

Not a Court of Record, But Worth Recording

The case for publishing the district judiciary's best judgments

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ABSTRACT India's district courts decide the overwhelming share of the nation's cases, yet their judgments, uncited, unreported and in time destroyed on schedule, vanish from the legal record. This article argues that the district judiciary's exclusion from "court of record" status under the Constitution is no answer to the disappearance of its best work, because publication and precedent are separable institutions. Drawing on a recent Saket judgment, the design of the Commercial Courts Act, 2015, and the New York model of selectively reporting trial-court opinions, it proposes a pilot that any High Court can establish tomorrow: a curated District Judiciary Law Reporter, working alongside the private law reporters, whom no general law restrains.

I. A JUDGMENT NOBODY WILL READ

On 4 November 2025, the Court of District Judge-06, South-East District, Saket Courts, New Delhi, delivered a fifty-three-page judgment dismissing a suit for declaration, partition and rendition of accounts brought against the estate of a deceased Member of Parliament.² The litigation had traversed nearly two decades and two courts: issues were framed by the Delhi High Court in December 2008,³ and the suit was thereafter tried to conclusion in the district judiciary.

By any measure, the judgment is a serious piece of judicial work. Within its pages, a trial judge holds that the examination-in-chief of a witness dropped before cross-examination (here, the priest said to have solemnised the disputed marriage) cannot be read in evidence;⁴ applies the presumption of marriage arising from long cohabitation under Sections 50 and 114 of the Evidence Act, and the familiar line of *S.P.S. Balasubramanyam v. Suruttayan*,⁵ *Tulsa v. Durghatiya*⁶ and *D. Velusamy v. D. Patchaiammal*,⁷ while mak-

1. Advocate, Delhi High Court; Managing Counsel, Chambers of Shashi Pratap Singh (COSPS). The author appeared as counsel for the contesting defendants in the suit discussed in Part I. Views are personal.

2. *Arjun Kumar Singh (Minor) & Anr. v. Vishal Singh & Ors.*, CS DJ No. 210243/2016, CNR No. DLSE01-002802-2016 (Court of District Judge-06, South-East District, Saket Courts, New Delhi, judgment dated 4 November 2025) ("*Arjun Kumar Singh*").

3. *Arjun Kumar Singh*, para 16 (issues framed by the Hon'ble High Court of Delhi by order dated 19 December 2008).

4. *Id.*, paras 17 and 34–35.

5. *S.P.S. Balasubramanyam v. Suruttayan*, (1994) 1 SCC 460.

6. *Tulsa v. Durghatiya*, (2008) 4 SCC 520.

7. *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

ing the anterior point the digests miss: the presumption presupposes proved cohabitation and cannot substitute for it. The judgment tests a claimed “relationship in the nature of marriage” against the four *Velusamy* conditions; draws an adverse inference under Section 114 from a party’s failure to produce her passport despite the court’s direction; declines to read a photocopied document in the absence of leave to lead secondary evidence; and holds, on the authority of *Madan Mohan Singh v. Rajni Kant*,⁸ that entries in a birth certificate, though admissible under Section 35, may be discarded where the foundational facts fail, before it addresses legitimacy under Section 16 of the Hindu Marriage Act, 1955.⁹

A junior drafting objections on mode of proof would profit from reading it. So would a student who has never seen a presumption actually operate at trial, or a judicial officer writing a similar judgment two districts away. Almost none of them ever will. The judgment carries no citation and no headnote; no law report will carry it; no database will surface it in a subject search. Its public existence is a scanned file on a case-status page, findable only by someone who already knows the case number.

There is a grim irony inside the judgment itself. A crucial hospital record could not be produced at trial because, the hospital having closed, its records had been “weeded out”.¹⁰ The judicial record of the suit now enters a record room governed by retention schedules under which district court records are classified and, in time, destroyed.¹¹ The system that held a litigant to the consequences of weeded-out records weeds out its own.

II. THE LABEL AND THE PLUMBING

The Constitution declares the Supreme Court and every High Court a “court of record”.¹² The expression carries a bundle of consequences: the court’s proceedings are preserved for perpetual memory and testimony, its records import evidentiary verity, and it punishes its own contempt.¹³ The district judiciary received none of the bundle. Its records are preserved on schedules framed by the High Courts; its judgments bind no one, not even the same judge in the next case; and contempt of it is punished by the High Court under the Contempt of Courts Act, 1971.¹⁴

From this constitutional silence an inference is habitually drawn: district courts are not courts of record, therefore their judgments are not “reportable”, and there is nothing anomalous in their disappearance. The inference does not survive scrutiny, because publication and precedent are separable things. Unreported High Court judgments are cited every day; obiter dicta are reported though they bind nobody; foreign case law is read here for its persuasive value alone. A judgment can be published for what it teaches without being cited for what it binds. Whether to publish is a question of institutional design, not of constitutional status.

