

SURJIT SINGH

v.

MAHANAGAR TELEPHONE NIGAM LTD.  
(Civil Appeal No. 5354 of 2002)

APRIL 21, 2008

(H.K. SEMA AND MARKANDEY KATJU, JJ.)

*Indian Telegraph Rules; Rr. 2(PP) and 443:*

*Disconnection of Telephone – Mahanagar Telephone Nigam Ltd. disconnecting telephone lines in the name of husband for non-payment of dues of telephone line in the name of wife – Correctness of – Held: Wife of the appellant is a house-wife having no independent source of income and, thus, economically dependent on him – Telephone line of relative, on whom subscriber is economically dependent, can be disconnected on ground of non-payment of telephone bill by the nominal subscriber – Intention of the legislature in framing r. 443 was that payment of the telephone bills should be made promptly – Rule 443 has to be construed in the context in which it was made and the purpose and object which it has to achieve – A literal interpretation of the rule would frustrate its object – Hence, a purposive construction of the rule in question has to be adopted – Construing so, authorities were right in disconnecting telephone line of the appellant at his residence and at his business premises for non-payment of dues in the name of his dependent wife – Interpretation of Statutes – Mimansa Rules of Interpretation – Linga/Lakshna principle – Applicability of.*

*Words and Phrases:*

*'Subscriber' – Meaning of in the context of r.2(PP) of the Indian Telegraph Rules.*

**Respondent disconnected two telephone lines of the appellant, one at his residence and the other at his**

A business premises for non-payment of arrears of telephone dues in connection with the telephone line in the name of his wife. Challenging the order of the authorities, the appellant filed a writ petition in the High Court, which was dismissed by a Single Judge of the High Court. Appeal filed thereagainst was dismissed by the Division Bench of the High Court. Hence, the present appeal.

Appellant contended that in terms of Rule 443 the Indian Telegraph Rules, telephone lines in his name could not have been disconnected because of non-payment of dues in respect of the telephone line in the name of his wife.

Dismissing the appeal, the Court

D HELD: 1.1 Wife of the appellant is a housewife, who is living with him at his residential premises. It has not been alleged that she has an independent source of income by doing some business or by some service etc. In these circumstances, it can be inferred that the payment of the bill of the telephone line in the name of his wife was being made by the appellant himself since his wife has no independent source of income and is economically dependent on him. (Para – 10) [690-B, C, D]

F 1.2 In the case of a person who is economically dependent on another who is paying his telephone bills, the telephone line in the name of such other relative on whom the subscriber is dependent can be disconnected for non-payment of the telephone bills of the nominal subscriber. (Para –19) [693-A, B, C]

G 2.1 It is true that on a literal interpretation of r. 443 of the Indian Telegraph Rules, the contention of counsel for the appellant would have to be accepted. However, in this case, the literal rule has not to be adopted, because this Court has to see the intention of the rule. The intention

obviously was that payment of telephone dues should be made promptly, otherwise the telephone department will suffer. This Court, therefore, to take an interpretation which effectuates and furthers the intention of r. 443, i.e. the telephone bills should be paid in time. (Para – 21) [693-D, E]

2.2 In the case of a wife who is a housewife and is economically dependent on her husband, obviously the telephone bills in connection with the telephone line in her name are being paid by her husband and not by herself. Hence, a purposive construction has to be adopted in this case and not to go by the literal rule of interpretation. (Para – 22) [693-F]

2.3 No doubt, ordinarily the literal rule should be applied while interpreting a statute or statutory rule, but the literal rule is not always the only rule of interpretation of a provision in a statute, and in exceptional cases the literal rule can be departed from. It follows that to interpret a statute one has to sometimes consider the context in which it has been made and the purpose and object which it seeks to achieve. A too literal interpretation may sometimes frustrate the very object of the statute, and such an approach should be eschewed by the Court. (Paras – 23 & 24) [693-G, H; 694-D, E]

*R.L. Arora vs. State of Uttar Pradesh and others* (1964) 6 SCR 784 – followed.

