



ANM GLOBAL'S

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LITIGATION

1. COURT IS MANDATORILY REQUIRED TO RECORD ITS REASONS FOR FRAMING AN ADDITIONAL SUBSTANTIAL QUESTION OF LAW IN SECOND APPEAL: SUPREME COURT OF INDIA [SEPTEMBER 03, 2025].

Introduction

In the case of **C.P. Francis v C.P. Joseph and Others** [1] the Hon'ble Supreme Court held that while the proviso to Section 100(5) of the Code of Civil Procedure, 1908 ("CPC") grants the High Courts the power to frame an additional question of law, such power is to be used only in exceptional circumstances for which reasons need to be mandatorily recorded by the High Courts.

Facts

In the present case, by way of a registered joint will of his parents ("**Joint Will**"), the Appellant had received ownership of two properties of the family. According to this Joint Will, the Appellant was required to make certain payments to his siblings within 5 years of the death of both parents, failing which, his siblings could have a charge on the properties to recover the amounts payable to them.

The validity of the Joint Will was challenged by Respondent Nos. 1 to 6 before the Hon'ble Munsiff Court, Ernakulam, claiming mental incapacity of the parents and the will was a product of forgery, misrepresentation and undue influence, asserting that the parents died intestate and therefore, the properties were held in joint ownership and possession by all the children. The Hon'ble Munsiff Court upheld the validity of the Joint Will observing that the parents were not suffering from any mental illnesses at the time of making of Joint Will and further, that there was no evidence supporting any fraud or misrepresentation.

Upon subsequent challenge before the Hon'ble Additional District Judge, Ernakulam by the Respondents, the findings of the Hon'ble Munsiff Court

were upheld by the Hon'ble Additional District Judge and the validity of the Joint Will was reaffirmed.

Thereafter, a second appeal was preferred before the Hon'ble High Court of Kerala at Ernakulam challenging the order passed by Hon'ble Additional District Judge. The Hon'ble High Court framed additional substantial question of law referring to Section 67 of the Indian Succession Act, 1925 ("**Succession Act**") which was not pleaded by the Respondents before the lower courts. The Hon'ble High Court of Kerala, while allowing the appeal, observed that one of the attesting witnesses was the wife of the Appellant and therefore, owing to Section 67 of the Succession Act, the testamentary succession in favour of the Appellant was held to be void ("**Impugned Judgement**"). Consequently, an appeal against the Impugned Judgement was filed before the Hon'ble Supreme Court.

Issue

i. Whether the Hon'ble High Court, while invoking the Proviso to Section 100(5) of the CPC, was correct in referring to and applying Section 67 of the Succession Act.

Held

The Hon'ble Supreme Court noted that the Impugned Judgement recorded an additional substantial question of law (*sic*) and provided an opportunity to the parties to address the Court on such question of law.

Relying upon its precedents passed by the Hon'ble Supreme Court on Section 100(5) of CPC, the Hon'ble Supreme Court summed up the following postulates: (i) Law must be grounded in the parties' pleadings and findings of lower courts; (ii) The jurisdiction to frame a new question of law is exceptional and should not be exercised routinely unless there is a strong and convincing reason to do so; (iii) The court is mandatorily required to record its reasons for framing an additional substantial question of law.

[1] 2025 INSC 1071

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Considering the aforementioned decisions, the Hon'ble Court held that High Court is entitled to formulate an additional substantial question of law for reasons to be recorded if the High Court is of the view that the case involves such a question of law. Further, the Hon'ble Court cautioned that the proviso to Section 100(5) of the CPC comes into operation only in exceptional cases and for strong and convincing reasons which are to be specifically recorded by the High Court.

While dealing with the facts of the case, the Hon'ble Supreme Court observed that the introduction of Section 67 of the Succession Act at the stage of Second Appeal not only raises a new legal argument but also it creates an entirely new case for the plaintiffs. The Hon'ble Court observed that the case of the Respondents was initially premised on two primary contentions – that the testators lacked a sound disposing state of mind, and that the Joint Will was a product of forgery, misrepresentation, and undue influence, however, the case as under Section 67 of the Succession Act was never pleaded by the parties before the lower courts. Thus, the Hon'ble Court concluded that the Hon'ble High Court framed additional substantial question of law was framed without pleadings, issues and reasons, and a finding in respect of the same was recorded. Accordingly, the Hon'ble Court held that the Hon'ble High Court of Kerala had erred by not recording reasons for framing the additional substantial question of law and abstractly applied Section 67 of Succession Act without verifying any foundational facts and circumstances. Therefore, the first issue was answered in favour of the Appellant and the Impugned Judgement was set. Consequently, owing to the Impugned Judgement being set aside and the peculiar facts and circumstances of the present case, the second issue was neither examined nor answered.

2. A COUNTER-CLAIM UNDER ORDER VIII RULE 6-A OF THE CPC CAN ONLY BE FILED AGAINST THE PLAINTIFF AND NOT AGAINST ANOTHER CO-DEFENDANT: SUPREME COURT OF INDIA [SEPTEMBER 12, 2025]

[2] 2025 INSC 1109

Introduction

In the case of **Rahul Manoj Shah Alias Rajeshwari Rasiklal Sheth v Kiranbhai Shakrabhai Patel and Another [2]** setting aside the decision of the Hon'ble Gujarat High Court that allowed the Defendant to file a counter-claim against another Co-Defendant, the Hon'ble Supreme Court held that a counter-claim under Order VIII Rule 6-A of the Code of Civil Procedure, 1908 (“CPC”) can only be filed against the Plaintiff in the matter and not against a Co-Defendant.

Facts

In the present appeal, the Appellant had instituted a suit in 2012 (“**2012 Suit**”) seeking a declaration and injunction against her sister-in-law, challenging an Agreement to Sell dated October 21, 2011 (“**Agreement to Sell**”) that had been executed in favour of the Respondent No. 1 herein, in respect of the suit property. As per the 2012 Suit, the sister-in-law was Defendant No. 1 (“**Original Defendant No. 1**”) and the Respondent No. 1/ Purchaser in the present appeal was listed as Defendant No. 2 (“**Original Defendant No. 2**”), respectively.

In 2013, during the pendency of the 2012 Suit, the Original Defendant 1 passed away and the Nazir of the City Civil Court, Ahmedabad, was substituted in her place vide an order of the Hon'ble High Court of Gujarat from consent of both the parties.

