

ARBITRA

Your Monthly Guide to Navigate the Evolving Landscape of Arbitration



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Challenges to Section 16 Orders in Manash Kamal
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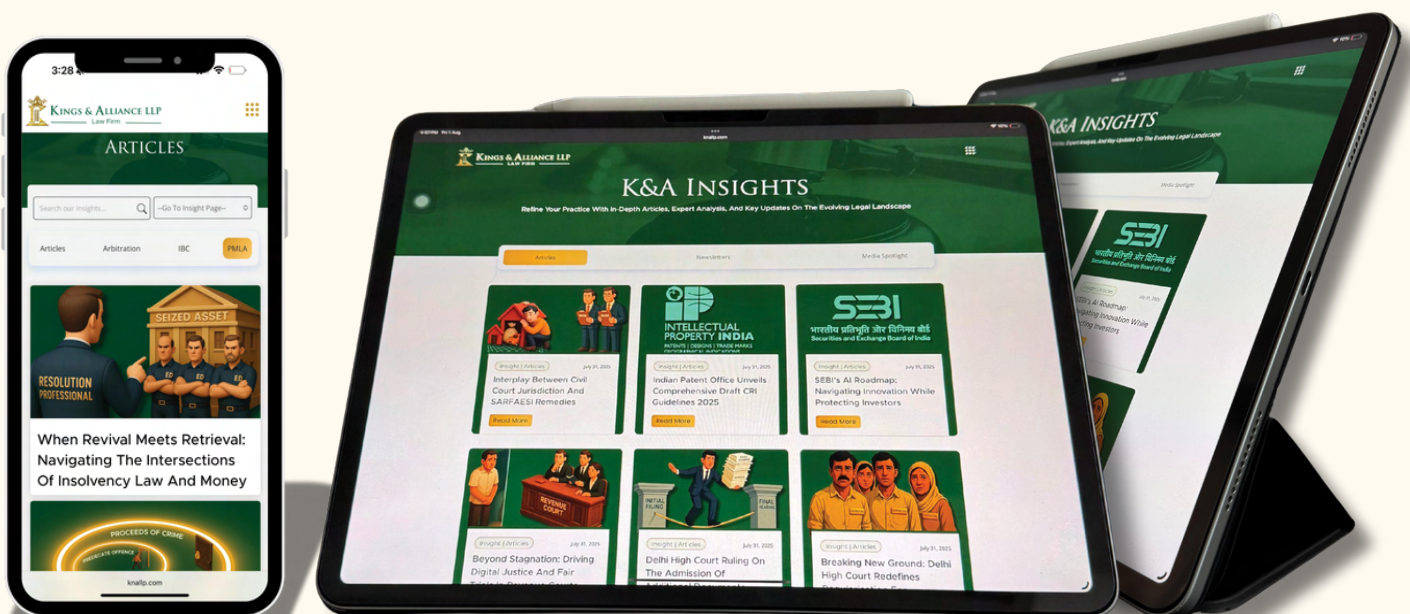
Erosion, our cover story this month examines the judicial erosion of technical delays and non-signatory shields in modern arbitration practice. Through a landmark ruling in *Manash Kamal Bezboruah v. M/s Bokahola Tea Company Private Limited*, the Supreme Court reaffirmed the strict limits of High Courts' supervisory jurisdiction under Article 227, ruling that detailed jurisdictional objections and non-signatory disputes fall firmly within the arbitral tribunal's Section 16 domain.

This edition also analyses the Gujarat High Court's refusal to allow rigid procedural technicalities to override substantive justice in *Pandya Naresh Chandra*, holding that the delayed production of a Power of Attorney cannot justify terminating arbitral proceedings. Additionally, we examine the Delhi High Court's key rulings: confirming that a valid electronic delivery of a signed award immediately triggers the Section 34(3) limitation clock in *ESIC v. Enarch Consultants*, and applying a liberal prima facie standard under Section 11 to bring non-signatory public authorities into multi-party project arbitrations in *Indiacan Education*.

Across these decisions, courts continue to reinforce the principles of minimal judicial intervention, party autonomy, and practical efficiency. To cap it off, we bring you our latest roundup of notable High Court jurisprudence spanning post-demerger record disputes, Section 37 appellate standards, and strict statutory limitation boundaries.

Let's dive in.

