20 January 2015
Last Date for sending soft copy of Registration Form and scanned copy of Demand Draft by Email	20 January 2015
Hard copy of Registration Form, and Demand Draft must reach Organisers on or before	25 January 2015
Last Date for sending soft copy of Memorials by Email	02 February 2015
Confirmation of Travel Itinerary of Teams by Email	02 February 2015
Hard copy Memorials must reach Organisers on or before	05 February 2015 (Parcel should be postmarked February 2, 2015)
Inauguration, Draw of Lots, and Exchange of Memorials	13 February 2015
Preliminary Rounds	14 February 2015
Semi-Finals and Final	15 February 2015

CONTACT

STUDENT CONVENERS

RUDRANEEL CHATTOPADHYAY

☎ +91-7738322123

A. SNEHA L. VISAKHA

☎ +91-9168980169

FACULTY CONVENER

SATHYA NARAYAN

Honorary Director

Institute of Advanced Legal Studies
(IALS), Pune

COMPETITION EMAIL

sathemoot2015@gmail.com



Remembering S. P. Sathe
NATIONAL MOOT COURT COMPETITION 2015

INDIAN LAW SOCIETY, ILS LAW COLLEGE CAMPUS, PUNE, INDIA | 13 – 15 FEBRUARY 2015

For queries regarding the Competition, contact:
 Email: sathemoot2015@gmail.com
 A. Sneha L. Visakha: +91-9168980169
 Rudraneel Chattopadhyay: +91-7738322123

REGISTRATION FORM

NAME OF THE INSTITUTION:																															
ADDRESS OF THE INSTITUTION:																															
EMAIL:																															
TELEPHONE NUMBER:															FAX NUMBER:																
FACULTY IN-CHARGE:		F	I	R	S	T	N A M E					L A S T					N A M E					MOBILE:									
EMAIL:																															
TEAM DETAILS	SPEAKER 1	F	I	R	S	T	N A M E					L A S T					N A M E					MOBILE:									
	SPEAKER 2	F	I	R	S	T	N A M E					L A S T					N A M E					MOBILE:									
	RESEARCHER	F	I	R	S	T	N A M E					L A S T					N A M E					MOBILE:									
TEAM CONTACT EMAIL:																															
REGISTRATION FEE DETAILS:	Completed form with Demand Draft of Rs. 3000/- should reach the Coordinator by 25th January, 2015 at the following address: The Coordinator, 9th Remembering S P Sathe National Moot Court Competition, c/o The Principal, ILS Law College, Law College Road, Pune 411 004.															ACCOMMODATION FOR OUT-STATION TEAMS: (Please tick the appropriate box)					<input type="checkbox"/> 1. Yes, please arrange accommodation. If so, then send another DD @ Rs. 2000 per person. DD must be in favour of " Principal ILS Law College Pune " payable at Pune. DD No.: _____ dated _____ Bank: _____										
	DD No.: _____ dated _____ Bank: _____																				<input type="checkbox"/> 2. No, we shall make our own arrangements for accommodation.										

Date: _____ Institution Seal: _____ Sign of Head of Institution or Faculty in-charge: _____

FOR OFFICE USE ONLY:	Rs. _____	Received on: _____	Serial No.: _____	Team Code assigned: _____
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