Thereafter, the Original Defendant No. 2 moved an application seeking to amend the written statement by adding a counter-claim. Through such counter-claim, the Original Defendant No. 2 prayed for directing the Nazir being substituted Original Defendant 1 for specific performance of the Agreement to Sell and to partition the suit property as per the Partition Act, 1893.

The Hon'ble Trial Court by its order dated August 5, 2021 dismissed the application of Original Defendant 2 holding that the same had been filed after a long time and that, it is abuse

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of the process to file such application after issues were framed way back. Further, the Hon'ble Trial Court also observed that the Original Defendant No. 2 could not seek specific performance of the Agreement to Sell against the deceased Original Defendant No. 1, as represented by a court officer, that too in a suit filed by the plaintiff. Thus, the Hon'ble Trial Court finally held that a counter claim is not maintainable against the co-defendant.

This order dated August 5, 2021 passed by the Hon'ble Trial Court was challenged by the Original Defendant No. 2 before the Hon'ble High Court of Gujarat. The Hon'ble High Court of Gujarat allowed the application of the Original Defendant No. 2 and permitted him to file his counter-claim.

Aggrieved by such order of the Hon'ble High Court of Gujarat, the Appellant approached the Hon'ble Supreme Court by filing the present civil appeal.

Issue

Whether the counter-claim of Original Defendant No. 2 of specific relief was maintainable against the Appellant.

Held

The Hon'ble Supreme Court noted that in the present case, the Original Defendant No. 2 had sought to raise a counter claim primarily for the relief of specific performance of the Agreement to Sell executed in his favour by deceased Original Defendant No. 1 with respect to her undivided share in the suit property, by directing the Nazir, her substituted representative, to execute a sale deed in pursuance of the Agreement to Sell. Further, the said counter-claim was directed solely against the deceased Original Defendant No. 1 i.e., the co-defendant.

In light of the language envisaged under Order VIII Rule 6-A of CPC and relying on the judgment of Rohit Singh v State of Bihar (2006) 12 SCC 734, , the Hon'ble

Supreme Court observed that the relief of specific performance as sought to be raised by the Original Defendant No. 2 could not be sought by way of a counter-claim since the same was not directed against the Plaintiff i.e., the Appellant herein and held that the Original Defendant No. 2 could not be permitted to raise counter-claim against a Co-Defendant as the same can be raised only against the Plaintiff by virtue of Order VIII Rule 6-A of CPC.

3. COURT'S POWER TO REVIEW ITS OWN ORDER IS STRICTLY CONFINED TO CORRECTING ERRORS APPARENT ON THE FACE OF THE RECORD: SUPREME COURT OF INDIA [SEPTEMBER 09, 2025]

Introduction

In the case of **Malleeswari v K. Suguna and Another [3]**, the Hon'ble Supreme Court has held that the power of a court to review its own order is strictly limited to correction of errors apparent on the face of the record and does not extend to substitution of a different view as if it were an appeal.

Facts

The present appeal pertained to a suit filed by the husband of Respondent No. 2 ("**Plaintiff**") before the Hon'ble Trial Court for equal partition of the suit properties contended to be joint Hindu family property and for allotment of one such equal share to him. However, this suit was filed without impleading the Appellant herein, the sister of the Plaintiff. On February 25, 2003, the Hon'ble Trial Court passed an ex-parte preliminary decree in favour of the Plaintiff ("**Preliminary Decree**").

Thereafter, the father of the Plaintiff and the Appellant executed a will bequeathing his share in the suit property to the Appellant ("**Will**") and upon his death, the Appellant was impleaded as his legal heir and successor. Subsequently, the Appellant sought to amend the

[3] 2025 INSC 1080

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Preliminary Decree asserting her status as one of the coparceners and claiming entitlement to an equal share in the suit property. Further, the Appellant also claimed entitlement to her father's share of the suit property as was bequeathed vide the Will. In 2019, the Appellant's plea to amend the Preliminary Decree was rejected by the Hon'ble Trial Court ("**2019 Order**"). Consequently, an appeal was filed before the Hon'ble High Court of Madras challenging the 2019 Order. Relying upon the decision of the Hon'ble Supreme Court in *Vineeta Sharma v Rakesh Sharma* (2020) 9 SCC 1, the Hon'ble High Court upheld the claim of the Appellant. However, upon a review application filed by the Respondent No. 1 in the present appeal, the Hon'ble High Court reversed its decision and remanded the matter back to the Hon'ble Trial Court for fresh consideration ("**Impugned Order**"). Thus, the present appeal came to be filed before the Hon'ble Supreme Court.

Issue

Whether the Impugned Order conforms to the scope of review of an order under Section 114 and Order XLVII of the Code of Civil Procedure, 1908 ("**CPC**").

Held

Differentiating the power of review from appellate power, the Hon'ble Supreme Court observed that the former is subject to certain limitations in order to maintain the finality of judicial decisions. The Hon'ble Court observed that appellate powers allow an appellate court correct all manner of errors committed by the subordinate court, however, the same is not the case for review. Noting that a review petition has a limited purpose and cannot be allowed to be an appeal in disguise, the Hon'ble Court held that in exercise of the jurisdiction under Order XLVII Rule 1 of CPC, it is not permissible for courts to rehear and correct an erroneous decision. Further, observing that the power of review can be exercised within the statutorily specified limits, the Hon'ble Court held that such power can be exercised for

the correction of a mistake, but not to substitute a view. Thus, clarifying that a review court does not sit in appeal over its own order, the Hon'ble Court held a rehearing of the matter to be impermissible.

Accordingly, observing that the Impugned Order did not consider an error apparent on the face of the record, and had exceeded the jurisdiction of review by a court in that it recorded findings which extended far beyond the actual prayers in the suit for partition, the Hon'ble Court set aside the Impugned Order.

4. "LEGAL NECESSITY" FOR ALIENATION OF JOINT FAMILY PROPERTY BY KARTA INCLUDES MARRIAGE OF A DAUGHTER AND SUCH ALIENATION IS VALID EVEN IF IT HAPPENS AFTER MARRIAGE: SUPREME COURT OF INDIA [SEPTEMBER 16, 2025]

Introduction

In the case of *Dastagirsab v Sharanappa* [4] the Hon'ble Supreme Court of India has held that the alienation of the joint family property by the Karta for the purposes of daughter's marriage falls in the category of "legal necessity" and remains valid even if the marriage has taken place prior to transfer of property.