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COVER STORY

04

Supreme Court Clarifies Limits of Article 227 Challenges to Section 16 Orders in *Manash Kamal Bezboruah v. Bokahola Tea Company*



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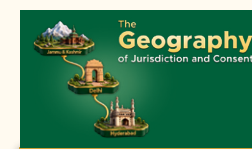
Delayed Production of a Power of Attorney Does Not Justify Termination of Arbitral Proceedings



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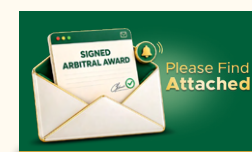
Delhi High Court on Section 11 Territorial Jurisdiction and Non-Signatory Referral Where the Arbitration Clause Has No Seat



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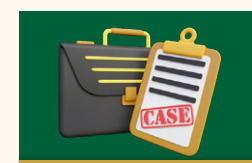
When Venue Becomes Seat: Gauhati High Court Reaffirms the Primacy of the Juridical Seat in Arbitration



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- Saboo And Varun (A Partnership Firm) vs. Rachana Co-operative Housing Society
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COVER STORY

Supreme Court Clarifies Limits of Article 227 Challenges to Section 16 Orders in *Manash Kamal Bezboruah v. Bokahola Tea Company*

Kompetenz-Kompetenz



The Supreme Court's decision in *Manash Kamal Bezboruah v. M/s Bokahola Tea Company Private Limited & Ors.* provides significant guidance on the scope of judicial intervention during ongoing arbitral proceedings. Reaffirming the principles of minimal judicial intervention under the Arbitration and Conciliation Act, 1996 ("Arbitration Act") and the doctrine of kompetenz-kompetenz embodied in Section 16, the Court held that although the High Courts' supervisory jurisdiction under Article 227 of the Constitution remains constitutionally preserved, its exercise during pending arbitral proceedings must be confined to exceptional cases involving a patent lack of inherent jurisdiction. The judgment further clarifies that detailed jurisdictional objections, including disputes concerning non-signatories, ordinarily fall within the arbitral tribunal's domain and are subject to judicial review only through the statutory mechanism prescribed under the Arbitration Act.

The dispute arose from M/s Boloma Tea Company, a family-run partnership established in 1948, together with its associated corporate entities, namely M/s Bokahola Tea Company Pvt. Ltd., M/s Kasojan Tea Company Pvt. Ltd., and M/s Bokahola Investment Pvt. Ltd. In 2012, the Appellant instituted a civil suit seeking rendition of accounts and alleging financial mismanagement. During the proceedings, Respondent No. 7 invoked Section 8 of the Arbitration Act on the strength of the arbitration clause contained in the 1976 Partnership Deed. The Trial Court and the Gauhati High Court declined to refer the dispute to arbitration, principally because several parties were non-signatories to the arbitration...

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PIVOTAL ISSUES

Delayed Production of a Power of Attorney Does Not Justify Termination of Arbitral Proceedings: Gujarat High Court

Procedural Technicalities vs. Substantive Justice



Can an Arbitral Tribunal terminate arbitral proceedings solely because the claimant failed to produce a Power of Attorney within the prescribed timeline? The Gujarat High Court recently addressed this issue in *Pandya Naresh Chandra v. Shalin Infrastructure and Ors*, examining whether non-production of a Power of Attorney constitutes a curable procedural irregularity or a jurisdictional defect warranting termination of arbitral proceedings. In answering this question, the Court reaffirmed that an arbitral tribunal's power to terminate proceedings is strictly governed by the Arbitration and Conciliation Act, 1996 ("Act"), and cannot be expanded through an unduly technical application of procedural requirements.

