



## 5 STRATEGIES TO PREVENT DELAYS IN COURT

Written by Advocate Nithia.

There is a popular joke with regards to “Court Cases In India”. It seems people often go to Courts and ask for “Dates”, not “verdicts or judgments”. For they know, all they are going to get from a Court is another ‘Date’. It is as if Courts are meant to deliver dates, not justice. And we all know the famous Sunny Deol dialogue ‘taareekh pe taareekh’ (dates upon dates) holds much significance and may not be far removed from reality. But don’t despair. There are indeed ways to prevent Court Delays. We suggest the following 5 STRATEGIES, which you could deploy to effectively combat those (exasperating) delays...!

### **STRATEGY No. 1: Do not allow your opposition to DELAY, DEFER OR POSTPONE AND SEEK DATES.**

The most important and the most common reason for a delay is the Lawyer (of either side, or both) willingly seeking another date on the following grounds:

- a) He/She is not prepared
- B) He/She does not even turn up (in which case, the Judge postpones the matter)
- C) His/Her ‘Senior’ is busy elsewhere and not available on that day
- d) Any other reason, genuine or otherwise.

The very first thing that could be done is to direct your advocate NOT TO allow the opposition lawyer to take an adjournment easily. If the opposition Lawyer seeks a postponement, your Lawyer should make it a point to have the arguments made then and there by insisting that the Judge should not allow an adjournment. Record this in writing, then and there, and submit it to the Court as a matter of record. And if the Judge allows an adjournment then be firm and show your **unwillingness** in accepting any future adjournments. The practice of citing vague reasons for the delay in the hearing needs to be protested, and protested vehemently.

### **STRATEGY No. 2: ALWAYS SUBMIT A WRITTEN STATEMENT/ARGUMENT FOR EVERY HEARING. (AND RECORD YOUR DISPLEASURE IF THERE IS INORDINATE DELAY)**

One of the most effective instruments to tackle the problem of delays in courts is to file a written statement of the days proceedings, particularly highlighting your displeasure at adjournments. This way your advocate can have a written record of every argument made by him along with every adjournment that has been given amidst the trial. Since the record is in written form it would bear a stronger holding in the higher Courts as compared to what an aggrieved citizen might put forth orally. Your statements will now constitute a part of formal proceedings in the Court, which you can rely upon for various purposes including seeking redressal for inordinate delays.



While you get your advocate to file his written record, do make it a point to emphasise in that writing about your reluctance to get a date every now and then, unless for some exceptional case. For instance, if the opposing Lawyer puts forth 'ailment or medical emergency as a reason' it is your right to ask for a copy of the medical certificate. Remember, Strategy No. 2 is all about doing everything in writing, and insisting on everything in writing so as to make it a part of Court records.

**STRATEGY No. 3: INSIST THAT NEXT HEARINGS HAPPEN IMMEDIATELY. (NOT AFTER WEEKS, MONTHS, BUT WITHIN NEXT FEW DAYS)**

In connection with the two suggestions made above, another tool that needs to be exercised while combating the delay in courts is to insist on a date within a short span of time. There is no need, rather there is no compulsion, to get a date which is necessarily after a span of one month or even fifteen days! If an argument is due to be made on Monday which for some reason cannot be made on that day itself, do not indolently accept a date that has you to wait for a month long, but insist on a date which is as close to Monday like Thursday of the same week with the maximum span extending to about five days. Being assertive in not accepting long dates would do a great deal in wrapping up your case within reasonable time. Also in your written records, resist vociferously against the acceptance of long dates.

**STRATEGY 4. DO NOT PAY YOUR LAWYER DATEWISE, THINK OF ANY OTHER METHODOLOGY**

The practice of paying the lawyer datewise is one of the major reasons for the case being prolonged. Therefore, a lawyer who is remunerated for the number of times that he or she makes appearances in a Court finds little motivation to conclude the case, rather than to drag on. Over a period of time, your case remains nothing more than a 'date' even to your own lawyer. Payment of remuneration to a lawyer in this pattern, to a great extent deters him from working so as to do justice to the client. And he or she is tempted to 'work' for more dates, than for speedy disposal.

Perhaps, it would be wiser to pay lumpsum. For example, you could pay 50% of the agreed fees before the first hearing, and the entire balance after the case is decided or at any other point of time that is mutually acceptable. Anything other than a datewise payment will go a long way in eradicating delays that are a motivating factor for the Lawyers too. This is not to say that you do not give any freedom to your lawyer. Rather, by discussing this frankly with your lawyer, and by reaching an acceptable consensus with regards to fee payment, both you and your Lawyer can combat this issue.

**STRATEGY 5. INSIST ON A VERDICT.**

The last and precisely the most workable way to prevent delay in Courts is to insist the Judge on passing a verdict, once you and your Lawyer are certain that your arguments are over and that the other side is willingly delaying the proceedings. There are provisions for the Court to pass an ex-parte order if the opposite side is deliberately delaying the Court's work. Insisting on passing a verdict would expedite the case since you can then instantly move the higher Court and address your grievances. There are many circumstances where delay itself can cause more



injustice than the act you are complaining against. In such cases, exercise your right to bring the delay in the notice of Superior Courts.

**Tip:**

Once you move a higher Court, cite the reason of 'Delay in Justice' as your primary grievance and then cite your original grievance as your prayer.

**CAN A LAWYER RESIST INORDINATE DELAYS?**

If your Lawyer is worried that he or she may offend the Court by implementing the above strategies, here are a few pointers:

1. BE POLITE, BUT BE PERSISTENT: Insist, but politely. It helps to get your 'point' across to the Court, rather than get your 'voice' across.
2. LEGAL PROVISIONS: The Bar Council (Maharashtra & Goa) Enrolment Rules (Part VI, STANDARDS OF PROFESSIONAL CONDUCT AND ETIQUETTE, CHAPTER II, SECTION-1: DUTY TO THE COURT AND SECTION II: DUTY TO THE CLIENT). framed under the Advocates Act; have the following Rules that may actually help you:

**Rule 1:**

*An Advocate shall, during the presentation of his case and while otherwise acting before a Court, he shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.*

**Rule 15:**

*It shall be the duty of an Advocate to fearlessly uphold the interest of his client by all fair and honourable means without regard to any unpleasant consequences to himself or to any other.*

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