

# AN ADVOCATE'S VIEW ON E-COURT SYSTEM

**Dr. P. SANTHA KUMARI**

*Assistant Professor  
Government Law College, Madurai, Tamil Nadu, India*

**R. GOUTHAM RAJ**

*Advocate /LLM Student, Corporate Governance and Finance  
Government Law College, Dharmapuri, Tamil Nadu  
Dr. Ambedkar Law University, Chennai, Tamil Nadu, India*

## Abstract

This study addresses awareness about the digitalized court proceedings. 'Delayed Justice is denied Justice' and 'Justice hurried is also Justice buried'. In this view, Virtual Courts is a mechanism that will strike a balance between these two extremes and extends expeditious Justice to the litigants without compromising quality. Virtual Courts can reduce the pendency of cases which have been clogging the wheels of Justice for decades. Technology as a tool for positive change and speedy disposal of cases. The Virtual Court system can increase access to justice by addressing locational and economic handicaps. This study focusses that how technology is used in justice delivery systems.

**Keywords:** digitalization, awareness, current position, e-judiciary, e-courts

## Introduction

Information technology (IT) has always had a revolutionary impact on all business sectors. Its emphasis that improving customer service and using data for better global decision-making. The Indian government's digital India project is also helping to revolutionize the country's industry. The India's legal sector is still in its infancy in terms of digital development. With the effect of legal technology, it can change how legal departments and organizations operate as they become more aware of the cost efficiencies offered by IT. Despite the rapid expansion of digitalization in the Indian legal system, the assistance desks of many courts lack digital skills. New strategies, corporate processes, management structures, collaborative and welcoming working arrangements, delivery-oriented systems, and client connections are all being made possible by recent advancements in legal IT. The legal department has launched a significant number of efforts throughout the years to usher in the digital era. At several levels, ongoing work has been done to enhance the procedure of courts and streamline the application process.

## Literature Review

The former Chief Justice of India, Justice Sharad Bobde in his address at the launch of Supreme Court Vidhik Anuvaad Software (SUVAS) on the National Constitution Day, 2019, stated,<sup>3</sup>Virtual Courts is a concept, aimed at eliminating the presence of litigant or lawyer in the court and for adjudication of cases on a virtual platform. The concept has been evolved in order to efficiently utilize court resources and to provide litigants with an effective avenue to settle petty disputes. Virtual Court can be administered by a Judge over a virtual electronic platform whose jurisdiction may extend to the entire State and function 24x7. Neither litigant nor Judge would have to physically visit a court for effective adjudication and resolution. Communication would only be in electronic form and sentencing and a further payment of fine or compensation.

The unprecedented outbreak of COVID-19 Pandemic has largely affected the functioning of our courts across

<sup>3</sup> Supreme Court Press release on 25<sup>th</sup> November, 2019 regarding SUVAS. Also available on <https://main.sci.gov.in/pdf/Press/press%20release%20for%20law%20day%20celebratoin.pdf> -

India and only very urgent matters are being heard through videoconference facilities after the lockdown. The Supreme Court of India had issued guidelines in order to direct the courts at all levels to frame mechanism for using online videoconferencing till the normalization of the situation. While High Courts and many District Courts continue to hear cases online, some lawyers find it difficult to argue complex cases with volumes of files through videoconferencing. Moreover, there is need for standardization and consistency in deployment of software tools and practices in embracing virtual courts in India. It is being debated whether free and open source-based products (such as used in e-courts project) would be suitable or should customized enterprise-based model be adopted involving private players for virtual courts, Having ourselves been at the receiving end of certain technological glitches, the undersigned Advocates-on-Record have conducted a Survey with the aim of collecting quantifiable information to address the problems faced by practicing Advocates in respect of the virtual/digital systems in place. The instant Report is the end-product of this

The Supreme Court issued directions for the administrative functioning of the courts using its powers under Article 142 of the Constitution<sup>4</sup>. The directions entailed supporting the various measures taken by the High Courts to enable the transition to video hearings, as per the modalities of each of the high courts. The response of the High Courts to the pandemic has been a mixed bag; whether for its own functioning or those of the district courts, for which it administratively responsible. Some high courts swiftly passed video conferencing rules (VC Rules), e-filing rules, etc, while some issued Standard Operating Procedures (SOP) or guidelines. Thus, certain high courts passed various rules, guidelines, etc to allow for the filing and hearing of cases virtually, while others only enabled them.

