

MONTHLY LITIGATION NEWSLETTER

SEPTEMBER 2024

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates on latest verdicts from the Supreme Court of India and various High Courts.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



ABOUT US

Lexport is a full-service Indian law firm offering Consultation, litigation, and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

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PART A: COURT RULINGS

1. Delhi Skills Mission Society v. Samuel Foundation Charitable India Trust, FAO (COMM) 73/2024

Issue: Does the High Court's rejection of the Appellant's claim, despite the Tribunal's reliance on manual records due to biometric system issues, reflect a proper understanding of the Arbitration Act?

The High Court of Delhi observed that Clause 2.2.8 of the Agreement i.e. the Respondent is required to maintain biometric attendance records but emphasised the need to consider the Agreement. While accurate attendance recording was necessary, it was not the essence of the Agreement, which primarily focused on providing high-quality training. Due to challenges with the biometric system, the Respondent used manual records temporarily, a decision upheld by the Arbitral Tribunal. The High Court rejected the Appellant's claim that the Tribunal's decision was based on equity, affirming that the Court's role is limited to specific grounds under Section 34 of the Arbitration Act and not to reassess evidence or replace the Tribunal's judgment. Consequently, the appeal was dismissed.

***Lexport Comment:** The High Court of Delhi emphasises interpreting contractual obligations in the context of the Agreement's primary purpose rather than focusing solely on technical compliance. It also highlights the Court's adherence to the limited grounds for intervention under Section 34 of the Arbitration Act, reinforcing the Arbitral Tribunal's decision as within its discretionary powers.*

2. **Tapan Kumar Samaddar v. Sagar Jagdish Daryani and Anr., AP/163/2024**

Issue: Whether the disputes arising from interconnected agreements, including a lease agreement with an arbitration clause, are arbitrable when the total payable amount exceeds the statutory limit under the West Bengal Premises Tenancy Act, 1997?

The High Court at Calcutta addressed a petition seeking a composite reference to arbitration based on two interconnected agreements: a lease agreement and an amenities agreement. The dispute arose from the Respondent's monthly payments exceeding the statutory limit under the West Bengal Premises Tenancy Act, 1997, which governs tenancy disputes. The Court observed that as the total payable amount is beyond the Act's ceiling, the matter is not within the jurisdiction of its designated fora and is thus, arbitrable. Given that the two agreements are inseparably linked, with the lease agreement containing an arbitration clause, the Court determined that all disputes arising from these agreements must be referred to arbitration. The Court, under Section 11 of the Arbitration and Conciliation Act, 1996, noted that its role is limited to confirming a valid arbitration agreement, not evaluating the merits of the dispute.

Lexport Comment: The ruling of the High Court at Calcutta ruling reinforces that disputes exceeding the statutory limits of the West Bengal Premises Tenancy Act, 1997, are arbitrable, especially when interconnected agreements are bound by an arbitration clause, with the Court's role under Section 11 of the Arbitration and Conciliation Act, 1997, being confined to verifying the existence of a valid arbitration agreement.

3. **Simplex Infrastructure Limited v. Indian Oil Corporation Limited, Arb. P. 851/2023**

Issue: - Whether the role of the referral Court role under Section 11 of the Arbitration and Conciliation Act, 1996, is limited to determining the existence of an arbitration agreement and whether the Section 11(6) petition is within limitation, along with all other issues reserved for the arbitral tribunal.

The High Court of Delhi noted that the Supreme Court of India, in *SBI General Insurance Co Ltd v. Krish Spinning (2024 INSC 532)*, significantly narrowed the scope of a referral Court's examination under Section 11 of the Arbitration and Conciliation Act, 1996. As clarified in paragraph 114 of the judgment, the Court's role at the Section 11 stage is limited to determining the prima facie existence of an arbitration agreement. The Court reaffirmed that its inquiry is now confined to two aspects: whether an arbitration agreement exists between the parties and whether the Section 11(6) petition was filed within three years of issuing the Section 21 notice. All other issues are to be resolved by the Arbitral Tribunal. The Supreme Court of India also stated that earlier rulings, including *Vidya Drolia v. Durga Trading Corporation* and *NTPC v. SPML Infra*, no longer apply to this point of law, and the tribunal must determine the arbitrability of disputes regarding non-notified claims.

Lexport Comment: The High Court of Delhi, following the Supreme Court's ruling in SBI General Insurance Co Ltd v. Krish Spinning, emphasised that a referral Court's role under Section 11 of the Arbitration and Conciliation Act 1996, is strictly limited to determining the prima facie existence of an arbitration agreement and the limitation of the petition, with all other issues left for the arbitral tribunal.