8. *Madan Mohan Singh v. Rajni Kant*, (2010) 9 SCC 209.

9. *Arjun Kumar Singh*, paras 49–53, 69, 73–74 and 76–80.

10. *Id.*, paras 20 and 69 (hospital records “weeded out” upon closure of the hospital and incapable of retrieval).

11. Delhi High Court Rules & Orders, Vol. IV, Ch. 16, Part F (rules framed under s 3 of the Destruction of Records Act, 1917 for the destruction of records of the civil and criminal subordinate courts; records preserved in perpetuity are enumerated in Rule 7, Part F(A)).

12. Constitution of India, arts 129 and 215.

13. *Delhi Judicial Service Association v. State of Gujarat*, (1991) 4 SCC 406.

14. Contempt of Courts Act, 1971, ss 10 and 15.

III. THE SCALE OF THE SILENCE

The district judiciary is where Indian adjudication actually happens. Of roughly 5.5 crore cases pending across the system in early 2026, close to nine in ten were pending before the district and taluka courts; the Supreme Court's share of the national docket is a fraction of one per cent.¹⁵

Accessibility runs exactly the other way. Every Supreme Court judgment is reported and translated and, since 6 July 2023, stamped with a neutral citation of its own;¹⁶ the High Courts have followed, Delhi among the first. For the district judiciary there is no citation, no reporter, no editorial selection, and no obligation to publish final judgments in searchable text; uploads are scattered and frequently image-only.

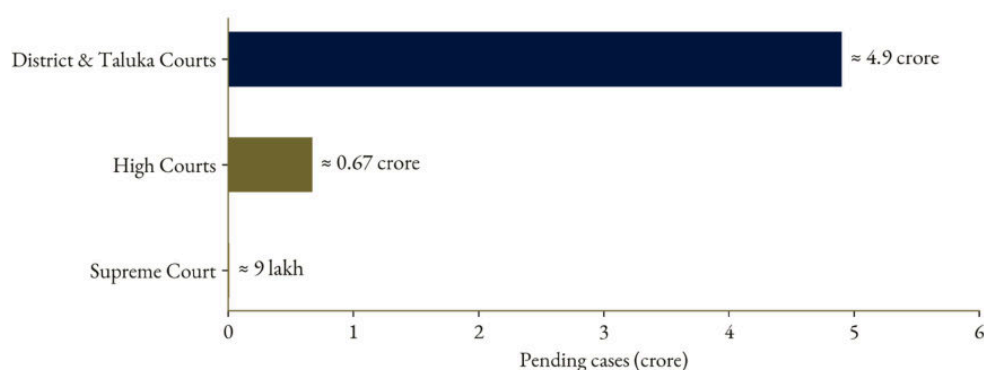


Figure 1. The tier that holds nearly nine-tenths of the docket has the least accessible output (approximate NJDG-derived figures, early 2026).

The cost is not hypothetical. When Project 39A at National Law University, Delhi studied capital sentencing by trial courts, it recorded that a large proportion of the very judgments imposing death sentences had to be physically collected from record rooms after due authorisation, digitisation having failed to reach them.¹⁷ If that is the state of access to judgments that send people to the gallows, the fate of a careful partition, maintenance or commercial judgment needs no elaboration.

But it is all on eCourts

It will be answered that the record room is yesterday's problem: the paper file may be weeded on schedule, but the judgment now lives on the eCourts platform and in its data repository. The premise should be accepted gratefully, because it concedes the point that matters, namely that the output of the district judiciary deserves to survive. What the answer mistakes is what survival means. A judgment on eCourts can be retrieved by a person who already knows the case number, the CNR, the party or the counsel; every search mode the platform offers presupposes knowledge of the particular case.¹⁸ It cannot be found by the

15. National Judicial Data Grid, njdg.ecourts.gov.in. Figures as widely reported for March 2026: approximately 5.58 crore cases pending across all tiers, of which about 4.9 crore were pending before the district and taluka courts. NJDG figures change daily and should be read as on date; Figure 1 is drawn from the same figures and carries the same caveat.

16. Supreme Court of India, Notice dated 6 July 2023, 'Launch and implementation of Neutral Citation System at Supreme Court of India in a phased manner' (citation format: 2023 INSC 1). The Delhi, Kerala and Madras High Courts had adopted neutral citation formats even earlier.