3. In the Mimansa system, the literal rule of interpretation is called the Shruti (or Abhida) principle, and ordinarily it is this principle which is to be applied when interpreting a text. However, there are exceptional situations when one has to depart from the literal rule and then certain other principles have to be resorted to e.g. (1) the Linga (also called Lakshana) principle or the suggestive power of words or expressions, (2) the Vakya principle or syntactical arrangement, (3) the Prakarana

A principle, which permits construction by referring to other texts in order to make the meaning clear, (4) the Sthana (position) principle which means the relative position of one text with reference to another, (5) the Samakhya (name) principle which means the connection between different passages by the indication accorded by the derivative words of a compound name. In the present case, the Linga (Lakshana) principle will apply. Linga really means interpretation by understanding the context, and it is a departure from the literal rule of interpretation. (Paras 38, 39 and 40) [699-A-E]

C *U.P. Bhoodan Yagna Samiti vs. Brij Kishore* AIR 1988 SC 2239 – relied on.

D '*Mimansa Rules of Interpretation*' by Prof. K.L. Sarkar – referred to.

4. In both the systems of interpretation, the Mimansa system as well as Maxwell's system, it is emphasized that the intention of a statute has often to be seen to properly interpret it, and it is not that the Court can never depart from the literal rule of interpretation. It all depends on the context, the subject-matter, the purpose for which the provision was made, etc. (Para – 56) [704-C, D]

F *S.S. Kalra vs. Union of India* (1991) 2 SCC 87 – relied on.

'*Principles of Statutory Interpretation*' 9th Edition, 2004 by G.P. Singh – referred to.

5.1 While construing r. 443, one has to give an interpretation which subserves the intention of the Rule which is that telephone bills should be promptly paid, otherwise the department will be short of the funds needed for financing the telephone services which are to be rendered to the consumers. After all, the salary of the employees of the telephone department have to be paid, the telephone equipment has to be maintained, repaired

and kept up-to-date. Sometimes new technology has to be introduced. There may be various other requirements for which funds may be required, and all these can only be possible if the telephone bills are paid in time. Hence, the word 'subscriber' in Rule 2(pp) has to be given a wider meaning. (Para – 57) [704-D, E, F]

5.2 Rule 443 of the Rules has to be interpreted in a purposive sense. Hence the telephone line in the name of the person who is really paying the bills in connection with the telephone line in the name of another person who is economically dependent on the former can be disconnected for non payment of bills in connection with the telephone line in the name of the latter. Such an interpretation would effectuate the intention of r.443. It would make no difference whether the telephone line is at the residence or at the business premises, even if the two are entirely separate. Hence, both the telephone lines in the name of the appellant can be disconnected for non-payment of the dues in connection with the line in the name of his dependent wife. (Paras– 28 & 29) [696-D, E, F, G]

*Hindustan Lever Ltd. Vs. Ashok Vishnu Kate and Ors.*  
(1995) 6 SCC 326 – relied on.

'*Param Laghu Manjusha*' by Nagesh Bhatt – referred to.

[This Court observed that the Mimansa Rules of Interpretation were the traditional principles of interpretation used for over two and a half thousand years. The Mimansa Principles were regularly used by our great jurists. There is no reason why can't these principles be used on appropriate occasions. However, these principles have rarely been used in our law Courts.]

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 5354  
of 2002.

A From the final Judgment and Order dated 10.01.2002 of the High Court of Delhi at New Delhi in L.P.A. No. 665 of 2001.

R.K. Kapoor, Mukesh Kumar Verma, Shweta Kapoor, Mansi Dhiman and Anis Ahmed Khan for the Appellant.

B Amarendra Saran, A.S.G., U.R. Rao, Madhu Sikri and Nidhi for the Respondent.

The Judgment of the Court was delivered by

C **MARKANDEY KATJU, J.** 1. This appeal by special leave has been filed against the impugned judgment of the Division Bench of the Delhi High Court dated 10.1.2002 in LPA No. 665 of 2001.

D 2. Heard Shri R.L. Kapoor, learned counsel for the appellant and Shri Amarendra Saran, learned Addl. Solicitor General for the respondent.

E 3. The facts of the case are that the appellant and his wife are living together at their residence in Rajouri Garden, Delhi. At that residence, there is one telephone line bearing No. 5121187 in the name of appellant Surjit Singh and there is also another telephone line bearing No. 5416493 at the same residence in the name of the appellant's wife. There is a third telephone line bearing No. 3265301 in the name of the appellant and installed at the business premises of the appellant at 1195, Chahrahat Building, Jama Masjid, Delhi.

F 4. It appears that there were arrears of telephone dues in connection with line No. 5416493 which was in the name of the appellant's wife. For non-payment of the telephone dues in connection with this line, the other two lines in the name of the appellant being 5121187 at his residential premises and line G No. 3265301 at his business premises were disconnected.