Facts

In the present matter, a sale deed dated July 26, 1995 ("**Sale Deed**") was executed by the Karta for sale of land which belonged to the Hindu Undivided Family ("**HUF**"). Objecting to this sale, one of the sons of the Karta ("**Plaintiff**") filed a suit seeking declaration for cancellation of the Sale Deed along with partition and separate possession of the suit land. During the pendency of this suit, the Karta i.e., Defendant No. 1 in the suit ("**Defendant No. 1-Karta**"), died. The purchaser of the land i.e., Defendant No. 5 in the suit ("**Defendant No. 5**"), contested the suit by filing written statement wherein

[4] 2025 INSC 1120

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he inter alia contended that the Defendant No. 1-Karta had agreed to sell the suit land for a valuable consideration and had executed the sale deed for legal necessity owing to the marriage of his daughter. Dismissing the suit, the Hon'ble Trial Court held that the Defendant No. 1-Karta had sold the suit land to meet the expenses of the marriage of his daughter which amounted to legal necessity. This finding of the Hon'ble Trial Court was overturned by the Hon'ble High Court of Karnataka holding that the Defendant No. 5 had not adduced any evidence in respect of legal necessity and that the plea that the sale of the suit land was for the daughter's marriage was not well founded since she had been married prior to such sale.

Subsequently, the matter was placed before the Hon'ble Supreme Court.

Issue

Whether the suit land was sold to Defendant No. 5 for legal necessity i.e. the marriage of daughter.

Held

The Hon'ble Supreme Court found that the suit land belonged to the HUF and had been sold by Defendant No. 1-Karta. The Hon'ble Court observed that during the cross-examination before the Hon'ble Trial Court, the Plaintiff had admitted the Defendant No.1-Karta had informed him that the property had been sold to meet family needs. However, the Hon'ble High Court of Karnataka had completely overlooked this fact and had reversed the findings of the Hon'ble Trial Court on the ground that the sale of the suit land for the daughter's marriage was improbable since the marriage had taken place prior to the sale in question.

Noting that the daughter's marriage had indeed taken place a couple of years prior to the challenged sale, the Hon'ble Court observed it is common knowledge that families incur heavy debts to perform marriages of their daughters and such debts have a cascading effect on

family finances down the years.

Relying upon its decision in *Rani v. Santa Bala Debnath (1970) 3 SCC 722*, The Hon'ble Court observed that the onus to prove that a sale made by the Karta on behalf of other coparceners of HUF for legal necessity lies on the alienee/purchaser. In view of the same the Hon'ble Court held that through his cross examination and other evidences, the Defendant No. 5 had established a clear nexus between the sale transaction and the expenses undertaken for the daughter's marriage, and had thereby discharged the onus. Further, the Hon'ble Court held that alienation of the suit property by the Defendant No. 1-Karta could not be challenged merely on the ground that a coparcener had failed to receive the consideration amount. Further, observing that under Section 106 of the Evidence Act, 1872, proving the non-receipt of the consideration amount was within the special knowledge of the coparcener, the Hon'ble Court held that the burden of such proof could not be shifted onto the purchaser of the suit land.

Accordingly, the Hon'ble Court dismissed the suit and allowed the appeal before it.

5. MERE AWARENESS OF THE CONTRACT OR RECEIVING INCIDENTAL BENEFITS DOES NOT CONSTITUTE PRIVY OF CONTRACT: HIGH COURT OF BOMBAY [SEPTEMBER 29, 2025]

Introduction

While deciding an interim application seeking rejection of the plaint filed by the Plaintiff, the Hon'ble High Court of Bombay in **Shree Construction Company v Bagwe Housing Private Ltd. and Ors.** [5] held that mere 'awareness' about the contract and receipt of incidental benefits arising out it cannot create privity of contract.

Facts

In the present case, development rights in respect of the

[5] Suit No. 1033 of 2016

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suit property were granted to Defendant No. 1 by Defendant Nos. 2 to 8 vide an agreement dated July 15, 1994 (“**Development Agreement**”). Through a subsequent agreements, the Plaintiff was given the construction rights for two segments of the suit property (“**Construction Agreement**”) and was appointed as the sole selling agent of Defendant No. 1 for flats in the buildings constructed on these two segments.

Thereafter, two Deeds of Surrender dated February 13, 2006 were executed between Defendant No. 1 and Defendant Nos. 2 to 8, whereby Defendant No. 1 surrendered its rights in the suit property to Defendant Nos. 2 to 8 (“**Deeds of Surrender**”). Aggrieved by this, the Plaintiff filed the present petition challenging the Deeds of Surrender. Further, the Plaintiff also challenged a subsequent Deed of Conveyance dated December 26, 2006 executed between Defendant Nos. 2 to 8 and Defendant No. 9, whereby a portion of the suit property earlier granted to the Plaintiff for construction, was conveyed to Defendant No. 9 (“**Deed of Conveyance**”). The Plaintiff claimed that the transactions vide the Deeds of Surrender and Deed of Conveyance affected its rights as under the earlier contracts/agreements executed between the Plaintiff and Defendant No. 1. It was contended by the Plaintiff that under the Construction Agreement and power of attorney the Plaintiff had constructed one segment of the suit property and allotted certain flats to Defendants No. 2 to 8. The Plaintiff contended that such construction and subsequent allotment amounted to performance and receipt of benefits by Defendant Nos. 2 to 8. In view of such receipt of benefits by Defendant Nos. 2 to 8 under the contracts, the Plaintiff contended that under Section 19 of the Specific Relief Act, 1963, contracts bind not only the parties to the contract but also persons claiming under them. Therefore, the Plaintiff contended that performance of the Construction Contract could be sought not only against Defendant No.1 but also against Defendant Nos. 2 to 9, owing to privity of contract and their awareness regarding the Plaintiff’s rights in the suit property.

Issue

Whether the plaint was liable to be rejected under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 (“**CPC**”).

Held

Upon an examination of the plaint and the Deeds of Surrender, the Hon’ble High Court of Bombay observed that the Plaintiff had not established any privity of contract with Defendant Nos. 2 to 8 or with Defendant No. 9. Thus, the Hon’ble Court held that the Plaintiff’s cause of action, if at all any, could only be against the Defendant No. 1, with whom contract was executed.