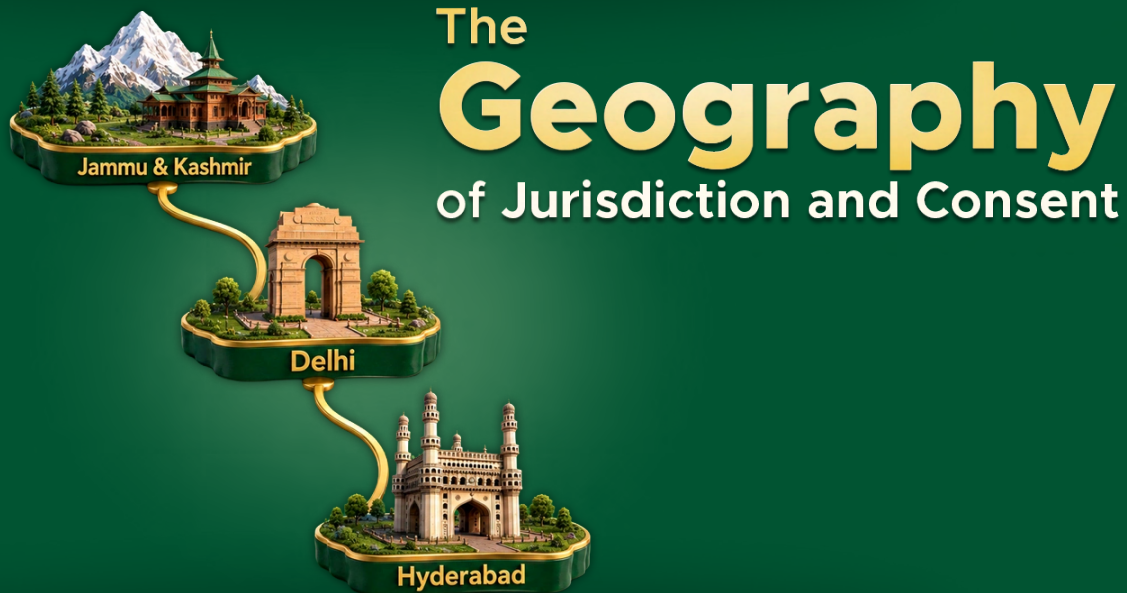
At the outset, the Court reiterated that the Act is intended to facilitate expeditious, fair and effective resolution of disputes while minimising judicial intervention. In furtherance of these objectives, arbitral tribunals are expected to adopt a pragmatic and justice-oriented approach that advances adjudication on the merits, rather than one founded upon rigid procedural technicalities. Against this statutory backdrop, the Court examined the scope of Sections 25 and 32 of the Act to determine whether the Arbitral Tribunal was justified in rejecting the claimant's statement of claim. The dispute arose from a real estate transaction in which the petitioner, an 87-year-old Non-Resident Indian residing in London, entered into agreements concerning three residential flats in the "Shalin Heights" project for himself and his wife and paid an aggregate consideration of ₹61,00,500 to a partnership firm. Despite receiving the consideration, the respondents neither executed the sale deeds nor delivered...



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PIVOTAL ISSUES

Delhi High Court on Section 11 Territorial Jurisdiction and Non-Signatory Referral Where the Arbitration Clause Has No Seat



Multi-party government projects often involve entities whose operational role extends beyond the formal contract. One authority may sanction and fund the project, another may execute the agreement, and a third may later assume responsibility for implementation or payment. When such a structure gives rise to arbitration, the questions of territorial jurisdiction and non-signatory participation can become closely intertwined. The Delhi High Court considered this issue in *Indiacan Education Private Limited v. Ministry of Rural Development & Ors.* The Memorandum of Understanding had been executed in Hyderabad between Indiacan Education Private Limited and the National Institute of Rural Development (“NIRD”) for a project in Jammu and Kashmir. The arbitration clause specified neither a seat nor a venue. When disputes arose over unpaid project dues, the petitioner invoked arbitration against all three respondents and approached the Delhi High Court under Section 11(6) of the Arbitration and Conciliation Act, 1996. The Court was required to address two connected questions: whether Delhi had sufficient territorial nexus to entertain the Section 11 petition despite the absence of a designated arbitral seat, and whether the conduct and role of the non-signatory public authorities supplied a prima facie basis for referring them to arbitration. The Court answered both questions in favour of reference, while preserving the arbitral tribunal’s authority to finally determine whether the non-signatories were bound by the arbitration agreement. The dispute arose out of the implementation of a project under the Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY), a scheme administered by the Ministry of Rural Development (“MoRD”/Respondent No.1). Pursuant to a Memorandum...

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Electronic Delivery of Arbitral Awards and Section 34 Limitation: Chief Engineer, ESIC v. Enarch Consultants, Delhi High Court



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The Delhi High Court has clarified an important procedural issue under the Arbitration and Conciliation Act, 1996 ("Act"): whether a scanned, signed arbitral award transmitted through email constitutes valid delivery for the purposes of Sections 31(5) and 34(3). The ruling assumes considerable practical significance in an era where arbitral proceedings increasingly rely upon electronic communication, making the commencement of limitation dependent upon electronic rather than physical delivery.