According to Frederick I Lederer<sup>5</sup> who is currently the Director, Centre for Legal and Court Technology, United states. He wrote in 1997 'The Courtroom is a place of adjudication, but it is also an information hub. Outside information is assembled, sorted and brought into the Courtroom for presentation. Once presented, various theories of interpretation are argued to the fact finder who then analyses the data according to prescribed rules (determined by the judge through research, analysis and interpretation) and determines a verdict and result. The Courtroom is thus the centre of a complex system of information exchange and management. Ultimately because lawyers and judges deal continuously with 'data', high technology Courtrooms exist and Virtual Courtrooms are possible.'

### Virtual Courts and India

The unpredictable lockdown caused by the corona virus pandemic has brought forth a crisis which affected human lives and also crippled the functioning of Indian Judiciary. In order to adjudicate urgent matters and to enable the judicial system to discharge its constitutional mandate of providing access to justice at all times, the Supreme Court of India has rolled out Virtual Court hearings. During the pre-COVID period, the VC set up was primarily used for conducting remand matters to prevent movement of prisoners between Courts and jails. Such VC facilities have been operationalized between 3240 Court complexes and corresponding 1272 prisons. Legal sanctity was given to videoconferencing by the Supreme Court by an overarching order invoking Article 142 of the Constitution of India passed on 6<sup>th</sup> April 2020 which covered all the High Courts in the country. Consistent with the peculiarities of the judicial system in every state and in view of the dynamic health situation, the High Courts were left with the

<sup>4</sup>Article 142 of Indian Constitution provides discretionary power to the Supreme Court as it states that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it

<sup>5</sup>Fredric I. Lederer, Thoughts on Remote Appearances and Virtual Hearings, An Essay for the CLCT Court Affiliates, (May, 2020) (published to the CLCT Court Affiliates website and distributed internationally by the National Centre for State Courts).  
<https://law2.wm.edu/faculty/bios/fulltime/filede.php>

discretion of adopting technology after customization to suit their purpose. Model rules on Video Conferencing have been circulated and the High Courts are in the process of adopting them. The District Courts were to adopt the mode of video conferencing prescribed by the concerned High Court. The E-Courts Project was conceptualized on the basis of the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary - 2005" submitted by E-Committee, Supreme Court of India with a vision to transform the Indian Judiciary by ICT enablement of Courts.<sup>6</sup> E-Committee is a body constituted by the Government of India in pursuance of a proposal received from Hon'ble the Chief Justice of India to constitute an E-Committee to assist him in formulating a national policy on computerization of Indian Judiciary and advise on technological communication and management related changes. The E-Courts Mission Mode Project is a Pan-India Project, monitored and funded by Department of Justice, Ministry of Law and Justice, Government of India for the District Courts across the country

### Object of the Study

1. To analyse the transformation of judiciary into E-judiciary through virtual court system
2. To detect way out to make the digital judiciary as a system for speedy delivery of

### Research Methodes

In this Empirical study, qualitative and quantitative method was applied and data have been collected from both primary and secondary sources. The primary sources are relevant statutes, key Informant Interviews through questionnaire among Legal Fraternity and the secondary sources are journal articles, relevant reports, court documents etc. To support findings, current survey on virtual court proceedings, newspaper reports etc. were reviewed. The data have been analysed in descriptive pattern of narration.

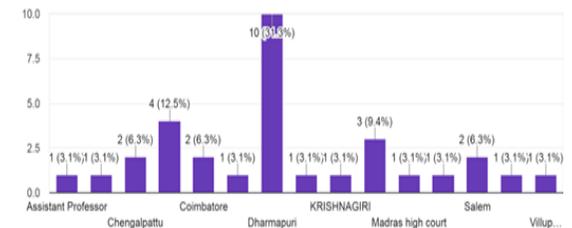
<sup>6</sup>The e -Courts Mission Mode Project, is a Pan-India Project, monitored and funded by Department of Justice, Ministry of Law and Justice, Government of India for the District Courts across the country

### Hypothesis

1. Use of Information and Communication Technology in Judicial system it makes speedy disposal of cases.

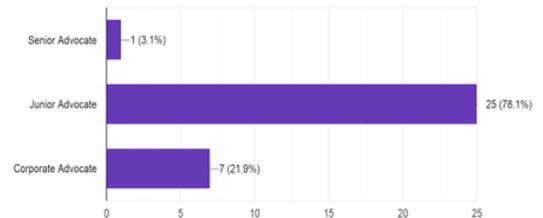
### Frequency Distribution based on Respondent's Place of Practice

