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Analyzing the evolving jurisprudence surrounding conflict between arbitration agreements and consumer protection laws



The intricate relationship between contractual autonomy and the protective embrace of statutory remedies, particularly within the realm of consumer protection, has long presented a complex legal conundrum. While the freedom to contract allows parties to agree to resolve disputes through private arbitration, welfare legislation like the Consumer Protection Act establishes public fora, designed to safeguard consumer interests.

A recent judicial pronouncement, in **M/S Citicorp Finance (India) Limited versus Snehasis Nanda¹ (M/S Citicorp Finance case)**, has unequivocally reaffirmed the consumer's paramount right to choose their forum, even in the face of pre-existing arbitration clauses embedded within complex agreements. This judgment, delivered by Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanullah, serves as a robust shield, protecting consumers from being compelled into arbitration against their will. The issue before the bench revolved around a disputed tripartite agreement containing an arbitration clause, reigniting the critical discussion surrounding the arbitrability of consumer disputes.

This recent ruling compels a critical re-evaluation of the delicate balance between private arbitration and the public policy objectives of consumer protection legislation. The core question remains: does contractual freedom truly supersede the legislative mandate of

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consumer protection? To understand the significance of M/S Citicorp Finance, it is crucial to examine the foundation upon which it rests, notably the Supreme Court decision in **M Hemalatha Devi v. B Udayasri**² (**M Hemalatha Devi case**).

The Hemalatha Devi case meticulously addressed the tension between contractual autonomy and the protective mandate of welfare legislation, establishing that the exclusion of disputes from arbitration hinges on the nature of the dispute, ensuring contractual agreements do not override statutory remedies. But what if a consumer, entangled in a complex financial agreement, as in Citicorp Finance, unknowingly agrees to an arbitration clause? Should this clause strip them of their right to seek redressal in a consumer forum? As the Citicorp Finance decision clarifies, relying heavily on the principles of Hemalatha Devi, the answer is a resounding no.

Central to Hemalatha Devi is the consumer's "choice." The Court highlighted the Consumer Protection Act's provision of public fora, equipped with robust powers to deliver specific relief and impose penalties, contrasting sharply with the limited scope of private arbitration tribunals. This distinction is paramount in understanding the Court's consistent stance that Consumer Protection Act remedies are "special remedies," safeguarding consumers from being deprived of statutory rights by mere contractual agreements.

This principle was directly applied in Citicorp Finance, where the Court recognized that even complex tripartite agreements cannot override this fundamental right. In Hemalatha Devi, Smt. B. Udayasri's choice to pursue her grievance before the District Consumer Forum, a "judicial authority," was validated. The Court emphasized that the nature of the dispute, not the order of forum selection, dictates the appropriate redressal avenue. This decision reiterates the consumer's exclusive right to choose between arbitration and statutory remedies, a right upheld in the recent ruling.

The Supreme Court, in Hemalatha Devi, also addressed the legislative intent behind amendments to Sections 8 and 11 of the Arbitration Act, 1996. While these amendments aimed to streamline arbitration referrals, they were not intended to circumvent special legislations like the Consumer Protection Act. The focus was on facilitating arbitration when valid agreements exist, not on compelling it when statutory remedies are specifically provided. This understanding is critical in interpreting the Citicorp Finance decision, which reaffirms that these amendments do not diminish the consumer's right to choose their forum.

Drawing from **Emaar MGF Land Ltd. v. Aftab Singh**³ (**Emaar MGF Land case**), the Court, in Hemalatha Devi, reiterated that while parties can consciously opt for arbitration, statutory remedies remain paramount. Emaar clarified that when specific statutory remedies are



chosen, judicial authorities can refuse to relegate parties to arbitration. Consider a scenario where a consumer, relying on the robust protections of the Consumer Protection Act, faces a builder who insists on arbitration based on a pre-existing clause. Can the builder effectively deny the consumer their statutory rights? As evidenced by the judicial reasoning in *Hemalatha Devi*, and now solidified in *Citicorp Finance*, the answer is unequivocally no. The consumer's right to choose their forum, particularly when statutory remedies are available, remains inviolable.

Conclusion

The Supreme Court's decision in **M/S Citicorp Finance case**, grounded in the principles articulated in **M Hemalatha Devi case** and **Emaar MGF Land case**, establishes a robust legal precedent that definitively prioritizes consumer choice over contractual arbitration clauses. This ruling not only reinforces the sanctity of statutory remedies under the Consumer Protection Act but also signals a broader judicial inclination to protect vulnerable parties from being unfairly bound by arbitration agreements. The future implications of this decision extend beyond consumer disputes, potentially influencing cases involving other welfare legislations where parties with unequal bargaining power are concerned. For instance, in disputes arising from tenancy agreements governed by rent control acts or labor disputes under industrial relations laws, courts may similarly resist enforcing arbitration clauses that undermine statutory protections.

This judgment serves as a powerful deterrent against attempts to circumvent statutory safeguards through contractual stipulations, ensuring that the legislative intent behind welfare provisions remains paramount. However, this raises a hypothetical question: in an increasingly digital economy, where complex service agreements are often presented as "click-wrap" contracts, how will courts balance the need to uphold contractual autonomy with the imperative to protect individuals who may lack the capacity to fully understand or negotiate such agreements? Will the principles established in *Citicorp Finance* be extended to protect users from potentially exploitative arbitration clauses embedded within online service contracts? This judgment sets a precedent that will likely be tested as novel contractual arrangements emerge, requiring courts to constantly adapt and refine the delicate balance between contractual freedom and statutory protection.

1. M/S Citicorp Finance (India) Limited versus Snehasis Nanda
2. M Hemalatha Devi v. B Udayasri, (2024) 4 SCC 255
3. MGF Land Ltd. v. Aftab Singh, (2019) 12 SCC 751