4. *Sk. Golam Lalchand v. Nandu Lal Shaw @ Nand Lal Keshri @ Nandu Lal Bayes & Ors.* [CIVIL APPEAL NO. 4177 OF 2024] (10.09.2024)

Issue: - Whether the sale of the entire joint family property by one co-owner to a subsequent purchaser, without the authorization of the other co-owners, is legally valid, particularly when the co-owner's share in the property was not demarcated at the time of the transfer?

The Supreme Court of India held that under Section 31 of the Specific Relief Act, 1963, it is not mandatory for a third party against whom a sale deed is void to seek its cancellation. In cases where a sale deed is executed between two parties, a third person affected by the sale deed, cannot be compelled to file a separate application for its cancellation. The case involved a co-owner selling the entire joint family property without the consent of other co-owners, whose shares were undetermined at the time of the transfer. The respondent, a co-owner, challenged the sale deed, claiming it was void as the seller was only entitled to sell his share of the property. The Court ruled that the appellant could not acquire rights to the entire property based solely on the deed from one co-owner. The appellant argued that the respondent had not sought cancellation of the sale deed. The Court, however, rejected this argument, stating that Section 31 uses the word "may," indicating that every affected party doesn't need to seek cancellation. The cancellation action binds the parties to the deed, not third parties. Thus, the respondent's failure to file for cancellation did not affect his case.

Lexport Comment: The Supreme Court clarified that under Section 31 of the Specific Relief Act, a third party's rights are not dependent on the formal cancellation of a void sale deed by affected co-owners.

5. *Balwinder Singh v. State of Punjab (SLP(Crl.) No(s). 8523 of 2024)* [09.09.2024]

Issue: - Whether the prolonged delay of a trial, resulting in extended detention and the non-examination of crucial witnesses, violates the right of an Accused to a fair and speedy trial under Article 21 of the Constitution of India?

The Supreme Court of India granted bail to Balwinder Singh, an undertrial prisoner in custody for over four years, citing delays in his trial as a violation of his right to a fair trial under Article 21 of the Constitution. And used the famous quote of Oscar Wilde, "I know not whether Laws be right, or whether Laws be wrong; All that we know who be in jail Is that the wall is strong; And that each day is like a year, A year whose days are long." Accused of murder in 2020, Singh's bail had been rejected by the High Court in April, 2024, with instructions to complete the trial within five months. However, 17 prosecution witnesses remained unexamined as the deadline approached. Noting that six co-accused had already been granted bail and Singh had been in custody since June, 2020, the bench of Justices Hrishikesh Roy and R. Mahadevan emphasised that prolonged trials infringe upon the accused's rights and can effectively become a form of punishment. The Trial Court was directed to set appropriate bail conditions.

Lexport Comment: - The Supreme Court's decision underscores the imperative of timely adjudication, emphasising that undue trial delays infringe upon the accused's constitutional right to a fair and speedy trial. By citing Oscar Wilde, the Court eloquently captures prolonged detention's profound and enduring impact on individuals awaiting justice.

6. Chabi Karmakar & Ors. v. The State of West Bengal, CrI.A.No.1556 of 2013 [29.08.2024]

Issue: Whether the Supreme Court's overturning of the dowry death conviction due to insufficient evidence of dowry-related cruelty, while upholding convictions for abetment of suicide and cruelty, correctly applied the legal standards under Section 304-B IPC and Section 113B of the Indian Evidence Act?

The Supreme Court overturned the conviction of a husband, sister-in-law, and mother-in-law under Section 304-B IPC for dowry death, citing insufficient evidence that the deceased wife faced cruelty related to dowry demands shortly before her death. The Trial Court as well as the High Court had sentenced them to life imprisonment, but the Supreme Court found the evidence lacking. The Bench, relying on *Rajinder Singh v. State of Punjab* (2015), emphasised the need to prove cruelty linked to dowry for conviction under Section 304-B. The Court criticised the lower courts for wrongly applying the presumption of dowry death under Section 113B of the Indian Evidence Act, stating that unnatural death within seven years of marriage alone, is not enough to convict without clear proof of dowry-related cruelty. While the dowry death charge was dismissed, the husband's conviction for abetment of suicide (Section 306 IPC) and cruelty (Section 498A IPC) was upheld, with a sentence of three years' rigorous imprisonment and a fine of Rs. 25,000 for each offence.

Lexport Comment: The Supreme Court's ruling underscores that for a conviction under Section 304-B IPC for dowry death, there must be clear evidence linking the cruelty to dowry demands, and the mere occurrence of an unnatural death within seven years of marriage is not sufficient. While the Court overturned the dowry death conviction due to inadequate evidence, it upheld the husband's convictions under Sections 306 and 498A IPC for abetment of suicide and general cruelty, reflecting a careful assessment of the evidence and adherence to legal standards.

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