H 5. The contention of the appellant was that the telephone lines in his own name being line No. 5121187 at his residence and line No. 3265301 at his business premises should not be disconnected on account of non-payment of dues in connection

with the line in the name of his wife being line No. 5416493. He A  
contended that he and his wife are two separate legal entities,  
and he could not be penalized for the fault of his wife.

6. The appellant filed a writ petition in the Delhi High Court  
which was dismissed by a learned Single Judge by his judgment B  
dated 25.9.2001 and his appeal before the Division Bench of  
the High Court was also dismissed by the impugned judgment  
dated 10.1.2002. Hence, this appeal before this Court.

7. Learned counsel for the appellant has relied on Rule  
443 of the Indian Telegraph Rules which states: C

“443. Default of payment — If, on or before the due date,  
the rent or other charges in respect of the telephone service  
provided are not paid by the subscriber in accordance  
with these rules, or bills for charges in respect of calls of  
phonograms or other dues from the subscriber are not D  
duly paid by him, any telephone or telephones or any telex  
service rented by him, may be disconnected without  
notice. The telephone or telephones, or the telex so  
disconnected may, if the Telegraph Authority thinks fit, be  
restored, if the defaulting subscriber pays the outstanding E  
dues and the reconnection fee together with the rental for  
such portion of the intervening period as may be prescribed  
by the Telegraph Authority from time to time. The subscriber  
shall pay all the above charges within such period as may  
be prescribed by the telegraph authority from time to time.” F

8. Learned counsel for the appellant submitted that in view  
of Rule 443 the telephone lines in the name of the appellant  
could not have been disconnected because of non-payment of  
dues in respect of the line in the name of his wife.

9. Learned counsel for the appellant invited our attention G  
to the decision of a Learned Single Judge of the Bombay High  
Court in *Dr. B.V. Manek vs. Mahanagar Telephone Nigam Ltd*  
AIR 1996 Bom 53. We have carefully perused the aforesaid  
decision and find that it is distinguishable. In that case, the  
telephone line of the petitioner had been disconnected because H

A of non-payment of the dues of another line which was in the  
name of his father. The learned Single Judge of the High Court  
held that the Department cannot disconnect the telephone of  
the subscriber on account of the default committed by a relation  
of such subscriber. It has not been mentioned in the said  
B decision of the Bombay High Court that the petitioner's father  
was economically dependent on the petitioner.

10. In the present case which is before us it has come on  
the record that the appellant's wife is a housewife who is living  
with the appellant at his residential premises at Rajouri Garden,  
C Delhi. It has not been alleged that the appellant's wife has an  
independent source of income by doing some business or by  
some service etc. In these circumstances, it can be inferred  
that the payment of the bill of the telephone line in the name of  
the appellant's wife was being made by the appellant himself,  
D since his wife has no independent source of income and is  
economically dependent on him.

11. In our opinion, we have to draw a distinction between  
the cases where a relative who though living in the same house  
has an independent source of income, and cases where one  
E relative is dependent on another. While in the former case if  
there are two different lines, one in the name of the relative who  
is economically independent and has his own source of income  
and the other in the name of the petitioner, it could be held that  
non-payment of dues by the relative cannot lead to the  
F consequence of the disconnection of the telephone line of the  
petitioner. However, in the latter category of cases i.e. where  
one relative is economically dependent on another, the position,  
in our opinion, is wholly different. For instance, if there is a  
telephone line in the name of a minor child of a father, and another  
G telephone line in the name of the father, and both of them are  
living together in the same house, then obviously the telephone  
bills of the telephone line in the name of the minor child is being  
paid by the father. Hence, in our opinion, for non-payment of the  
bills of the telephone line in the name of the minor child, the  
H telephone line of the father can be disconnected.

12. Similarly, there can be a case where the husband and wife are living in the same house and both have independent sources of income, and the wife herself is paying for the bills in connection with the telephone line in her own name, whereas the husband is paying for the bills of his own telephone line. In such a case, for non-payment of the bill of the wife the telephone line of the husband cannot be disconnected.

13. As stated above, in the judgment of the learned Single Judge of the Bombay High Court, it is not mentioned that the father was economically dependent on the petitioner. Hence, the aforesaid decision can be of no help in deciding the present dispute, since necessary factual details are lacking.