Further, observing that there existed no agreement between the Plaintiff and Defendant Nos. 2 to 8, and owing to no privity of contract being established by the Plaintiff, the Hon’ble Court held that mere “awareness” could not create privity. Thus, observing that no agreement recognized in law existed between the Plaintiff and Defendant Nos. 2 to 8, or between the Plaintiff and Defendant No. 9, the Hon’ble Court held that no enforceable right arose against them.

The Hon’ble Court noted that the plaint clearly established that the Plaintiff had been aware about the Deeds of Surrender since December 21, 2009, but had only chosen to file the present suit in the year 2016. Thus, observing that the Plaintiff’s cause of action, if any, arose on December 21, 2009, the Hon’ble Court held that the Plaintiff’s right to sue ended on December 12, 2012. Accordingly, the Hon’ble Court found the present suit as filed on August 20, 2016 to be clearly beyond limitation and therefore, quashed the same as against Defendant Nos. 2 to 9.

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6. ARBITRAL AWARD MUST BE WITHIN THE CONTOURS OF THE AGREEMENT BETWEEN THE PARTIES: SUPREME COURT OF INDIA [SEPTEMBER 26, 2025].

Introduction

The Hon'ble Supreme Court in the case of **Sepco Electric Power Construction Corporation v GMR Kamalanga Energy Ltd.** [6] upheld the decision of the Hon'ble Orissa High Court and set aside the arbitral award in favour of SEPCO Electric Power Construction Corporation (“**SEPCO / Appellant**”). Observing that the arbitral tribunal had re-interpreted the terms of the contracts between the parties, the Hon'ble Court held that such departure from the agreed upon terms between the parties was in violation of Section 28(3) of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”).

Facts

i. Background:

Sepco Electric Power Construction Corporation (“**SEPCO**”) was an Engineering, Procurement, and Construction (“**EPC**”) Contractor which entered into numerous agreements with GMR Kamalanga Energy Ltd. (“**GMRKE**”) to construct three 350 Mega Watt coal-fired thermal power plants at the village in Odisha (“**EPC Agreements**”). Through an amendment to the EPC Agreements, a fourth 350 Mega Watt equivalent plant (“**Unit 4**”) was included. However, the work in relation to the said Unit 4 was suspended by GMRKE in August 2011.

Subsequently, owing to delays in the Project, parties met at Jinan City, People's Republic of China where the Minutes of Meeting dated November 07, 2012 were agreed to and executed by the parties (“**Jinan Agreement**”).

Thereafter, due to numerous disputes between the parties, SEPCO went on to demobilize from the sites

[6] 2025 INSC 1171

of construction of the concerned Project midway, around January 2015. Following all the apparent disagreements, SEPCO issued a Notice of Dispute dated March 30, 2015 against GMRKE. Thereafter, a Notice of Arbitration dated June 08, 2015 was issued by SEPCO and an arbitral tribunal came to be constituted.

ii. Arbitral award:

One of the key contentions raised by SEPCO before the arbitral tribunal was that there was no condition precedent for contractual notices to be sent by SEPCO to GMRKE under the EPC Agreements. Despite acknowledging no adducing of evidence by SEPCO on compliance of notices, the arbitral tribunal focused on the entitlement of waiver or estoppel. It placed reliance on an email dated March 18, 2012 inviting cooperation by GMRKE for waiver of condition of notices and the acceptance thereof by SEPCO on March 29, 2012. Despite the contention of GMRKE Limited on such an impossibility owing to the “No Oral Modification” clause, the arbitral tribunal determined that equitable estoppel was deemed to have arisen in March 2012. Finally, as per the award passed by the arbitral tribunal, GMRKE was liable to pay approximately INR 995 Crores to SEPCO.

iii. Challenge of the arbitral award:

Challenging the arbitral award, GMRKE moved the Hon'ble Single Judge of the High Court of Orissa (“**Hon'ble Single Judge**”) contending unfair treatment of the parties. The Hon'ble Single Judge observed that judicial interference was only permitted in cases where arbitral awards were shocking to the conscience or were against the most fundamental principles of justice. Holding that no violations of Sections 18 or 34(2)(b)(ii) of the Arbitration had been proved, the Hon'ble Single Judge held that the arbitral award did not merit any interference and therefore rejected the claims of GMRKE.

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iv. Challenge of the judgement of the Hon'ble Single Judge:

Subsequently, an appeal under section 37 of the Arbitration Act was filed before the Hon'ble Division Bench of High Court of Orissa ("Hon'ble Division Bench"), seeking setting aside of the arbitral award and the judgement of the Hon'ble Single Judge. Allowing the appeal, the Hon'ble Division Bench observed that the arbitral tribunal had shocked the conscience of the court by exceeding its jurisdiction and also changing the terms of the contract through a total disregard of the specific terms. It reiterated that any award disregarding the binding precedents as laid down through numerous decisions of the Hon'ble Supreme Court can be set aside on grounds of violating fundamental policy of the Indian law.

Further, the Hon'ble Division Bench held that unequal treatment of the parties by the arbitral tribunal amounted to violation of natural justice under Section 18 of the Arbitration Act. Collectively, the Hon'ble Division Bench remarked that rewording the clauses of "No Oral Modification" and "No Waiver" went against the fundamental ideas of justice.

Accordingly, the arbitral award and the judgement of the Hon'ble Single judge were set aside. Consequently, the present appeal was filed by SEPCO.

Issues

(i) Whether the Tribunal interpreted the contractual provisions correctly in assessing that issuance of contractual notices is a condition precedent? If so, then can the condition of issuance of notice be waived and whether a party can claim estoppel consequent thereto;

(ii) Whether the Tribunal based its analysis and findings on mistaken facts;

(iii) Whether the Tribunal's interpretation of the contractual provisions shocks the conscience of the Court;

(iv) Whether the Ld. Single Judge was correct in dismissing the Section 34 petition at the stage of admission without considering all the arguments made by the parties;

(v) In light of the above whether the orders of the Ld. Single Judge and the Ld. Arbitral Tribunal have 'shocked the conscience of this Court', or 'are contrary to the basic notions of justice', or 'are in express violation of Section 28(3) of the Arbitration Act', which necessitates interference by this Court under Section 37 of the Arbitration Act.