17. Project 39A (National Law University, Delhi), *Death Penalty Sentencing in Trial Courts: Delhi, Madhya Pradesh and Maharashtra (2000–2015)* (2020).

18. See the search modes offered by the eCourts services portal, services.ecourts.gov.in: case number, CNR number, party name, advocate name, filing number and the like, each presupposing knowledge of the particular case.

lawyer who knows only the proposition of law he is looking for. There is no subject index, no headnote, no citator, no flag recording what became of the judgment in appeal, and, at this tier, no citation to attach to the file even after it has been found. Frequently the upload is a scanned image rather than searchable text, and researchers who have attempted to use the platform at scale have documented missing fields, inconsistent nomenclature and gaps that make systematic use of the data an obstacle course.¹⁹ The judiciary's reluctance to open the underlying data in machine-readable form has itself been the subject of sustained critique.²⁰ Project 39A's experience, recounted above, is the practical proof: digitisation notwithstanding, the judgments had to be fetched from the record rooms.

The deeper mistake lies in the analogy. Storage is not publication. The Supreme Court's registry has always held every judgment the Court ever pronounced, and a certified copy has always been available to anyone who applied; nobody has ever suggested on that account that the official reports or the private reporters are redundant. A repository preserves documents. A law report creates literature: it selects, verifies, headnotes, assigns a citation and records subsequent history, and by doing those things it converts a warehouse of orders into a body of law that can be searched, cited and taught. The eCourts platform, whatever its completeness, does none of this, and was never designed to. The right response to the objection is not to dispute the upload but to complete it.

IV. WHERE THE ONLY LAW IS TRIAL-COURT LAW: THE COMMERCIAL COURTS

It is assumed that district courts do routine work upon which nothing systemic turns. The Commercial Courts Act, 2015 falsifies the assumption by design. For domestic arbitration, "Court" under Section 2(1)(e)(i) of the Arbitration and Conciliation Act, 1996 means the principal civil court of original jurisdiction in a district,²¹ and Section 10(3) of the 2015 Act routes all such applications and appeals of a Specified Value to the Commercial Court.²² Since the 2018 amendment, the Specified Value floor is three lakh rupees.²³ In Delhi, where the High Court's ordinary original civil jurisdiction begins at two crore rupees,²⁴ the entire band between the two figures is decided at first instance by District Judges (Commercial Courts): challenges under Section 34, including "patent illegality" under Section 34(2A); interim measures under Section 9; enforcement under Section 36. An appeal lies under Section 37 read with Section 13(1A) of the 2015 Act,²⁵ but appellate correction of a few awards is no substitute for knowing what the courts of first instance are doing across hundreds. A lawyer asked today to advise on the prospects of a Section 34 petition before the district commercial courts has, quite literally, no accessible body of decisions from which to answer.

Parliament has in fact already legislated a transparency duty upon precisely these courts. Section 17 of the 2015 Act obliges every Commercial Court to maintain statistical data of filings, pendency and disposal,

19. Devendra Damle and Tushar Anand, 'Problems with the e-Courts Data', NIPFP Working Paper No. 314 (29 July 2020), documenting standardisation failures in case-type nomenclature and fields, including statute names and section numbers, missing from the data.

20. Vidhi Centre for Legal Policy, *Open Courts in the Digital Age: A Prescription for an Open Data Policy* (2019).

21. Arbitration and Conciliation Act, 1996, s 2(1)(e)(i).

22. Commercial Courts Act, 2015, s 10(3).

23. Commercial Courts Act, 2015, s 2(1)(i), as amended by Act 28 of 2018.

24. Delhi High Court Act, 1966, s 5(2), as amended by the Delhi High Court (Amendment) Act, 2015.

updated monthly and published on the website of the relevant High Court,²⁶ under the Commercial Courts (Statistical Data) Rules, 2018.²⁷ Compliance has been thin; an empirical evaluation in 2019 found that only eight of twenty-four High Courts had published the mandated data.²⁸ The principle nonetheless stands conceded, and the proposal below does no more than extend the statute's own logic from counting cases to preserving reasoning.