14. Learned counsel for the appellant then invited our attention to the decision of a learned Single Judge of the Andhra Pradesh High Court in *Y. Pridhvi Kumar vs. The General Manager, Telecom District, Hyderabad* AIR 1993 AP 131. We have carefully perused the said decision and find that that decision is also distinguishable. In the said decision it appears that there was a telephone line in the name of the mother and another telephone line in the name of the son, and both were living together. There were dues in the name of the mother and it was held by the Andhra Pradesh High Court that in that situation the liability could not be fastened on the son and his telephone line could not be disconnected. It is not clear from the aforesaid decision of the Andhra Pradesh High Court whether the mother was economically dependent on her son. It is quite possible that the mother was economically dependent on her husband who was paying her bills. It is also possible that the mother was a working woman with an independent source of income. Hence, the appellant in the present case cannot derive any benefit from the aforesaid decision of the Andhra Pradesh High Court.

15. Learned counsel for the appellant also sought to rely on the decision in *Santokh Singh vs. Divisional Engineer, Telephones, Shillong and others* AIR 1990 Gauhati 47. However, it appears that an appeal was filed against the

- A aforesaid judgment in this Court being Civil Appeal No. 2849/1991 titled *Divisional Engineer Telephone & Ors. vs. Sardar Santokh Singh* decided on 22.4.2001 by this Court. In the said decision it was held that the judgment of the Gauhati High Court in *Santokh Singh vs. Divisional Engineer Telephone & Ors*
- B shall not be treated as a precedent.

16. On the other hand, learned counsel for the respondent has relied on the decision of a Division Bench of the Delhi High Court in *Madan Tayal & Pran Kr. Tayal vs. MTNL* 1989 (16) DRJ 51, the decision of a learned Single Judge of the Delhi
- C High Court in *Rajiv Gosain vs. MTNL* in Civil Writ Petition No. 6343/1981 decided on 20.4.2000, and the decision of a learned Single Judge of Delhi High Court in *Sukh Dayal Narula vs. MTNL* in Civil Writ Petition No. 1693/1996 decided on 26.9.1997. In these decisions the Delhi High Court has held
- D that the telephone line of a subscriber can be disconnected for non-payment of dues of a relative who is living in the same premises. Learned counsel also relied on the decision of the Gujarat High Court in *Indravadan Pranal Shah vs. General Manager, Ahmedabad Telephones District Kharpur, Ahmedabad & Anr.* AIR 1990 Guj 85 in which it was held that
- E the telephone of the petitioner can be disconnected if there is failure by the firm in which he is a partner to pay the dues of the telephone line in the name of the firm.

- F 17. Learned counsel for the appellant has invited our attention to Rule 2(pp) of the Indian Telegraph Rules, 1951 which defines a 'subscriber' as follows:

- G " 'Subscriber' means a person to whom a telephone service has been provided by means of an installation under these rules or under an agreement".

18. Learned counsel for the appellant submitted that in view of the definition of subscriber in Rule 2(pp), the telephone lines in the name of the appellant could not have been disconnected for default in the payment of dues in connection with the telephone
- H line in the name of his wife.

19. We have already stated above that where two relatives are living in the same house a distinction has to be drawn between a telephone line in the name of a person who is economically dependent on another (who may be the husband, father etc.), and the telephone line in the name of a person who has an independent source of income from which he is paying the telephone bills. In the case of the former, i.e. a person who is economically dependent on another who is paying his telephone bills, the telephone line in the name of such other relative on whom the subscriber is dependent can be disconnected for non-payment of the telephone bills of the nominal subscriber.

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20. Learned counsel for the appellant protested that such an interpretation would be in the teeth of the language used in Rule 443 read with Rule 2(pp) of the Indian Telegraph Rules.

21. It is true that on a literal interpretation of Rule 443, we would have to accept the contention of learned counsel for the appellant. However, in our opinion, in this case, the literal rule has not to be adopted, because we have also to see the intention of the rule. The intention obviously was that payment of telephone dues should be made promptly, otherwise the telephone department will suffer. We have, therefore, to take an interpretation which effectuates and furthers the intention of Rule 443, i.e. the telephone bills should be paid in time.

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22. In the case of a wife who is a housewife and is economically dependent on her husband, obviously the telephone bills in connection with the line in her name are being paid by her husband and not by herself. Hence, we have to adopt a purposive construction in this case and not go by the literal rule of interpretation.

