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# The Elevator Pitch and the Art of Advocacy

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## Post

There was a time before the mobile phones when the only free time busy executive honchos had was in the elevator. This was the best time to get the undivided and uninterrupted attention of the honcho. If a subordinate wanted to pitch an idea, then they would get into the elevator with the honcho. In the journey from the ground floor till the place of business, they would communicate the just enough information to the honcho that would entice the honcho to give time for a detailed presentation. This is called the elevator pitch.

There was a time when the number of disputes were lesser, and Judges had a lot more time to understand and appreciate the contours of the dispute. The advocate could make a slow beginning and take their time to reach the essence of the dispute. Unfortunately, with docket explosion, an average cause list has more than 60 matters which a Judge has to go through. If an advocate takes a long time to reach the essence of the dispute, it becomes

difficult for the Judges to hold their patience and many times, if the advocate does not frame the issue in the right manner, the Judges arrive at their own conclusions.

When we advocate study a file, we make a list of dates, legal propositions and keep all information handy to make the argument. We practice for a detailed argument. Many times, the lesser experienced advocates often do not prepare for the start of the submission. The Judge starts asking basic questions which take away the flow of our submissions. This is more the case at the appellate side than probably in the trial court.

Sometimes it may so be that the Judge wants basic information regarding the case before you start your submission on merits. The most basic thing to start off with is "this is the defendant-plaintiff's appeal against decree/dismissal of the suit. The suit is filed for eviction/specific performance/recovery of money/declaration/injunction. The trial court has held xyz." What this does is it sets up the Judge to listen to whatever you have to say. If you do not start with this and go on into the facts of the case, the Judge is wondering what the matter is about. The Judge may not even want half the information you are providing. Sometimes it is enough to say, "I enjoyed an injunction throughout the suit." The High Court will grant you the injunction solely on that ground given that admission of a regular appeal is a given. It may so happen that the Judge has read the papers and has come to the court or is perusing the papers as you are arguing. The information that you provide will give the perspective with which they can peruse the papers and appreciate your arguments.

In the trial court, reiteration of your case theory may help the Judge create a subconscious bias in the Judge's mind which may work to your favour. For example, in an eviction suit, the defendant counsel kept saying "this is a collusive suit for partition filed against a bona fide subsequent purchaser" every time the matter was called out. The cross-examination of plaintiff witness was focused on this point. The narrative was set towards this point alone. The judgment was replete with findings of how it was a collusive suit of partition and how the defendant was a bona fide purchaser.

In the High Court also, framing the right question during your arguments also helps the Judge understand your case better. If there is a central idea or theme to the arguments, it connects the dot to the Judge. Suppose in the same example, you were to say that "I can demonstrate that the entire basis of the trial court's conclusion is because one of the defendants did not file a written statement or lead evidence. The trial court failed to look into the fact that the property was sold at half the market value." You have set a tone for the High Court to examine the matter. You build on this theory with the facts and the proposition of law.

In the Supreme Court, how you frame the question is all that matters. The difference between, "this appeal is against the concurrent finding of the High Court holding that it is a collusive suit for partition and that the bona fide purchaser cannot be held liable and my remedy is against the other defendants to receive the value of the share" versus "the Hindu Succession Act, 1956<sup>1</sup> has been turned upside down to evolve a proposition of law that I

must recover the money from the other sharers if my right to property is taken away. What this means is that one family member can unauthorisedly sell the property without informing the others, pocket the entire sale proceeds and if 20 others in the family challenge the same, the courts will legitimise the sale by saying your remedy is against one person who sold the property. This will open floodgates for collusive sales and deprivation of joint family property.”

The first one explains the order of the trial court and the High Court. But if you frame the question in that way, a Judge is going to think that the order is right. You will need to explain the larger ramifications of the judgment and why the Supreme Court needs to entertain the SLP. If you do not explain it in the first two or three sentences, you may not even be able to get a fourth sentence in before the files get thrown down with the words, “Dismissed”.

The first two or three sentences that an advocate says when he starts to argue is the elevator pitch. If it is not thought out and framed in the right way, the Judges may lose interest or find it difficult to appreciate the point. Perhaps, it can be argued that an elevator pitch may not be the basis to win or lose a case before the High Court or the trial court. But it does help advocacy. It helps in the case of seeking interim orders. Advocacy is the art of seeking attention of the Judge to your case. You do not want any kind of prejudging, loss of attention or any other distraction. Hence, it is necessary to provide perspective. More often than not, we are preoccupied with what we want to convey than what the Judge would like to hear.

By preparing an elevator pitch, we can make both ends of the stick to meet. The best way to train for this is by explaining your case in 2 sentences, then expanding it to 10 sentences and then to 100 sentences. This trains the lawyer to connect the entire case to the first two sentences that they spoke at the beginning of the argument.

To create an elevator pitch, you need to:

- (a) *Know your basic facts* — It is necessary to identify as to what are the basic facts of the case and your argument and what facts are against you.
- (b) *Identify your precedents* — What is the standard approach of courts in matters of these kinds.
- (c) *Understand your Judge* — Depending on the court you are before; you can identify what issue to highlight. You should be able to frame in your case in a manner in which the Judge will appreciate and not in the way in which you understand the case.
- (d) *Identify the central theme of the case on which you can win or lose* — The best way to do this is by identifying all issues and making a list of their pros and cons, connecting the issues to the underlying central theme in some manner, letting go of certain issues.
- (e) *Frame your pitch in two or three sentences* — This is the most critical part. What to say and what to avoid saying. It is always advisable to practise the first two sentences before entering the court.

Due to increasing pressures and docket explosion, written advocacy is going to assume a lot of importance with very little time being given for oral advocacy. A complaint that is often made is that oral arguments consume a lot of time and Supreme Court has made observations on imposing time limits for oral arguments. If such time limit is imposed in the future, the emphasis will be on communicating the most important and critical information in the shortest possible time. The only way to tie up the arguments is by preparing an elevator pitch. This will help us do our job better, make the Judge's job easier and aid in increased access to justice.

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1. Hindu Succession Act, 1956.

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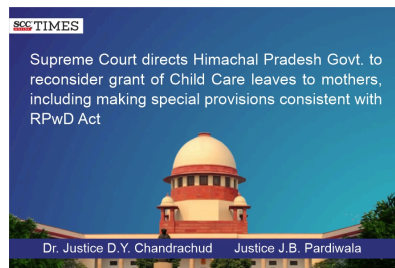
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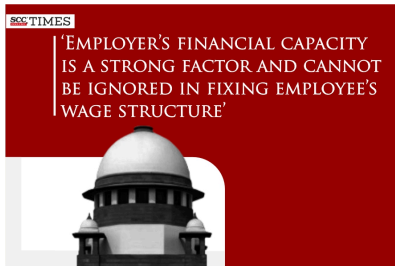
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