The widening band

The band is now set to widen. In July 2026 the Full Court of the Delhi High Court recommended enhancing the pecuniary jurisdiction of the Delhi district courts from two crore to ten crore rupees, acting on a committee report of 3 June 2026 in which five of six judges proposed the higher figure and Prathiba M. Singh J, dissenting, proposed five crores with a cap on court fees.²⁹ The High Court bar has opposed the move, abstaining from work for three days in mid-July before resuming on assurances of reconsideration from the Union Law Minister and the Chief Justice, and any enhancement would in each case require Parliament to amend Section 5(2) of the Delhi High Court Act.³⁰ The final figure is therefore unsettled. For the present argument it hardly matters. On the majority's number, every commercial suit and every domestic arbitration challenge valued up to ten crores would be decided at first instance in courts whose judgments nobody publishes; on the dissent's, up to five. Each rupee by which the ceiling rises transfers adjudication from a court of record whose judgments are reported as a matter of course to a tier whose reasoning is invisible. Whatever figure survives the present controversy, the case for reporting the output of the district commercial courts grows with it.

V. A MODEL THAT ALREADY WORKS

New York answers the objection latent in this article's title. Under Section 2 of its Judiciary Law, New York's trial courts, from its Supreme Court to its County Courts and its Family Court, are courts of record.³¹ That status never produced publication. Publication required a separate institution: the Law Reporting Bureau, whose State Reporter is authorised by Section 431 to publish *selected* trial court opinions in the Miscellaneous Reports.³² Trial judges submit their own decisions for consideration, with reasons; counsel and third parties may do the same; and decisions not selected for print are published online with a slip-opinion citation of their own.³³ All of this although a New York trial decision binds no coordinate court: the decisions are published because they are useful, and they are cited daily as persuasive authority.

25. Commercial Courts Act, 2015, s 13(1A).

26. Commercial Courts Act, 2015, s 17.

27. Commercial Courts (Statistical Data) Rules, 2018 (as amended in 2020).

28. Vidhi Centre for Legal Policy, *Commercial Courts Act, 2015: An Empirical Impact Evaluation* (2019).

29. Recommendation of the Full Court of the High Court of Delhi (July 2026), on the report dated 3 June 2026 of a committee of judges; the majority of five recommended Rs 10 crore and the dissent of Prathiba M. Singh J recommended Rs 5 crore. See the reports carried by the SCC OnLine Blog (13 and 16 July 2026) and Bar & Bench (July 2026).

30. Delhi High Court Act, 1966, s 5(2). The Delhi High Court Bar Association abstained from judicial work from 14 to 16 July 2026; a Division Bench had on 10 July 2026 declined to stay the recommendation on the judicial side.

31. N.Y. Judiciary Law § 2 (enumerating the courts of record; "[a]ll courts other than those specified in this section are courts not of record").

32. N.Y. Judiciary Law § 431.

33. New York State Law Reporting Bureau, 'Selection of Opinions for Publication', nycourts.gov/reporter; see also N.Y. CPLR 5529(e) (requiring citation of New York decisions from the Official Reports).

Delaware does the same on frankly stated criteria: questions of first impression, decisions that establish, alter or explain a rule, scholarly treatment of existing law, unusual but instructive facts.³⁴

The label, in short, did none of the work. Court-of-record status is neither necessary nor sufficient for law reporting, which is an institution that must be built separately, whatever the constitutional description says. Nor is the absence of binding force an argument against publication; the common law world's most elaborate official reporting apparatus publishes non-binding trial decisions on purpose.

VI. NO BAR IN LAW: THE PRIVATE REPORTERS CAN MOVE FIRST

Is there a legal impediment to a private law reporter publishing district court judgments? None of general application. Judgments are pronounced in open court, and open justice is constitutional doctrine.³⁵ The Copyright Act expressly provides that the reproduction or publication of any judgment or order of a court, tribunal or other judicial authority is not an infringement, unless publication is prohibited.³⁶ And the only statute India has ever enacted on law reporting, the Indian Law Reports Act, 1875, regulates the weight of citation, not the fact of publication: it says merely that no court is bound to hear cited an unauthorised report of a *High Court* decision, prohibits nothing, and does not speak of the district judiciary at all.³⁷ What exist are subject-specific bars, which bind official and private publishers alike: matrimonial proceedings, where it is unlawful to print any matter relating to a proceeding except a High Court or Supreme Court judgment published with the court's prior permission, a provision which on its terms places trial court matrimonial judgments beyond any reporter's reach;³⁸ in-camera trials; and the identity protections for victims and children.³⁹ A reporter that respects the carve-outs publishes on firm legal ground.