Held

Upholding the judgement of the Hon'ble Division Bench and setting aside the judgement of the Hon'ble Single Judge along with the arbitral award, the Hon'ble Supreme Court delivered its judgement on the following key points:

A. Scope of interference under Sections 34 and 37 of the Arbitration Act.

It was observed that as per the jurisprudence laid down under Sections 34 and 37 of the Arbitration Act, scope of interference is narrow. However, relying upon its decision in *Government of India v Vedanta Limited (2010) 10 SCC 1* and several other cases, the Hon'ble Court held that the principles of natural justice and the public policy of India are paramount and cannot be ignored or sidelined in an attempt not to frustrate the patent or latent commercial wisdom of the parties to seek an alternative means of dispute resolution.

B. Oral waiver and/or equity estoppel as against the terms of the agreement.

The Hon'ble Court noted that the "No Waiver or Variation" clause required a written and signed waiver/variation. It observed that despite rejecting SEPCO's claim of waiver and without any pleading on behalf of SEPCO, the arbitral tribunal had relied upon

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the emails dated March, 2012 and the Jinan Agreement to established that the condition for contractual notices was waived.

Further, observing that GMRKE was never given an opportunity to adduce evidence, the Hon'ble Court held that the aforementioned observation of the arbitration tribunal regarding the waiver amounted to modification of the terms of the contract. The Hon'ble Court observed that such waiver also violated Section 28(3) of the Arbitration Act which casts an explicit duty on an arbitral tribunal to resolve disputes in accordance with the terms of the contract and accepted business practices.

Relying upon its decisions in *South East Asia Marine Engineering and Constructions Limited v Oil India Limited* (2020) 5 SCC 164, *Union of India v Bharat Enterprise [Civil Appeal Nos. 3441-3442 of 2015]* and several others, the Hon'ble Court held that the existence and powers of an arbitrator are a creature of the agreement between the parties, and it is the terms of the contract which serves as a fundamental basis for the procedure to be adopted by the arbitral tribunal. Therefore, the concerned arbitrator is restricted to the terms of the contract thereof and cannot go outside its scope.

C. Violation of principles of natural justice.

The Hon'ble Court observed that arbitral tribunal had incorrectly rewritten the terms of the amended EPC Agreements to falsely empower SEPCO for their claims, despite non-compliance of the contractual provisions. Further, it was noted that the Hon'ble Singl Judge had held rejected contention of GMRKE regarding discriminatory treatment of the parties and despite acknowledging the insufficiency of material on record to conclusively ascertain the waiver, had held such insufficiency to not be a ground warranting interference.

The Hon'ble Court observed that the phrase “unable to present his case” under Section 34(2)(a)(iii) of the Arbitration Act includes the denial of natural justice. In the same vein, the Hon'ble Court also observed that

Section 18 of the Arbitration Act mandates equal treatment and full opportunity to both parties to present their respective cases. Thus, relying upon its decision in *Ssangyong Engineering and Construction Company Limited v. National Highways Authority of India (NHAI)* (2019) 15 SCC 131 and *Associate Builders v. Delhi Development Authority* (2015) 3 SCC 49 held that owing to Sections 18 and 34(2)(a)(iii), the arbitral award was required to be set aside.

Further, observing that the arbitral tribunal had proceeded to award two claims in favour SEPCO, despite having opined them to be non-maintainable, the Hon'ble Court held that arbitral tribunal had applied the waived discriminately between the parties.

Finally, the Hon'ble Court observed that the arbitral tribunal itself being a creature of the EPC Agreements could not have travelled beyond its mandate to rewrite the constitution of its own existence by implying a waiver/estoppel contrary to explicit contractual clauses. Further, observing that the arbitral tribunal had violated Sections 18 and 34(2)(a)(iii) of the Arbitration Act by not affording GMRKE an equal opportunity to be heard, the Hon'ble Court held that an attack on the fundamental policy of the Indian law allows for reappreciation and thereby, upheld the judgement of the Hon'ble Division Bench and set aside the arbitral award.

7. EXECUTION OF ARBITRAL AWARD CANNOT BE STALLED MERELY DUE TO PENDENCY OF SECTION 37 APPEAL: SUPREME COURT OF INDIA [SEPTEMBER 15, 2025].

Introduction

In the case of **Chakardhari Sureka v Prem Lata Sureka through SPA and Ors.** [7] the Hon'ble Supreme Court set aside the decision of the Hon'ble High Court of Delhi and held that the pendency of an appeal under Section 37 of the Arbitration Act does not operate as a stay against execution of an arbitral award unless an interim order explicitly staying such execution has been passed.

[7] Civil Appeal No. 11840/2025

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Facts

In the present case, the execution of an arbitral award passed in its favour was sought by the Appellant before the Hon'ble High Court of Delhi. Arguing against the executability of the arbitral award, the Respondents pointed out that an appeal under Section 37 of the Arbitration Act was pending against the dismissal of their objections under Section 34 of the Arbitration Act and submitted that the execution of the arbitral award therefore ought to be deferred. Subsequently, the Hon'ble High Court of Delhi ("**Execution Court**") passed an order adjourning the hearing owing to the pendency of an appeal under Section 37 of the Arbitration Act. Aggrieved by the aforementioned order of the Execution Court, the Appellant approached the Hon'ble Supreme Court.

Issue

Whether the Execution Court should defer the proceedings qua execution of the award only because an appeal under Section 37 of the Arbitration Act is pending against rejection of an application under Section 34 of the Arbitration Act.

Held

The Hon'ble Supreme Court observed that the Execution Court can venture into the question of executability of the award in accordance with law while addressing objections as and when raised. Further, noting that there was no interim order operating against the arbitral award against which the objection under Section 34 of the Arbitration Act had been rejected, the Hon'ble Court observed that it would be improper for the Execution Court to defer consideration of the execution application merely because of the pendency of an appeal under Section 37 of the Arbitration Act.

In light of the aforementioned observations, the Hon'ble Court disposed of the appeal before it and held that subject to any interim order passed in the appeal pending

under Section 37 of the Arbitration Act, the Execution Court shall be free to proceed with the execution of the award in accordance with law. Furthermore, the Hon'ble Court added that objections as regards the executability of the arbitral award shall be addressed in accordance with the law after giving the concerned parties an opportunity to be heard.