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23. Though, no doubt, ordinarily the literal rule should be applied while interpreting a statute or statutory rule, but the literal rule is not always the only rule of interpretation of a provision in a statute, and in exceptional cases the literal rule can be departed from. As observed in the Constitution Bench decision

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A of this Court in *R.L. Arora vs. State of Uttar Pradesh and others*  
1964 (6) SCR 784:

B “Further, a literal interpretation is not always the only  
interpretation of a provision in a statute, and the court has  
to look at the setting in which the words are used and the  
circumstances in which the law came to be passed to  
decide whether there is something implicit behind the  
words actually used which would control the literal meaning  
of the words used in a provision of the statute. It is  
permissible to control the wide language used in a statute  
if that is possible by the setting in which the words are  
used *and the intention of the law-making body* which  
may be apparent from the circumstances in which the  
particular provision came to be made.”

D *(emphasis supplied)*

E 24. Hence it follows that to interpret a statute one has to  
sometimes consider the context in which it has been made and  
the purpose and object which it seeks to achieve. A too literal  
interpretation may sometimes frustrate the very object of the  
statute, and such an approach should be eschewed by the Court.

25. In *Hindustan Lever Ltd. vs. Ashok Vishnu Kate and  
others* 1995(6) SCC 326 (vide para 42) this Court observed:

F “Francis Bennion in his *Statutory Interpretation* Second  
Edn., has dealt with the Functional Construction Rule in  
Part XV of his book. The nature of purposive construction  
is dealt with in Part XX at p. 659 thus:

G “A purposive construction of an enactment is one which  
gives effect to the legislative purpose by-

(a) following the literal meaning of the enactment where  
that meaning is in accordance with the legislative purpose  
(in this Code called a purposive-and-literal construction),  
or

H (b) applying a strained meaning where the literal meaning

is not in accordance with the legislative purpose (in the Code called a purposive and strained construction).” A

At p. 661 of the same book, the author has considered the topic of “Purposive Construction” in contrast with literal construction. The learned author has observed as under: B

“Contrast with literal construction - Although the term ‘purposive construction’ is not new, its entry into fashion betokens a swing by the appellate courts away from literal construction. Lord Diplock said in 1975: ‘If one looks back to the actual decisions of the [House of Lords] on questions of statutory construction over the last 30 years *one cannot fail to be struck by the evidence of a trend away from the purely literal towards the purposive construction of statutory provisions*’. The matter was summed up by Lord Diplock in this way - C

*I am not reluctant to adopt a purposive construction where to apply the literal meaning of the legislative language used would lead to results which would clearly defeat the purposes of the Act. But in doing so the task on which a court of justice is engaged remains one of construction, even where this involves reading into the Act words which are not expressly included in it.” D*

*(emphasis supplied)* E

We respectfully agree with the view expressed above. F

26. In our opinion, in this case, a purposive construction has to be adopted in interpreting Rule 443 of the Indian Telegraph Rules. F

27. We may also consider the matter from the point of view of our traditional principles of interpretation. The great Sanskrit grammarian Nagesh Bhatt in his book ‘Param Laghu Manjusha’ has said that a word or phrase can have three meanings: G

“(i) Abhidha i.e. literal meaning; (ii) Lakshana i.e. the indicative or suggestive meaning; (iii) Vyanjana i.e. the figurative meaning. H

A Usually the literal meaning is followed, but some times the suggestive or figurative meanings are adopted. As regards the suggestive meaning (Lakshana) the oft quoted example is 'गंगायाम् घोष' : i.e. "I live on the Ganges." This sentence cannot be literally interpreted because no one can live on the surface of the Ganges river. Hence it has to be interpreted to mean "I live on the bank of the Ganga river."

B As regards the third meaning Vyanjana, the oft quoted example is 'गतो अस्तमर्क' which means: "The sun has set."  
 C Here the real meaning has in fact nothing to do with the sun or its setting, but it really means "light the lamp" or "let us go home" (because the sun has set).

28. In our opinion, in the present case, we have to adopt the Lakshana (or Linga) rule of interpretation rather than the Shruti or Abidha (the literal) rule. In other words, Rule 443 of the Indian Telegraph Rule has to be interpreted in a purposive sense. Hence the telephone line in the name of the person who is really paying the bills in connection with the telephone line in the name of another person who is economically dependent on the former can be disconnected for non payment of bills in connection with the telephone line in the name of the latter. Such an interpretation would effectuate the intention of Rule 443, which is that telephone bills should be paid promptly.

F 29. Also, it would make no difference whether the telephone line is at the residence or at the business premises, even if the two are entirely separate. Hence in our opinion both the telephone lines in the name of the appellant, one at his residence and the other at his business premises, can be disconnected for non-payment of the dues in connection with the line in the name of his dependent wife.

G 30. We can also utilize the Mimansa Rules of Interpretation in interpreting Rule 443.

