

The Hindustan Times, New Delhi, 27 Feb 2008

## Judiciary versus legislature

# SC does balancing act

Satya Prakash  
New Delhi, February 26

THE SUPREME Court on Tuesday said courts should not interfere in matters relating to economic and financial policies as it would amount to encroaching into the 'domain of the executive and the legislature'. But the apex court justified the judiciary's activist role in protecting civil liberties and fundamental rights of citizens.

"The court does not consist of economic or administrative experts. It has no expertise in these matter and in this age of specialisation, when policies have to be laid down with great care after consulting specialists in the field, it will be wholly unwise for the court to encroach into the domain of the executive and the legislature," a bench of Justices H.K. Sema and Markandeya Katju said.

It said that as economic policies involve planning by experts, courts should refrain from interfering unless the policies are unconstitutional.

Setting aside an Andhra Pradesh High Court order, the apex court upheld the constitutional validity of section 47A of

### STAY WITHIN LIMITS

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- In that judgment in December last year, Justices Mathur and Katju had said, "Judges must know their limits and must not try to run the government."
- In the latest verdict, Justices Sema and Katju said courts in the US and India have taken an activist approach in upholding rights of citizens "because freedom and liberty are essential for progress - both economic and social.

the Indian Stamp Act, (as amended by "AP Act 8 of 1998) aimed at checking under-valuation of property at the time of registration. The High Court had declared the state amendment as unconstitutional.

Writing the judgment for the bench, Justice Katju said: "It is the solemn duty of the courts to up-

hold the civil rights and liberties of citizens against executive or legislative invasion, and the court cannot sit quiet in this situation, but must play an activist role in upholding civil liberties and the fundamental rights."

This is being seen as an attempt by the apex court to dispel the impression created by an earlier judgment delivered by Justices A.K. Mathur and Justice Katju that courts cannot interfere with the functioning of the executive or the legislature at all. In that judgment in December last year, Justices Mathur and Katju had said: "Judges must know their limits and must not try to run the government."

However, in the latest verdict on the issue, Justices Sema and Katju said courts in the US and India have taken an activist approach in upholding rights of citizens "because freedom and liberty are essential for progress, both economic and social.

"Without freedom to speak, freedom to write, freedom to think, freedom to experiment, freedom to criticize and freedom to dissent, there can be no progress," the court said.