8. WHEN ARBITRATION IS UNDER MSMED ACT, CONTRACTUAL CLAUSE PROVIDING FOR ANOTHER ARBITRAL SEAT IS IRRELEVANT: HIGH COURT OF BOMBAY [SEPTEMBER 10, 2025]

Introduction

In the case of **GEA Westfalia Separator India Private Limited v SVS Aqua Technologies LLP [8]** the Hon'ble High Court of Bombay held that in case of arbitrations conducted under the Micro, Small and Medium Enterprises Development Act, 2006 ("**MSMED Act**"), the seat of arbitration would be determined by the Facilitation Council under the MSMED Act ("**Facilitation Council**") and the arbitral seat clause under the contract between the parties would be irrelevant.

Facts

In the present case, the Facilitation Council passed an arbitral award dated November 18, 2024 directing the GEA Westfalia Separator India Private Limited ("**GEA**") to pay SVS Aqua Technologies LLP ("**SVS Aqua**") the awarded sums along with interest. This arbitral award was passed in connection with resolution of disputes between the parties emanating from a Manufacturing and Supply Agreement dated November 13, 2019 ("**Agreement**"). Clause 23 of the Agreement indicated that the parties envisaged resolving their disputes by arbitration in the city of Mumbai.

Subsequently, petition under Section 34 of the Arbitration Act came to be filed before the Hon'ble High Court of Bombay by GEA impugning the arbitral award

[8] Civil Appeal No. 11840/2025

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dated November 18 2024 (“**Impugned Award**”) passed by the Facilitation Council. Objecting to the territorial jurisdiction of the Hon’ble Court, SVS Aqua contended that since the Facilitation Council had conducted the arbitration in Pune, a challenge under Section 34 of the Arbitration Act ought to be before the Civil Courts in Pune. On the other hand, GEA contended that the Hon’ble Court had the jurisdiction owing to Clause 23 of the Agreement and owing to the absence of any clause in the Agreement recording confirmation of the parties about exclusive or non-exclusive jurisdiction of any Court.

Issue

Whether the Hon’ble Court has jurisdiction under Section 34 of the Arbitration Act to consider a challenge to the Impugned Award in view of Clause 23 of the Agreement.

Held

The Hon’ble High Court of Bombay found that the parties had Clause 23 of the Agreement made it apparent that the parties had executed an arbitration agreement. It noted that while Clause 23 of the Agreement did not use the terms “seat” or “venue”, it provided for disputes to be referred to and resolved by arbitration in Mumbai. The Hon’ble Court further found that the arbitration proceedings actually held between the parties did not take place pursuant to invocation of the arbitration agreement. Instead, the arbitral proceedings resulting in the Impugned Award took place under Section 18 of the MSMED Act, which provides for a statutorily created arbitration agreement to come into existence once conciliation fails. Therefore, the Hon’ble Court held that the Impugned Award was a product of the arbitration conducted pursuant to the arbitration agreement created statutorily under Section 18 of the MSMED Act and had nothing to do with the conduct of arbitration under Clause 23 of the Agreement.

The Hon’ble Court noted that the arbitration proceeding

in question were conducted as if there was another arbitration agreement in terms of Section 18 of the MSMED Act which conferred territorial jurisdiction on the Facilitation Council in Pune. In light of this, the Hon’ble Court observed the arbitration proceedings were conducted as a matter of statutory requirement in Pune and therefore, the statutory seat of arbitration was Pune. Further, it observed that the parties in the present case did not have any contractual commitment in the Agreement that the Courts in Mumbai would have exclusive (or even non-exclusive) jurisdiction in relation to their disputes. Thus, the Hon’ble Court held that in the absence of any connecting factor that would confer jurisdiction on the Hon’ble Court, other than Clause 23 of the Agreement which was not acted upon in actuality, a challenge to the Impugned Award must necessarily lie in the principal civil court with original jurisdiction in Pune, where the arbitration proceedings were conducted.

The Hon’ble Court finally held that the arbitration proceedings in question were totally divorced from the arbitration clause i.e., Clause 23 of the Agreement and that there existed no exclusive jurisdiction clause to bind the parties back to Mumbai. Further, the Hon’ble Court held that the arbitration proceedings that led to the Impugned Award were governed by a statutory arbitration agreement which statutorily seated the arbitration in Pune, thereby rendering the contractual arbitration agreement executed between the parties irrelevant.

9. A BREACH THAT IS PROCEDURAL OR RECTIFIABLE DOES NOT AMOUNT TO A BREACH OF FUNDAMENTAL POLICY TO JUSTIFY NON-ENFORCEMENT OF A FOREIGN ARBITRAL AWARD IN INDIA: HIGH COURT OF MADRAS [SEPTEMBER 22, 2025]

Introduction

In **PI Opportunities Fund-I v Financial Software Systems Pvt. Ltd. and Ors. [9]**, the Hon’ble High Court of Madras held that a breach that is procedural or rectifiable, such

[9] Arb.O.P. (Com. Div.) No. 285 of 2024

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as a technical violation of regulatory laws, does not amount to a breach of fundamental policy.

Facts

i. Background:

The petitioners in the present matter acquired shares in Respondent No. 1 Company through a Share Acquisition and Shareholder's Agreement dated October 10, 2014 which detailed an exit waterfall mechanism ("SASHA"). The dispute between the petitioners and the respondents arose when exit attempts of the petitioners were unsuccessful and the petitioners claimed that Respondent Nos. 2 and 3, the founders of Respondent No. 1 company had breached their obligations under the SASHA to facilitate exit or investors as per Clause 19 of the SASHA.

ii. Arbitration proceedings in Singapore:

Subsequently, arbitration was invoked in Singapore and an arbitral award dated July 05, 2024 was passed in favour of the petitioners ("Arbitral Award"). As per this, the petitioners were awarded a comprehensive amount consisting of damages as against surrender of shares, along with interests and costs. Further, the Arbitral Award entitled the petitioners to implement a strategic sale if the comprehensive amount as awarded was not paid within 90 days.

iii. Enforcement of the Arbitral Award in India:

Thereafter, the petitioners filed the present petitions before the Hon'ble High Court of Madras seeking enforcement of the foreign Arbitral Award passed in favour of the Petitioners. Further, the Appellant prayed for conversion of the same into a decree as per Section 49 of the Arbitration Act. Several objections were raised by Respondent Nos. 2 and 3, particularly that the Arbitral Award was vitiated by fraud and was passed in violation of the public policy of India.

