

STUDY CIRCLE,
HIGH COURT BAR
ASSOCIATION, NAGPUR
A SLIDESHOW PRESENTATION

MENTIONING BEFORE
THE COURT
Concept by : Hon'ble Justice A. H. Joshi
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Why this seminar on mentioning

- To **inculcate skills of mentioning** to achieve the required result.
- To **ensure discipline** in the process of mentioning.
- To enable the Court to perform it's court work **without disruption** in the midst.

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What is “mentioning” before the court ?

- To mention means to **make a reference to**.
- So mentioning a matter before the court means to **make a reference to that matter**, to the court, by an Advocate.

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Mentioning is a mini argument

- You intend to **achieve some result** from the court.
- Such as:
 - **Urgent Circulation** of the case before the court.
 - **Adjournment** of the case for some days.
 - **Require the court to wait for some time** before taking up your case.
 - Seek **precedence** in hearing.

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Before you mention :

- **Read** the case before you prepare for mentioning. Know the **basic** facts of the matter.
- **Formulate your mini-speech** inside your head.
- Choose a word for what you **exactly** mean.
- Put yourself **into the seat of the listener** (imagine the judges' point of view).
- **Think** you are the judge, and now find out what you would like the lawyer should tell you.
- **Ask yourself** "have you done entire homework?"
- Do you have the **dates and events arranged chronologically?**
- To seek the urgent relief do you have a point which will **shock** the judge.
- **Rehearse** your mini speech inside your head.

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How to mention

- **Clarity** of your **object** in your mind, is imperative.
- Speak **clearly**.
 - What would mean by **clarity of speech**.
 - Clarity in diction
 - Clarity in thought
- Speak **concisely and precisely**.
 - **Conciseness** does not mean telegraphic language.
- Be **honest**.
 - Honesty refers to **every facet of life**. Not just court matters.
 - **Honest as to facts of case, as to personal difficulty of lawyer and for that matter for any point**
- **Focus on the result** you want to achieve, e.g. adjournment, pass-over etc.
- Be **ready to face Court questions**.
 - Never have the mindset that "I thought that the court would know it."; "I thought that the court would not ask me this question."; "I thought that the law on this point is well settled."

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Mentioning situations

- For seeking **urgent circulation**.
- For seeking **adjournment**.
- For seeking a **pass-over of the matter**.
- For seeking **precedence** in hearing.

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TO SEEK URGENT CIRCULATION

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TO SEEK URGENT CIRCULATION

- The question to ask yourself is :
 - “How your client will be ***adversely affected*** if the matter is ***not heard*** urgently?”

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Possible urgent situations

- **Auction**: Property subject matter is put to auction. The auction schedule has been announced. Notice is published. It has appeared in yesterday's newspaper. Property is prime and is likely to sold in first auction, as it is located at Sitabuldi.

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Possible urgent situations

- **Termination**: Client/Petitioner's services will stand terminated and he will suffer loss. His termination order is issued today and he is to be relieved tomorrow afternoon.
- **Student's examination**: Examination will be over and your client will miss the opportunity.

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Possible urgent situations

- Student Admission: Fear of admission process being over if matter not heard urgently.
- Now let your imagination run

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Model example of mentioning speech for urgent circulation

Example:

*“My Lords! May I request Your Lordships to be kind to permit me to **urgently** circulate one writ petition/civil application for admission for today at 2.30 p.m.*

The urgency lies in the fact that the petitioner-student's examination is scheduled to begin today at 2.30 and he is debarred from appearing in the examination.”

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- My Lords, I am praying for circulation of.....for urgent hearing for admission.
 - ▣ I want to pray for urgent interim orders by way of stay of order passed by Hon'ble.....
 - ▣ I am praying for stay of election programme...
 - ▣ I am challenging rejection of nomination paper and I am praying for leave to contest the election.
 - ▣ I am praying for interim anticipatory bail.
 - ▣ I am praying for temporary bail.
 - ▣ Let your imagination run.....

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Anatomy of mentioning speech

1. **Salutation.** E.g. "My Lords!" or "Your Lordships!" or "Respected Sirs!"
2. **Beginning of the request:** "May I request your Lordships to kindly permit me to....."

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Anatomy of mentioning speech

3. **Result to be achieved:** "....urgently circulate....."
4. **Specifics:**
 - a. **Nature of case:** "....one writ petition/civil application..."
 - b. **Stage :** "....for admission/order matter...."
 - c. **Date/Time:** "....for tomorrow / today at 2.30."

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Anatomy of mentioning speech

5. **Explanation of urgency:** "The urgency lies in the fact that the petitioner-student's examination is scheduled to begin today at 2.30 and he is debarred from appearing in the examination."

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TO SEEK ADJOURNMENT

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TO SEEK ADJOURNMENT

- Two options regarding **timing**
 - At 10.30 AM
 - or
 - Whenever the matter is called out.
- Preferable timing is **immediately after** the court takes its seat. As far as possible the time of beginning of proceedings of the court is not an opportune time for mentioning adjournments unless under compulsion.
- When adjournment is mentioned at the threshold of commencement of proceedings, the mentioning should begin with an apologetic tone and expression.
- If the Court does not permit mentioning at that time, then mention when the matter is called out.

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Preparation for mentioning for adjournment

- Before you mention for adjournment you must have:
 - A **genuine reason** for adjournment.
 - Already obtain the **consent of your opponent** in advance.
 - **Think out in your mind** the mini-speech, before you speak.
 - Know if any **interim relief** is operating in your favour.

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How to mention for adjournment

- Be the **first to speak**. (begin before your opponent opens mouth).
- Be **short and direct**.
- Clarify that you are mentioning with the **consent of your opponent**. (In case you have not taken prior consent, tell the reason for that).
- Then mention with **clarity, honesty, simplicity and directness**.

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Possible situations for Adjournment

- You have received the reply of opposite side recently.
- Your senior is not available for the day because of:
 - Illness
 - Being out of station
 - Having required to leave the court urgently.
- You want to amend the Petition.
- Now you imagine.....

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Sample format of mentioning for adjournment

"My Lords! With the consent of my learned friend Mr._____, appearing for other side, may I request your Lordships to adjourn this matter / or the case at admission no.32 for 2 weeks..... because I have received the reply of opposite side recently, and I want to consider the contents or file a rejoinder."

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Another sample format of mentioning for adjournment

*"My Lords! I am making a request on behalf of Advocate Mr.....
He is suffering from fever and could not attend the court today.....
With the consent of my learned friend, may I therefore request your Lordships to adjourn this matter / the case at admission no. 32 for 2 weeks."*

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TO SEEK A PASS-OVER

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Sample format

*"My Lords! I am making a request on behalf of Adv. Mr. _____.....
Milords! He is on his legs and expected to come after 10 minutes.....
So Kindly take up the matter after two or three matters.....
Or Kindly take up the matter after recess at 2.30."*

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TO SEEK PRECEDENCE

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Sample format

*"My Lords! I am requesting for precedence.....
My matter is listed at Sr. no. 47 on today's cause list
for Admission hearing, and it may not reach today
.....
My lords, the matter is urgent because the election
is scheduled today at 2.30, and if allowed to be
held, my client will stand removed from the post of
Sarpanch....
May I therefore urge your lordships to grant me
precedence and take up the case at 10.30"*

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