Place of Practice - District  
32 responses

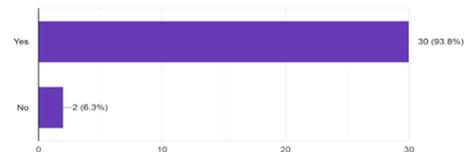


### Frequency Distribution based on Respondent's Year of Practice

You are a  
32 responses

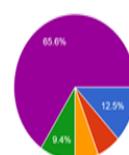


Do you know about Virtual Court?  
32 responses



### Knowledge about digitalisation in court proceedings

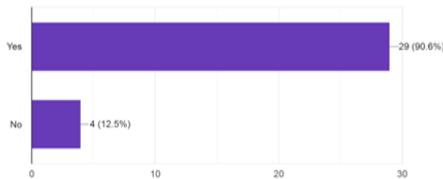
What is Digitalization?  
32 responses



- The process of converting information in analogue form into digital form.
- Mathematically reducing all types of information (notes, still pictures, audio, text, conversations, games or graphic...
- Integration of digital technologies into everyday life by the digitization of ever...
- Enabling or improving processes by leveraging digital technologies and dig...
- All of the Above

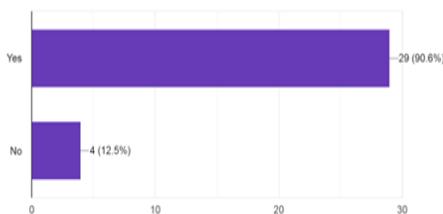
## Instalisazation of E- Court Application

Have you installed the E- Court Application in your Mobile/Computer?  
32 responses



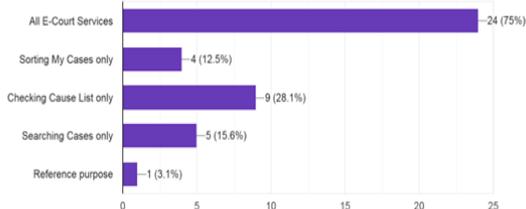
When the respondent where asked **Have you installed the E-Court Application in your Mobile/Computer?** Out of the 32 respondents, 29 persons said YES and 4 said as NO. The below chart depicts the same thing:

Have you installed the E- Court Application in your Mobile/Computer?  
32 responses



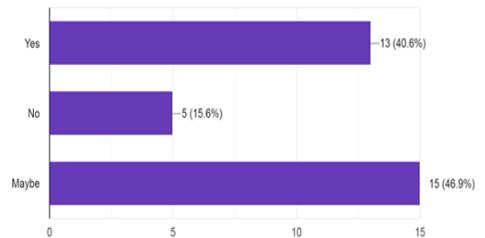
When the respondent where asked **what is the main purpose of using E-Court Application?** Out of the 32 respondents, 24 persons said they use it for all E-court services provided, 4 said as they use only for sorting their case only, 9 said they use for checking cause list only, 5 said they use it for searching cases only and 1 said they use it for reference purpose. The Responses are overlapping as the respondents use it for multiple processes. The below chart depicts the same thing:

What is the main purpose of using E- Court Application?  
32 responses



When the respondent where asked **Do you prefer the E-filing to Physical filing?** Out of the 32 respondents, 13 persons said YES, 5 said as NO and 15 said MAYBE. The below chart depicts the same thing:

Do you prefer the E-filing to Physical filing?  
32 responses

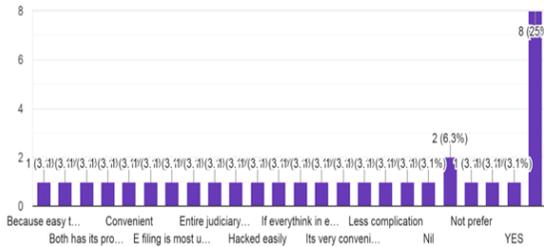


When the respondent where asked **Indicate the reasons for the same (If Yes/No)** the general answers given by 32 respondents, are as follows;

1. If everything is in electronic base means it's easy for work
2. May be secure
3. Less Paper Work
4. Hacked easily
5. Entire judiciary will be controlled and dominated by MNC's if digitalized.
6. Convenient
7. For speedy procedure
8. E filing is easy to access
9. Both has its pros & cons. E-filing is time effective but one should be technically sound and people managing should also be technically sound. Physical filing is time consuming but quality effective.
10. Because it is easy to accessible
11. E filing is most useful one, the countries like US only using E filing
12. Can file from anywhere instead of going in-person & comparatively e filing is easier than physical filing
13. Not prefer
14. Sometimes it is easy to submit the supporting documents in PDF format by way of uploading and easy to get acknowledgement then and there without any sort of physical contact and face value

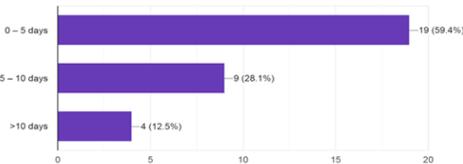
Indicate the reasons for the same (If Yes/No)

32 responses



How long did it take for your matter to be listed after clearing the defects?