Issue

Whether the foreign Arbitral Award could be enforced in India in light of the same being allegedly violative of the fundamental policy of India.

Held

The Hon'ble High Court of Madras observed that the claim of the respondents pertaining to violation of the fundamental policy of India stemmed from the objection that the Arbitral Award amounted to a buy-back of shares which violates Sections 66 and 68 of the Companies Act, 2013. The Hon'ble Court noted that while Section 66 of the Companies Act, 2013 dealt with surrender of shares of shares through capital reduction, Section 68 of the Companies Act, 2013 dealt with buy-back of shares. Further, the Hon'ble Court observed that the arbitral tribunal had drawn out a clear distinction between buy-back and surrender of shares and had specifically awarded the petitioners damages against "surrender of shares". Further, the Hon'ble observed even if a buy-back was assumed, there is no blanket embargo on a buy-back under Sections 66 and 68 of the Companies Act, 2013. Therefore, the Hon'ble Court found this objection to be untenable.

The Hon'ble Court noted that Section 48 of the Arbitration Act deals with the enforcement of an award, not its validity, thereby limiting the scope for a factual investigation. Thus, the Hon'ble Court held that Section 48 restricts denial of enforcement of a foreign arbitral award on the basis of public policy to violations that are unquestionably contrary to the basic tenets of Indian Law. Further, relying upon the decision of the Hon'ble Supreme Court in *OPG Power General Pvt Ltd v. Enxio Power cooling Solutions India Pvt Ltd*, (2025) 2 SCC 417, the Hon'ble Court held that a breach that is merely procedural or rectifiable, such as a technical violation of regulatory laws, does not amount to a breach of fundamental policy which can be used as a ground to deny enforcement of a foreign arbitral award.

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Further, the Hon'ble Court observed that certain issues raised by the respondents had already dealt with by the Hon'ble High Court of Singapore. Relying upon the decision of the Hon'ble High Court of Delhi in *Cruz City v. Unitech Limited 2017 SCC OnLine Del 7810*, the Hon'ble Court observed that a party is not permitted to re litigate the same issue before the foreign award enforcement court. Accordingly, it held that since these issues were already decided by the Hon'ble High Court of Singapore, the very same issues could not be again argued by the respondents before this Hon'ble Court in enforcement proceedings under Section 48 of the Arbitration Act.

In view of the above, the Hon'ble Court concluded that Respondent Nos. 2 and 3 did not satisfy the requirements of Section 48 of the Arbitration Act and therefore, held Arbitral Award to be enforceable.

10. CLAUSE MERELY BARRING INTEREST ON DELAYED PAYMENTS BY ITSELF WILL NOT BAR AN ARBITRAL TRIBUNAL FROM AWARING PENDENTE LITE INTEREST: SUPREME COURT OF INDIA [SEPTEMBER 02, 2025].

Introduction

In the case of **Oil and Natural Gas Corporation Ltd. v M/s. G&T Beckfield Drilling Services Pvt. Ltd. [10]** the Hon'ble Supreme Court held that an arbitral tribunal can be barred from awarding pendente lite interest only if the agreement between the parties is worded in a manner that such award of pendente lite interest is barred explicitly or by necessary implication. A clause merely barring award of interest on delayed payments would not by itself automatically be inferred as a bar to award pendente lite interest by an arbitral tribunal.

Facts

In the present case, an arbitral award dated November 21, 2004 ("**Impugned Award**") came to be passed against the Oil and Natural Gas Corporation Ltd. ("**ONGC**").

Aggrieved by the same, ONGC filed an application under Section 34 of the Arbitration Act, for setting aside the Impugned Award on various grounds, particularly Clause 18.1 of the agreement between the parties which barred payment of interest on the any delayed payment/disputed claim.

Subsequently, the Hon'ble District Judge allowed the application and set aside the Impugned Award vide order dated November 15, 2007 on two primary grounds – firstly, that the award was non-reasoned and therefore violative of Section 31(3) of the Arbitration Act, and secondly, that the objection under Section 16(2) of the Arbitration Act was neither rejected prior to proceeding further, nor considered by the arbitral tribunal at the time of making the final award.

Aggrieved by the order of the Hon'ble District Judge, the M/s. G&T Beckfield Drilling Services Pvt. Ltd. ("**G&T Beckfield**") filed an appeal before the Hon'ble High Court of Gauhati under Section 37(1)(c) of the Arbitration Act. This appeal came to be allowed by the Hon'ble High Court of Gauhati and an order affirming the arbitral award in toto was passed ("**Impugned Order**").

Thereafter, a Special Leave Petition, seeking leave to appeal against the Impugned Order was filed and notices issued on the same were limited to whether interest on the total amount at the rate of 12% could be awarded or not.

Issue

Whether Clause 18.1 of the agreement between the parties proscribes payment of even pendente lite interest on the sum awarded.

Held

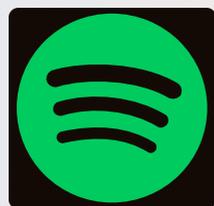
Shedding light on the law regarding payment of interest by arbitral tribunal, the Hon'ble Supreme Court observed that as per Section 31(7) of the Arbitration Act, an arbitral tribunal has jurisdiction to award interest for

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three distinct periods, namely, pre-reference, pendente lite, and future i.e., post-award. Award of pre-reference and pendente lite interest is subject to the agreement between the parties, whereas post award interest is statutorily governed and is not subject to the agreement between the parties.

The Hon'ble Court observed that Section 31(7)(b) which deals with post-award interest is not subject to an agreement between the parties and is statutorily governed. Therefore, an arbitral award relating to payment of money would carry interest at such rate as directed by the arbitral award and if it is not so directed, it would carry the statutorily prescribed rate of interest (18% prior to the 2015 Amendment to the Arbitration Act) from the date of the award till the date of payment.

