



T.R. DESAI'S EQUITY, TRUSTS AND SPECIFIC RELIEF (9th ed. 1991).
Edited by Sunderlal T. Desai. N.M. Tripathi (P) Ltd. Bombay. Pp. xii+268.
Price Rs. 125.

EQUITY, JUSTICE and good conscience has played a very significant role in the introduction of common law in India. Equity has been used as a source of law to devise a new principle in a situation where the statute or codified law had no answer to a given situation. Indeed, equity has been universally recognised as a source of law alongwith statute, custom and precedent. The writ jurisdiction of the High Courts and the Supreme Court has largely achieved its present shape with the help of principles of equity. The Constitution of India in articles 32, 226 and 227 while conferring power to issue these writs recognised the continued use of principles of equity by using the words 'writs in the nature of' before the various writs. Even today the writ courts refuse to issue a particular writ if the conduct of the writ petitioner is in any way tainted and it can be said that one who claims equity must come with clean hands. Laches as a fit and proper ground for refusal of a writ accepts the principle of equity that delay defeats equity.

The Bar Council of India realising the due importance of equity in the administration of justice, made the study of this subject compulsory for entrance to the Bar by including it in the list of core subjects. The knowledge of equity is essential for those practising in civil courts in the district, writ courts in the High Court and the Supreme Court of India. Administrative law in general and public interest litigation in particular have been enriched by application of principles of justice and equity. The spurt of judicial activism may also be attributed to the application of principles of equity.

When at common law, many rights could not be enforced and many wrongs remained unredressed, a limited power was granted to the Court of Chancery to invent new writs to enforce such rights and to redress such wrongs, a new jurisprudence came into being. In course of time, it proved so useful that with the fusion of common law and equity, the latter became an inseparable part of the former. Thus the shortcomings of common law proved to be a blessing in disguise benefitting the entire mankind.

Since equity originated in the English common law, it was but natural for us to use English books written by such eminent authors as Snell, Hanbury and Mandsley, Maitland, Sir Fredrick Pollock and others. In Hindu jurisprudence *nyaya* and *yukti* as attributes of *dharma* corresponded to equity. In recent years a few Indian books have proved to be very useful to law students. The book under review is one of them. Its usefulness has been proved beyond doubt by the fact that it has already run into nine editions. The present editor is no less a person than the former Chief Justice of the Gujarat High Court and an author and editor of several other well known books.

The canvass of the book is indeed very wide. In 268 pages he has covered a number of important and useful topics. The book is divided in five parts which are



further divided in twenty five chapters. All these parts and chapters are preceded by a general introduction covering twenty-two pages. This is very rich in content and is very informative and instructive.

Part I in its seven chapters traces the growth and evolution of equity in England. A chapter is devoted to trace the origin and development of equity in England. Another gives an account of the fusion of law and equity. It also discusses the salient features of the Judicature Acts 1873, 1875 and the Consolidation Acts 1925. One chapter explains the maxims of equity. Another enumerates the various topics of equity and discusses various doctrines of equity. The last chapter in Part I restates the law on modern equity in England.

Part II is entirely devoted to equity in India. Treatment of topics such as, (i) rules of equity, (ii) usefulness of decisions of English courts on equity, (iii) statutory equity and public interest litigation and equity is extremely good. Under the topic statutory equity a long list of enactments is given where statutory recognition is given to various principles of equity. The Transfer of Property Act 1882, the Indian Evidence Act 1872 and the Indian Succession Act 1925 are some of them. In the discussion relating to public interest litigation and the judicial activism one can see growing relevance of principles of equity.

Part III contains a detailed commentary on the Indian Trusts Act 1882 with special relevance of equitable principles on fiduciary relations. Law of trusts is a gift and achievement of equity. The Indian Trusts Act 1882 codifies the law on private trusts but the provisions of this Act can only be understood in the correct perspective of equity.

Part IV contains a commentary on the Specific Relief Act 1963. This commentary is written in the true perspective of equity with reference to relevant principles of equity. Part V on law of injunctions rightly titled "Preventive Relief" deals with a very important branch of civil law which owes its origin in equity. This part contains the complete law of injunctions. It refers to the relevant provisions of the Code of Civil Procedure and the Specific Relief Act and contains a number of illustrations to explain general principles formulated by the author.

The printing and get up of the book is very attractive in the true N.M. Tripathi style. A table of cases at the beginning and an exhaustive index at the end add to the utility of the book. The price of Rs. 125 for a paper back edition is indeed very moderate.

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BOOKS RECEIVED FOR REVIEW

GOURDAS CHAKRABARTI, *The Law of Negligence* (1996). R. Cambray & Co. Pvt. Ltd., P-33 Mission Row Extension, Calcutta-700013. Pp.1x-506. Price Rs. 595, \$ 60, £ 35.

K. VEERASWAMI, *The Perils to Justice* (1996). Eastern Law House Pvt. Ltd., 54, Ganesh Chunder Avenue, Calcutta-700 013. Pp. 382. Price Rs. 275.

P.S. NARAYANA, *Criminal Pleadings* (2nd Updated Reprint 1996). Asia Law House, Opp. High Court, Hyderabad-500 002. Pp. xii+290. Price Rs. 240.

PARAMJIT S. JASWAL, NISHTHA JASWAL, *Human Rights and the Law* (1996). APH Publishing Corporation, 5 Ansari Road, Daryaganj, New Delhi-110002. Pp. xxvi+395. Price Rs. 600.

PARAMJIT S. JASWAL, *Directive Principles, Jurisprudence and Socio-Economic Justice in India* (1996). APH Publishing Corporation, New Delhi. Pp. xxxv + 742. Price Rs. 1000.

R.K. BAIG, *Law of Medical Negligence and Compensation* (1996). Eastern Law House Pvt. Ltd., 54 Ganesh Chunder Avenue, Calcutta. Pp. 275. Price Rs. 300.