32 responses



Based on the feedback received from the participants in the Survey, the researcher has compiled the following broad suggestions.

### Suggestions

- There must be strong Security software, the client data can be easily hacked by the hackers and it leads the criminal to indulge misconducts.
- The court must expedite the E-Process among the employees and advocates. Speed of filing to be enhanced and Improve server speed.
- Software development must need in this process.
- The process should be simple so that every advocate can easily file & follow their case.
- The Registry staff is required to be adequately trained in the technology and modalities of E-filing. More dedicated helpline numbers with adequate staff should be made available to provide support and respond to queries of Advocates.
- The link for hearings for different Virtual Courts can either be published along with the Cause List or sent to the concerned Advocates by automated e-mails sufficiently in advance. This can, in the long run, eliminate the time and resources consumed in creating WhatsApp Groups for different Virtual Courts every day for this purpose, and also reduce the anxiety caused due to receipt of links at the last minute.
- The Registry Staff is required to be adequately trained to reduce delay in the listing process. More dedicated helpline numbers with adequate staff should be made available.
- The responses suggest that the E- Court App has proved to be problematic in practice. An alternative software application, such as Cisco Webex, which the participants have found to be more efficient and preferable, may be considered for usage by the Hon'ble Court.
- Alternatively, it was also suggested that the Hon'ble Court explore the possibility of having a separate software application developed which integrates the best practices across various applications.
- There should be separate designated IT / Support staff or wing for each Virtual Court, whose phone numbers should be made available to the Advocates. These officers should be constantly available on telephone to address and resolve any technical issues faced during the hearing.
- The Control Room staff must be trained and sensitized to be able to better handle this new form of hearing. They should be cautious about when it is appropriate to disconnect an Advocate, so that they are not prematurely logged out.
- To make it more user friendly without using many technical words and also try to fix the technical glitches that are very much available in all the portal or websites
- There have been a lot of complaints regarding the Control Room not unmuting / enabling video access in a timely manner. Either Advocates can be given control to enable their audio / video access in time for their cases, or utmost care has to be taken by the Control Room staff to unmute the concerned Advocates promptly so that they are not prevented from presenting their arguments. The Control Room should be alert and trained to read and respond to the messages sent in the chat window.

- While Passovers are being granted by most of the Hon'ble Benches in case of any technical difficulty, as a matter of practice, cases could be called out slowly, with a brief time gap, to be able to assess whether the concerned Advocate is unavailable or is present but has not been unmuted. If the Advocate is still unable to appear at the end of the Court session, perhaps the matter can be adjourned.
- In no circumstance should an adverse order be passed if the concerned Advocate was unable to appear due to a technical problem. Cases, particularly large batch matters, can be heard in a staggered fashion with fixed time slots to prevent overcrowding. A proper system and order for presentation of arguments can be devised for such batch matters, where a large number of Advocates are appearing.
- A feature enabling Advocates to open links for different Virtual Courts in different tabs on the same device could be included. This will be of great assistance to Senior Advocates and other Advocates who may have multiple matters in different Courts on the same day, as everybody cannot be expected to have multiple personal devices to deal with such an eventuality.
- Consultation between the arguing and the briefing Counsel or passing of instructions from a litigant to a lawyer can be tricky during the course of a virtual hearing.
- The possibility of a separate and private discussion room which can be used by the lawyers / clients during the hearing can be explored. Alternatively, the hearing can be paused briefly or the matter passed over, while the lawyers consult or obtain instructions.

### **Conclusion**

Upon a thorough analysis of the survey data, the researcher has found that while a significant number of participant Advocates appear to have used the prevailing systems of E-filing and Virtual Hearing of the Hon'ble Court, they are discouraged by the numerous technical complications faced while using the same. In fact, the researcher has also received feedback from some participants that they have deferred getting their fresh matters listed for hearing [except in case of urgency] because of the stress and anxiety regarding whether the virtual hearing would be effective.