H 31. It is deeply regrettable that in our Courts of law, lawyers quote Maxwell and Craies but nobody refers to the Mimansa

Principles of Interpretation. Today our so-called educated people are largely unaware about the great intellectual achievements of our ancestors and the intellectual treasury they have bequeathed us. The Mimansa Principles of Interpretation is part of that intellectual treasury, but it is distressing to note that apart from a reference to these principles in the judgment of Sir John Edge, the then Chief Justice of Allahabad High Court, in Beni Prasad v. Hardai Devi (1892) ILR 14 All 67 (FB), there has been almost no utilization of these principles even in our own country (except by one of us, M. Katju, J.).

32. It may be mentioned that the Mimansa Rules of Interpretation were our traditional principles of interpretation used for over two and a half thousand years, laid down by Jaimini whose Sutras were explained by Shabar, Kumarila Bhatta, Prabhakar, etc. These Mimansa Principles were regularly used by our great jurists like Vijnaneshwara (Author of Mitakshara), Jimutvahana (author of Dayabhaga), Nanda Pandit, etc. whenever they found any conflict between the various Smritis or any ambiguity or incongruity therein. There is no reason why we cannot use these principles on appropriate occasions. However, it is a matter of deep regret that these principles have rarely been used in our law Courts. It is nowhere mentioned in our Constitution or any other law that only Maxwell's Principles of Interpretation can be used by the Court. We can use any system of interpretation which helps us solve a difficulty. In certain situations Maxwell's principles would be more appropriate, while in other situations the Mimansa principles may be more suitable.

33. The books on Mimansa are almost all in Sanskrit, but there is one good book called the '*Mimansa Rules of Interpretation*' by Prof. K.L. Sarkar published in the Tagore Law Lecture Series, which may be seen.

34. It may be mentioned that the Mimansa Rules of Interpretation were created for resolving the practical difficulties in performing the Vedic yagyas. The rules for performing the various yagyas were given in books called Brahmanas e.g. Shatapath Brahman, Aitareya Brahman, Taitereya Brahman, etc.

- A There were many ambiguities, conflicts, incongruities, ellipses etc. in the Brahmana texts, and hence principles of interpretation had to be created for this purpose. Thus the Mimansa principles were originally created for religious purposes, but they were so rational and logical that subsequently they began to be used in
- B law, grammar, logic, philosophy etc., that is, they became of universal application.

35. Jaimini in Sutra 6: 3: 9 states:

- C “When there is a conflict between the purpose and the material, the purpose is to prevail, because in the absence of the prescribed material a substitute can be used, for the material is subordinate to the purpose”.

- D 36. To explain this it may be mentioned that the Brahmanas state that the prescribed Yupa (sacrificial post for tying the sacrificial animal) must be made of Khadir Wood. However, Khadir wood is weak while the animal tied may be restive. Hence, the Mimansa principle (stated above) permits that the Yupa can be made of Khadar wood which is strong. Now this substitution is being made despite the fact that the prescribed
- E wood is Khadir, but this prescription is only subordinate or accessory to the performance of the yagya, which is the main object. Hence, if it comes in the way of the yagya being performed, it can be modified or substituted.

- F 37. In this connection we may also refer to the Wooden Sword Maxim (Sphadi Nyaya), which is a well known Maxim in the Mimansa system. This Maxim states “what is prescribed as a means to an action, is to be taken in a sense suited to the performance of the action” (vide Jaimini 3:1:2, quoted in the book ‘Mimansa Rules of Interpretation’ by K.L. Sarkar at p. 185).
- G The word ‘Spha’ in Sanskrit means a sword, which is normally a metallic object for cutting. However, ‘Spha’ in connection with a Yagya has to be interpreted as a wooden sword, because in a Yagya a small wooden sword called ‘Spha’ is used which is a pushing instrument (as a Yagya requires no cutting instrument,
- H but only a pushing instrument). Thus, ‘Sphadi Nyaya’ implies

that we have to see the object of the text to correctly interpret it. A

38. In the Mimansa system, the literal rule of interpretation is called the Shruti (or Abhida) principle, and ordinarily it is this principle which is to be applied when interpreting a text. However, there are exceptional situations when we have to depart from the literal rule and then certain other principles have to be resorted to e.g. (1) the Linga (also called Lakshana) principle or the suggestive power of words or expressions, (2) the Vakya principle or syntactical arrangement, (3) the Prakarana principle, which permits construction by referring to other texts in order to make the meaning clear, (4) the Sthana (position) principle which means the relative position of one text with reference to another, (5) the Samakhya (name) principle which means the connection between different passages by the indication accorded by the derivative words of a compound name. B  
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39. In the present case we are of the opinion that the Linga (Lakshana) principle will apply.