The principal issue before the Court in Chief Engineer, Employees' State Insurance Corporation v. Enarch Consultants Pvt. Ltd. was whether the electronic transmission of a scanned, signed arbitral award through the communication channel consistently adopted by the parties during the arbitral proceedings satisfied the statutory requirement of delivery under Section 31(5) of the Act and consequently triggered the limitation period prescribed under Section 34(3). The Court answered this question in the affirmative, holding that once a signed arbitral award is validly delivered through an accepted electronic mode, the statutory limitation period begins immediately, and neither the subsequent receipt of a physical copy nor internal administrative processes can postpone its commencement. The dispute arose from an arbitral award dated 19 August 2023, which the learned Sole Arbitrator electronically transmitted on 21 August 2023 to both parties and their respective counsel. The email contained a scanned, signed copy of the arbitral award and expressly recorded that the transmission was being made in compliance with Section 31(5) of the Act...

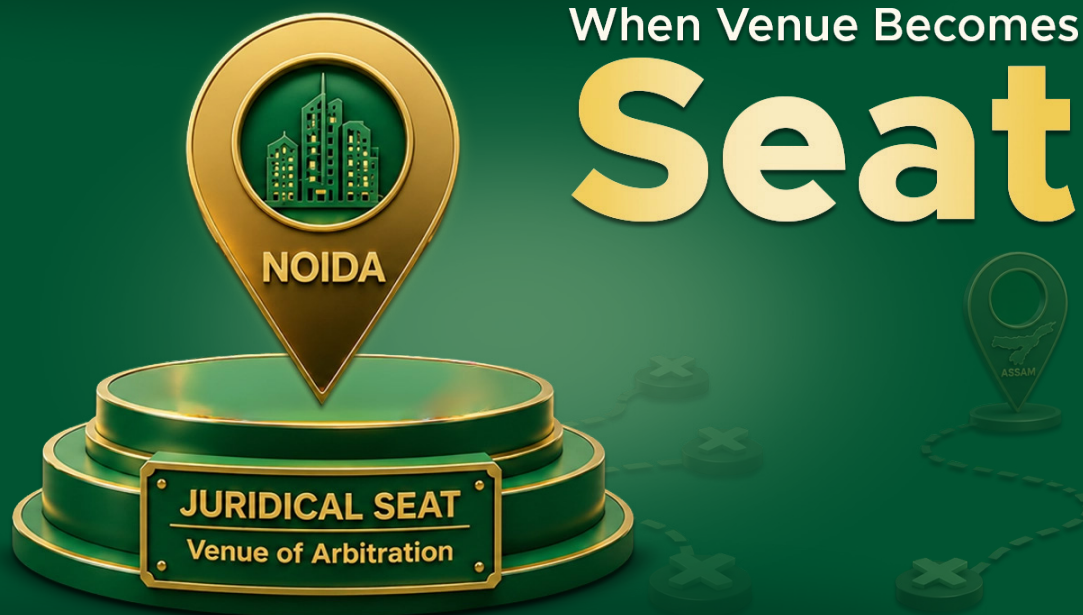
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PIVOTAL ISSUES

When Venue Becomes Seat: Gauhati High Court Reaffirms the Primacy of the Juridical Seat in Arbitration



Arbitration clauses are often negotiated as standard boilerplate provisions. However, seemingly routine drafting choices can have significant jurisdictional consequences. In *Techno Steel and Craft Industries v. Union of India*, the Gauhati High Court examined whether designating Noida as the "venue" of arbitration was sufficient to constitute it as the juridical seat, thereby determining the court competent to entertain an application under Section 11(6) of the Arbitration and Conciliation Act, 1996.

The decision reinforces the settled principle that party autonomy lies at the heart of Indian arbitration law. Under Section 20 of the Act, parties are free to determine the seat of arbitration, while Section 2(1)(e) identifies the court that will exercise supervisory jurisdiction over the arbitral process. Where an arbitration agreement designates a single venue for the entire arbitral proceedings without any significant contrary indicia, courts are likely to construe that venue as the juridical seat. The judgment therefore underscores that the expressions "seat", "venue" and "place" are not interchangeable and that imprecise drafting may ultimately determine the forum supervising the arbitration. The dispute arose from three contracts executed in 2008 between Techno Steel and Craft Industries and the Inland Waterways Authority of India ("IWAI") for the construction of floating steel pontoons at Tezpur, Nemati and Dibrugarh in Assam. Following delays in execution approximately 496 days in one contract and 511 days in the remaining contracts IWAI deducted 10% of the contract value as liquidated damages. After its request for waiver of the deductions was...