Private reporters have long done exactly this wherever a market existed: the motor accident claims journals were built on tribunal awards, the consumer law reports carry District Commission decisions, and the labour reporters carried awards of Labour Courts for decades. SCC OnLine has begun assigning citations to district court decisions, and the author has himself encountered its reports of the Delhi district commercial courts, the very tier this article concerns.⁴⁰ Nothing but supply constrains them: a private reporter can only publish what it can find, and finding is the broken step. New York has already drawn the resulting division of labour: official selection by the Law Reporting Bureau, commercial dissemination through a statutorily required publishing contract with a private publisher.⁴¹ The State curates and assures the supply; the market provides the scale and the reach. The pilot proposed below should therefore be

34. Delaware Judiciary, Operating Procedures, Case Management and Litigation, 'Publication of Opinions', courts.delaware.gov.

35. *Naresb Shridhar Mirajkar v. State of Maharashtra*, AIR 1967 SC 1; *Swapnil Tripathi v. Supreme Court of India*, (2018) 10 SCC 639.

36. Copyright Act, 1957, s 52(1)(q)(iv).

37. Indian Law Reports Act, 1875, s 3. The Law Commission of India described the provision as a dead letter as long ago as its Fourteenth Report (1958), courts having always treated privately reported decisions as authoritative.

38. Hindu Marriage Act, 1955, s 22; see also the analogous Special Marriage Act, 1954, s 33.

39. Code of Criminal Procedure, 1973, s 327(2)–(3) (and its successor provision in the Bharatiya Nagarik Suraksha Sanhita, 2023); Indian Penal Code, s 228A (carried into the Bharatiya Nyaya Sanhita, 2023); POCSO Act, 2012, s 23; Juvenile Justice (Care and Protection of Children) Act, 2015, s 74.

40. See e.g. *Uma Sharma v. Miniso Life Style (P) Ltd.*, 2020 SCC OnLine Dis Crt (Del) 3, decided on 6 August 2020, a petition under Section 9 of the Arbitration and Conciliation Act, 1996 in which the Delhi district commercial court declined suspension of rent on force majeure grounds during the COVID-19 lockdown and directed payment of arrears. That the country's pre-eminent private reporter has opened a citation series for this tier is itself evidence of the demand this article describes.

41. New York State Law Reporting Bureau, 'Operations', nycourts.gov/reporter (Official Reports published commercially on Westlaw pursuant to a statutorily required publishing contract).

designed for symbiosis: recognised reporters given bulk access to district judgments in machine-readable text, the journal's headnotes free to reproduce, and the field left open.

VII. A PILOT ANY HIGH COURT CAN RUN

No legislation is needed. Control over the district judiciary vests in the High Court under Article 235,⁴² and every State has a Judicial Academy that already trains officers in judgment-writing. A Full Court resolution and a Registrar's circular would suffice to establish, for a two-year pilot, a quarterly, digital-first *District Judiciary Law Reporter* of fifteen to twenty judgments an issue.

Its design almost writes itself from the models above. Selection would begin with fields in which trial-court reasoning is the only judicial reasoning in existence: commercial and arbitration matters, motor accident compensation, cheque dishonour, maintenance, execution. A committee chaired by a High Court judge, with a District Judge, the Academy's director and a senior member of the district bar, would apply published criteria of the Delaware kind, rewarding clarity and economy and expressly disclaiming any view on the correctness of outcome. Judgments would arrive by three routes: self-submission by the judicial officer with a short note of reasons; nomination by the bar; and flagging by the appellate court when it encounters exemplary reasoning in disposal. Each entry would carry a headnote, an editorial note stating why it was selected, a neutral citation extended downward from the existing national format, and a mandatory subsequent-history flag; anonymisation would apply to protected categories, while matters whose publication a statute itself bars (matrimonial proceedings under the Hindu Marriage Act among them) and matters pending appeal at the time of selection would stand excluded. At twenty-four months, the High Court would evaluate uptake by the bar and a blind quality-scoring of judgments in the pilot fields, before and after.

The deeper case is the incentive. A district judge is appraised today substantially through disposal norms; nothing in the system rewards the judgment that is written well, and the officer who reasons carefully is, in unit terms, penalised for it. Publication supplies recognition at nearly zero fiscal cost. If the criteria visibly reward brevity and structure, the scheme will counter rather than feed the tendency toward judgments of unnecessary length.

VIII. CONCLUSION

The judgment with which this article began settled claims against a parliamentarian's estate nearly two decades after his death, on questions of proof and presumption that recur in Indian courtrooms every working day. It earned a place on a lawyer's shelf; it will get a shelf in a record room instead. Multiply it by every district in the country, every quarter, for every year the present arrangement continues. The district judiciary is not a court of record. Its best work is worth recording anyway.

⁴². Constitution of India, art 235.

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