40. Linga really means interpretation by understanding the context, and it is a departure from the literal rule of interpretation. E

41. The Linga principle can be illustrated by the decision of this Court in *U.P. Bhoodan Yagna Samiti vs. Brij Kishore* AIR 1988 SC 2239 where the words 'landless person' were held to mean 'landless peasant' and not landless businessmen. F

42. Here we see that the Court has departed from the literal rule of interpretation, because by the literal rule even a very rich businessman who owns no land will be regarded as a landless person. Since the object of the U.P. Bhoodan Act was to give some land to the landless peasants, the expression 'landless person' was interpreted to mean 'landless peasant' only. This interpretation was necessary otherwise the entire object of the U.P. Bhoodan Act would be frustrated and land donated for distribution to landless peasants could be grabbed by rich businessmen on the ground that they owned no land, although G  
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A they may have huge amount of wealth in the form of shares in their companies, securities, crores of rupees in banks etc..

43. We may also like to point out that there is a difference between Linga (Lakshana) principle and the Vakya principle. In the former no violence is done to the wording of the text, but the words or expressions are construed differently from the literal sense, and hence Linga is really construction by context. In Vakya, however, some violence is done to the text, e.g. by connecting two separate sentences, or by adding words or expressions, or by transferring words or expressions up or down a sentence. This violence may sometimes become necessary to save the text from becoming meaningless or absurd, just as the surgeon may have to do violence to the body (by operation) to save the patient's life. For this purpose the Uha principle is utilized (The Uha principle or use of reason, is generally applied for construction of texts). In this connection it may be mentioned that Maxwell also permits doing violence to the statute in exceptional situations. He says "Where the language of a statute, in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. This may be done by departing from the rules of grammar, by giving an unusual meaning to particular words, by altering their collocation, by rejecting them altogether, or by interpolating other words, under the influence, no doubt, of an irresistible conviction that the legislature could not possibly have intended what the words signify, and that the modifications thus made are mere corrections of careless language and really give the true intention". Thus, in *S.S. Kalra vs. Union of India* 1991(2) SCC 87 this Court observed that sometimes courts can supply words which have been accidentally omitted. (See also the rulings mentioned in G.P. Singh's book "Principles of Statutory Interpretation" 9th Edition, 2004 pages 70 to 77).

H 44. The principle of Linga is illustrated by Jaimini in

numerous Sutras and Adhikarnas. Thus the Pranabhrit Adhikarana which is based on Jaimini's Sutra 28, Chapter IV, Book 1 shows how words acquired a wider meaning by the Linga or Lakshana process. A

45. In the Taittiriya Samhita (5.3.1.2) there is a passage :

"He disposes the Pranabhrit - प्राणभृत उपदद्याति"

46. Again in the same Samhita (5.7.2.5) there is a similar passage :

"He disposes the Ajyani - आज्यानोरेता उपदद्याति"

47. Now what is the meaning of Pranabhrit in the one case and of Ajyani in the other ? The words Pranabhrit and Ajyani are respectively the names of two Mantras or verses which begin with those words. These verses are used in consecrating bricks required for a certain purpose in a yagya. From this fact the bricks consecrated by the Pranabhrit Mantra acquired the name of Pranabhrit. Similarly the bricks consecrated by the Ajyani Mantra acquired the name of Ajyani. But in course of time the whole heap of bricks of a particular kind came to be called Pranabhrit, because one or two bricks of that heap were consecrated as Pranabhrit bricks. Thus the instance of Pranabhrit becomes a maxim for extending the scope of a name in the above manner. In fact, the meaning of the words Pranabhrit and Ajyani in these cases is determined by the peculiar association of the words and by the context of the passages in which they are used. Such a use is called Lingasamabaya (embodiment of the Linga). D E F

48. Nanda Pandit, in his work 'Dattaka Mimansa', refers to the Pranabhrit maxim to show that although the word 'substitute' was at first applied in express term only to six descriptions of sons, later the word by general use became applicable to all the twelve descriptions. G

49. The Pranabhrit maxim प्राणभृत न्याय states :

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A "The peculiar feature of one leading object belonging to a class may give name to the whole class."