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SIGNIFICANT CASE LAWS



Bombay High Court Weighs Interim Relief Application in Redevelopment-Linked Arbitration Petition

In *Saboo And Varun (A Partnership Firm) vs. Rachana Co-operative Housing Society* (Bombay High Court, 17 July 2026, authored by Justice A.B. Borkar) This order arises out of Arbitration Petition (L) No. 15468 of 2026, filed by Polestar Realtors Private Limited against Rachana Co-operative Housing Society and others, along with a connected Interim Application (L) No. 23252 of 2026 filed by M/s Saboo and Varun. The matter appears to involve a redevelopment or society-related dispute where the applicant firm has sought interim relief within the framework of an arbitration petition, likely relating to appointment of arbitrator or interim measures under the Arbitration and Conciliation Act, 1996. With 14 citations, the order engages settled arbitration jurisprudence, though the fragment doesn't disclose the specific reliefs granted or the court's reasoning on merits.



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Chhattisgarh High Court Examines Delay in Reconstructing Voluminous Arbitral Record Following NCLT Demerger

In *Hitachi Energy India Limited vs. M/S Sarda Energy And Minerals Limited* (Chhattisgarh High Court, 17 July 2026) which is concerning a dispute over voluminous arbitral and court records spanning twelve volumes, accumulated over years of arbitration proceedings, apparently connected to a corporate demerger earlier approved by the NCLT. The Court appears to have been examining an explanation furnished for the delay or difficulty in producing/reconstructing this record, likely in the context of proceedings under the Arbitration and Conciliation Act, 1996 arising from the demerged entity's obligations. The corporate history (demerger via NCLT) suggests the underlying dispute traces back to allocation of contractual rights/liabilities between the demerged entities.



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Chhattisgarh High Court Hears Parallel Post-Demerger Arbitration Record Dispute Between Hitachi Energy and ABB

In *Hitachi Energy India Limited vs. ABB Limited* (Chhattisgarh High Court, 17 July 2026) The case fragment is near-identical to the *Sarda Energy* dispute above, again referencing the twelve-volume record accumulated over years of arbitration and court proceedings, and the NCLT-approved demerger. This suggests Hitachi Energy (as a demerged successor entity, likely from ABB's power grids business) is contesting a parallel arbitration matter against ABB Limited on comparable grounds relating to record reconstruction or continuation of proceedings post-demerger.

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Chhattisgarh High Court Conducts Section 37 Appellate Review of Order Refusing to Set Aside Arbitral Award

In *Madhusudan Agrawal vs. Galaxy Exfeen Ltd. And Others* (Chhattisgarh High Court, 17 July 2026, authored by Justice N.K. Vyas) This case is an appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 by the appellant/objector, challenging an order presumably passed by the District Judge under Section 34 (setting aside/refusal to set aside an arbitral award). The High Court called for the records of both the arbitration proceedings and the District Judge's case file, and the judgment traverses the facts revealed therein. With 19 citations, the Court appears to be conducting a limited-scope appellate review consistent with the narrow grounds available under Section 37 read with Section 34.

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Uttarakhand High Court Draws Parallel Between Arbitration Limitation Bar and Customs Act Delay-Condonation Powers

In *M/S Radhika Furniture @ Radha Devi vs. The Commissioner* (Uttarakhand High Court, 17 July 2026) This matter draws an analogy between the limitation framework under Section 34 of the Arbitration and Conciliation Act, 1996 and Section 128 of the Customs Act, 1962, specifically on the distinction between "extending time" and "condoning delay." The Court appears to hold that once the outer limitation period lapses, courts/authorities may lack power to condone delay (mirroring settled Section 34 jurisprudence on the Supreme Court's restrictive approach in cases like *Union of India v. Popular Construction*), and is applying that reasoning to reject or evaluate a delay-condonation plea under the Customs Act.

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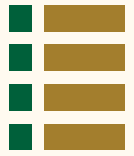


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