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Live Streaming of Supreme Court Proceedings

Live Streaming of court proceedings introduced as a Trial Run holds a significant importance in the matters that are constitutional and of importance to the nation. This writ petition filed as pro Bono is for enforcement of Public Interest and it will reduce the hardships for the citizens Here's an interesting read through.

30 IN DEPTH

The Apex Court & Women Judges – A Moment of Pride Indeed

In the 68 years of its history, the gender imbalance is a problem that has continuously plagued the Supreme Court that remains largely a male dominated space. Its first 67 years saw only six women have served as judges in the institution. The last year has inducted 2 more women as judges, taking the count to a total of 8. A triumphant note on the journey.

54 IN FOCUS

Challenges and Opportunities: India's Young Online Gaming Sector

India is one the world's fastest growing online markets. It is estimated that the Smartphone user base has doubled in 3 years and is now 250 million and currently, India is the second largest Internet market globally with 450m users. While the numbers are exciting enough, the article focuses on groping issues in the legal and regulatory domains of the sector..



CUTTING EDGE
The e-Commerce Policy Draft: A Sweet & Sour Mix?

The government recently decided to drop the first draft of ecommerce policy and set up a committee of secretaries to decide on a new set of recommendations. Lex Witness brings to you a recap of what have been the thoughts around the first draft of the policy. We analyse the policy to assess its impact on stakeholders in the retail space. The policy in its current form adopts a swadeshi framework prioritizing domestic startups over its international counterparts. Are we heading towards a second draft?

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Concurrent Delay in Construction Dispute

■ Shishir Kant

INTRODUCTION:

Concurrent Delay is otherwise known as the “miserly loves company” concept. Ask any forensic scheduling Experts across the globe what they consider to be the most inflammatory aspect of delay analysis; they will probably say, “Concurrent delay”

The Society of Construction Law (SCL) stated in its recently updated Delay and Disruption Protocol:[1]

Concurrency is a contentious issue, both because there are differing views on the correct approach to dealing with concurrent delay when analyzing entitlement to EOT [Extension of Time] and because there are differences about the meaning of concurrent delay itself [10.1, p. 29]..As it is in relation to EOT, concurrency is one of the most contentious issues in the determination of recoverable prolongation compensation. [14.1, p. 39]

Why concurrencies create such strife in the project parties? It boils down to money. If concurrent delay is proven, a contractor will not be entitled to recover extended overhead costs during the period in which the concurrency exists. But let’s back up a bit and define concurrent delay.

DEFINITION:

The SCL protocol simplifies the definition:

True concurrent delay is the occurrence of two or more delay events at the same time, one an Employer Risk Event, the other a Contractor Risk Event, and the effects of which are felt at the same time. For concurrent delay to exist, each of the Employer Risk Event and the Contractor Risk Event must be an effective cause of Delay to Completion (i.e. the delays must both affect the critical path).

RELEVANCE OF THE CONCURRENT DELAY CONCEPT:

Where Employer Delay to Completion and

Contractor Delay to Completion are concurrent and, as a result of that delay the Contractor incurs additional costs, then the Contractor should only recover compensation if it is able to separate the additional costs caused by the Employer Delay from those caused by the Contractor Delay. If it would have incurred the additional costs in any event as a result of Contractor Delay, the Contractor will not be entitled to recover those additional costs.

KEY DELAY EVENTS MUST BE AS BELOW TO BE CONSIDERED “CONCURRENT”:


- Unrelated and independent.
- Contractual responsibility of different parties.
- Involuntary (i.e. no delay event could be a reaction to the other event and therefore contractor is pacing).
- Substantial and not easily curable.
- Occur during the same schedule analysis time period
- Independently delay the critical path(s) or cause a near critical path to become critical (i.e. float erosion).

WHAT IS THE PROBLEM WITH “PROVING” CONCURRENCY?

Here are some issues that usually encountered to defend or dispute a concurrency argument:

- Lack of Consistent Schedule Updates.
- Schedules Do Not Have Integrity
- Lack of Adequate Documentation for Causation
- Lack of Experience of the Project Team
- Inadequate Schedule Analysis Methodology

CONCLUSION:

Concurrent delay will continue to be a contentious topic because it is intrinsically tied to money. Is the owner entitled to assess liquidated damages, or is the contractor entitled to recover extended overhead costs? The answer depends on concurrency. 



Shishir Kant is a Director with Masin Projects and has over 17 years of experience in engineering and construction management, contract management, arbitration and litigation support, and expert testimony.



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