B 50. Pranabhrit literally means filling with life or inspiring life; but the expression forms the commencement of a Mantra which is used in consecrating certain bricks. Hence the word has come to mean a kind of bricks (प्राणभृदादिशब्दानां स्तुत्यर्थत्वमधिकरणम्). This is the way in which the word Ajyani also has come to mean another class of bricks.

C 51. The Pranabhrit maxim applies in the present case also because we have to fill life (i.e. given an appropriate interpretation) to the word 'subscriber' in Rule 443 of the Indian Telegraph Rules.

D 52. The Pranabhrit maxim is often used in the interpretation of a text by treating it as illustrative and not exhaustive. The illustrative rule of interpretation is a departure from the literal rule which normally has to be adopted while construing a text. However, sometimes departures from the literal rule are permissible, and one of such departures is the illustrative rule. E To give an example, in Sanskrit there is an oft-quoted statement "Kakebhyo Dadhi Rakshitam" which means "protect the curd from the crows". Now in this sentence the word 'crow' is merely illustrative and not exhaustive. The statement does not mean that one should protect the curd only from crows but allow it to be eaten up by cats, dogs or to get damaged by dirt or filth etc. F It really means that one should protect the curd from all dangers. Hence the word 'crow' in the above statement is only illustrative and not exhaustive.

G 53. We can take another example. In the U.S. Constitution, Article 1 Section 8 states that Congress (the American Parliament) can raise Armies and Navies. There is no mention of an Air Force there, obviously because there were no aircraft in 1791 when the U.S. Constitution was promulgated. The first aircraft was invented by the Wright brothers in 1903. However, H today's reality is that a modern Army cannot fight without air

cover. Amendment to the U.S. Constitution is a very arduous and lengthy procedure because it requires two-third majority of both Houses of Congress and ratification by three-fourth of the States. By the time this is done, the enemy may invade and occupy the country. Hence the words 'Armies and Navies' have to be interpreted as illustrative and not exhaustive, and they really mean all armed forces necessary for the security of the country (which would include an Air Force, also).

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54. Thus Article 1 Section 8 of the U.S. Constitution has to be interpreted not by applying the Shruti rule (literal rule), but by applying the Linga rule. The words 'Armies and Navies' in Article 1 Section 8 are to be construed not literally but as suggestive. In other words, they are only illustrative, and they really mean all Armed Forces necessary for the security of the country.

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55. We may also refer to Maxwell's 'Interpretation of Statutes' where it is stated :

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"But it is another elementary rule, that *a thing which is within the letter of a statute is not within the statute unless it be also within the real intention of the Legislature*, and the words, if sufficiently flexible, must be construed in the sense which, if less correct grammatically, is more in harmony within that intention. Language is rarely so free from ambiguity as to be incapable of being used in more than one sense; and to adhere rigidly to its literal and primary meaning in all cases would be to miss its real meaning in many. If a literal meaning had been given to the laws which forbade a layman to "lay hands" on a priest, and punished all who drew blood in the street, the layman who wounded a priest with a weapon would not have fallen within the prohibition, and the surgeon who bled a person to save his life, would have been liable to punishment. On a literal construction of his promise, Mohammed II.'s sawing the Venetian Governor's body in two, was no breach of his engagement to spare his head; nor Tamerlane's burying alive a garrison, a violation of his

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A pledge to shed no blood.”

Maxwell also states:

B “The words of a statute are to be understood in the sense in which they best harmonize with the subject of the enactment and *the object which the Legislature has in view*. Their meaning is found not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used and the object to be attained.”

C *(emphasis supplied)*

D 56. Thus, in both systems of interpretation, the Mimansa system as well as Maxwell’s system, it is emphasized that the intention of a statute has often to be seen to properly interpret it, and it is not that the Court can never depart from the literal rule of interpretation. It all depends on the context, the subject-matter, the purpose for which the provision was made, etc.

E 57. As already stated above, while construing Rule 443 we have to give an interpretation which subserves the intention of the Rule which is that telephone bills should be promptly paid, otherwise the department will be short of the funds needed for financing the telephone services which are to be rendered to the consumers. After all, the salary of the employees of the telephone department have to be paid, the telephone equipment  
F has to be maintained, repaired and kept up-to-date. Sometimes new technology has to be introduced. There may be various other requirements for which funds may be required, and all these can only be possible if the telephone bills are paid in time. Hence, in our opinion, the word ‘subscriber’ in Rule 2(pp) has to be  
G given a wider meaning, as already stated above.

58. In view of the above, we find no merit in this appeal which is accordingly dismissed. There shall be no order as to costs.

H S.K.S.

Appeal dismissed