

भगवंतभास्करे  
मीमांसकश्रीनीलकण्ठभट्टविरचितः

**व्यवहारमयूखः**

**VYAVAHĀRAMAYŪKHAH**

OF

**NĪLAKAṆṬHA**

TRANSLATED INTO ENGLISH  
With Explanatory Notes and References  
to Decided Cases

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## PREFACE

The Vyavahāramayūkha of Nilakanṭha is a work of paramount authority on Hindu Law in Gujerat, the town and island of Bombay and in northern Konkan. Even where, as in the Maratha country and in the District of Ratnagiri, the Mitākṣarā is the paramount authoerity, it occupies a very important, though a subordinate place. The first English translation of the Vyavahāramayūkha was published in 1827 by Borradaile. Considering the state of Sanskrit scholarship among Westerners more than a hundred years ago the translation was a creditable performance. But, as has been judicially noticed, Borradaile's translation is in many places infelicitous,<sup>1</sup> obscure<sup>2</sup> or positively wrong.<sup>3</sup> Besides, Borradaile's method of dividing the translation into chapters, sections and placita, though convenient to judges and lawyers for purposes of reference, conveyed to those unacquainted with the Sanksrit language or the original work the wrong impression that the original was similarly divided. About fifty years ago the late Rao Saheb V.N. Mandlik brought out a scholarly translation of the Vyavahāramayūkha, that was a great improvement on Borradaile's work, both in the accaurcy of the translation and the method of its presentation. That work is not now available in the market. It omitted the section on ordeals, it did not refer to decided cases and was also inaccurate in some places, as a reference to the pages indicated in the Index to this translation will show. In 1924 Mr. J.R. Gharpure of Bombay, the indefatigable editor of the 'Collection of Hindu Law Texts' brought out a translation of the Vyavahāramayūkha. In this translation he generally follows the late Rao Saheb V.N. Maṇḍlik, though here and there improvements are made; but he does not translate the section of the work on ordeals, nor does he cite even a considerable body of decisions of the High Courts that have a direct bearing on the text of the Vyavahāramayūkha.

In the translation here presented, the whole of the Vyavahāramayūkha has been rendered into English. The text chosen for translation is that contained in the edition of the Vyavahāramayūkha published by the Bhandarkar Oriental Research Institute at Poona in 1926. The pages

1. Vide 2 Bom. 388 at p. 421.
2. Vide 14 Bom. 612 at p. 617, 17 Bom 759 at p. 762.
3. Vide Sitalai v. Vasantryao 3 Bom, L. R. 201 at pp. 2005-6.

आगमस्तु कृतो येन सोभियुक्तस्तमुद्धरेत् ।

न तत्सुतस्तत्सुतो वा भुक्तिस्तत्र गरीयसी । इति ॥ ( व्य. २८ )

तदागमकर्तुरीवागमानुद्धारे दण्डो न तत्पुत्रादीनामित्येवंपरं नत्वर्थसिद्धिरिति । यदाह  
हारीतः—

आगमस्तु कृतो येन स दण्ड्यस्तमनुद्धरन् ।

न तत्सुतस्तत्सुतो वा भोग्यहानिस्तयोरपि । इति ॥

याज्ञवल्क्यः—

योऽभियुक्तः परेतः स्यात्तस्य रिक्थी तमुद्धरेत् ।

न तत्र कारणं भुक्तिरागमेन विना कृता । ( व्य. २९ )

रिक्थी अंशभागी पुत्रादिः । तमागमम् ।

ननु दीर्घकालभोगः प्रमाणमिति विरुद्धं यतः स्वल्पकालोपभोगेनापि अभियोक्तुर्हानिः  
प्रतीयते । यथाह स एव—

पश्यतोऽब्रुवतो भूमेर्हानिविंशतिवार्षिकी ।

परेण भुज्यमानाया धनस्य दशवार्षिकी । इति ॥ ( व्य. २४ )

उच्यते । एतत्पश्यतोऽप्रतिषेधतस्तावत्कालीनभोगे तद्भूम्यादिजन्यफलहानिर्भवती-  
त्येवंपरं न तु तद्भूम्यादिवस्तुहानिरपीति । अनागमं तु यो भुङ्क्ते इत्युदाहृतवचनविरोधात् ।  
कात्यायनः—

नोपभोगे बलं कार्यमाहर्त्रां तत्सुतेन वा ।

पशुस्त्रीपुरुषादीनामिति धर्मो व्यवस्थितः ॥

नारदः—

आधिः सीमा बालधनं निक्षेपोपनिधिः स्त्रियः ।

राजस्वं श्रोत्रियस्वं च नोपभोगेन नश्यति ॥ १ । ८१ )

मनुः—

संप्रीत्या भुज्यमानानि न नश्यन्ति कदाचन ।

धेनुरुष्ट्रो वहन्नश्चो यश्च दम्यः प्रयुज्यते ॥ ( ८ । १४६ )

दम्यः प्रयुज्यते दमनार्थं यः समर्प्यते ।

इति भुक्तिप्रकरणम्



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