The Hon'ble Court noted that Clause 18.1 of the agreement between the parties merely stated that there would be no interest payable by ONGC on any delayed payment / disputed claim. It was observed that Clause 18.1 neither barred the arbitral tribunal from awarding pendente lite interest nor stated that interest would not be payable in any respect whatsoever. Thus, observing that Clause 18.1 of the agreement would not limit the statutory power of the arbitral tribunal to award pendente-lite interest, the Hon'ble Court held that there was no error in the award of pendente lite interest which could warrant an interference with the Impugned Award. Further, the Hon'ble Court held that the post-award interest was in line with the statutory provision of Section 31(7)(b) of the Arbitration Act, as was in force at that time i.e., payment of interest on the sum awarded at the rate of 18% per annum from the date of the award to the date of payment, unless otherwise directed by the arbitral award. Accordingly, the Hon'ble Court dismissed the appeal before it.



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FIRM HIGHLIGHTS

ANM Global announced promotions of colleagues: Anisha Shetty as Partner, Shwetank Tripathi as Partner Designate, Gaurav Suryavanshi as Principal Associate, and Raashi Vaishya, Dishita Shah, Jinal Doshi as Senior Associate. Their legal acumen, client service, and excellence reflect the firm's philosophy of nurturing talent and recognising merit.

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From The Economic Times

Advocates & Legal Consultants

QUOTED BY ET LEGAL - "GAME ON: CAN INDIA'S NEW SPORTS LAW FUEL A LUCRATIVE LEGAL PRACTICE?"



"Compliance will become systematic. The bigger clubs and federations will go to law firms. The smaller ones might rely on independent lawyers. Either way, this creates a stream of legal work that simply didn't exist before.

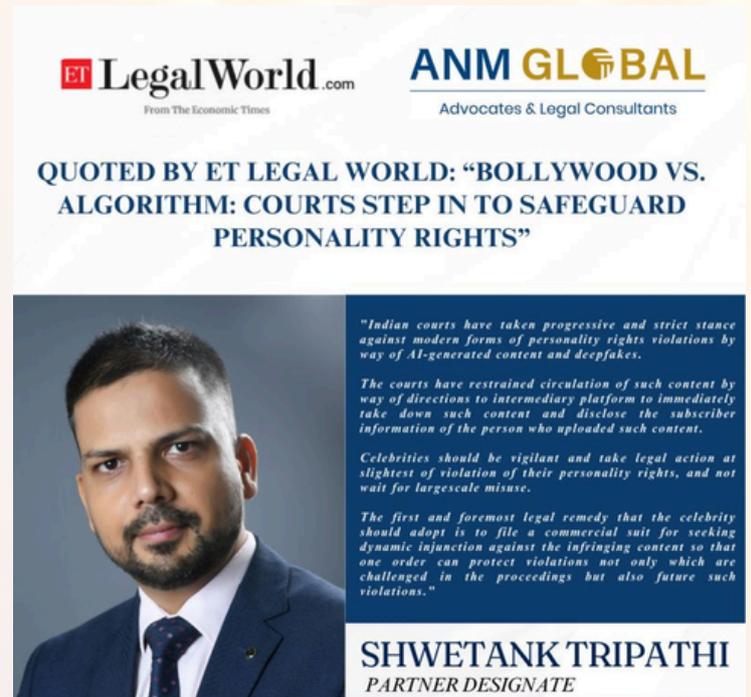
This will open doors for a lot of young sports lawyers. But the ecosystem itself has to mature. Otherwise, it risks being an opportunity without longevity."

NIDHISH MEHROTRA
MANAGING PARTNER

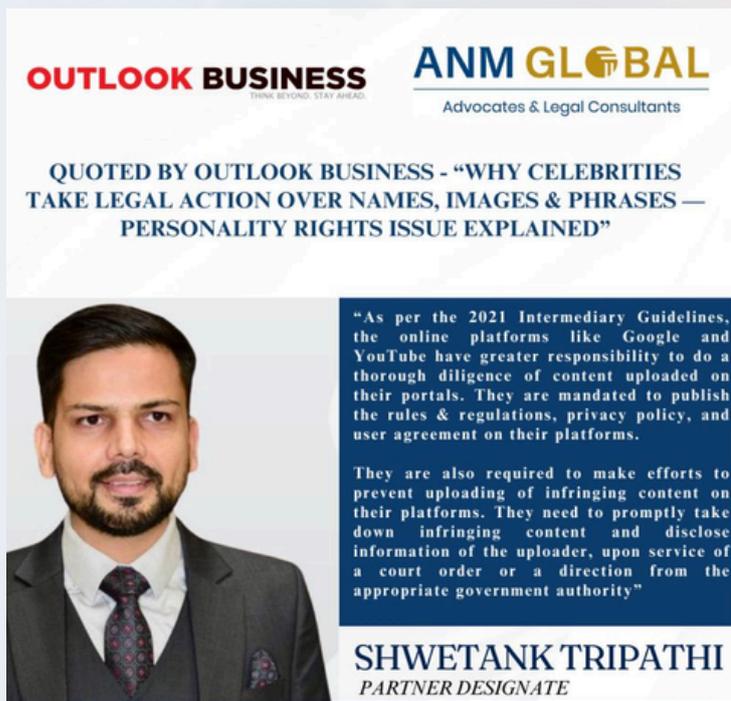
ANM Global Managing Partner Nidhish Mehrotra was quoted in ETLegalWorld's feature "Game On: Can India's New Sports Law Fuel a Lucrative Legal Practice?" sharing perspectives on regulatory compliance in Indian sports law, as the evolving sports and gaming landscape creates new waves of legal work.

FIRM HIGHLIGHTS

Partner Designate Shwetank Tripathi was quoted in ETLegalWorld's feature "Bollywood vs. Algorithm: Courts Step In to Safeguard Personality Rights." The recognition reflects the firm's commitment to discussions on emerging legal issues and conversations at the intersection of law, technology, and society.



ANM Global's Partner Designate Shwetank Tripathi was quoted in Outlook Business feature "Why Celebrities Take Legal Action over Names, Images & Phrases — Personality Rights Issue Explained," highlighting growing relevance of this area of law with digital media and influencer culture.



FIRM HIGHLIGHTS

ANM Global–Scriboard hosted a Roundtable on Data Privacy, Cybersecurity & AI, chaired by Mr. Rodney D. Ryder. The session explored the intersection of technology, regulation, and law, fostering meaningful dialogue on the evolving landscape of digital law and policy.

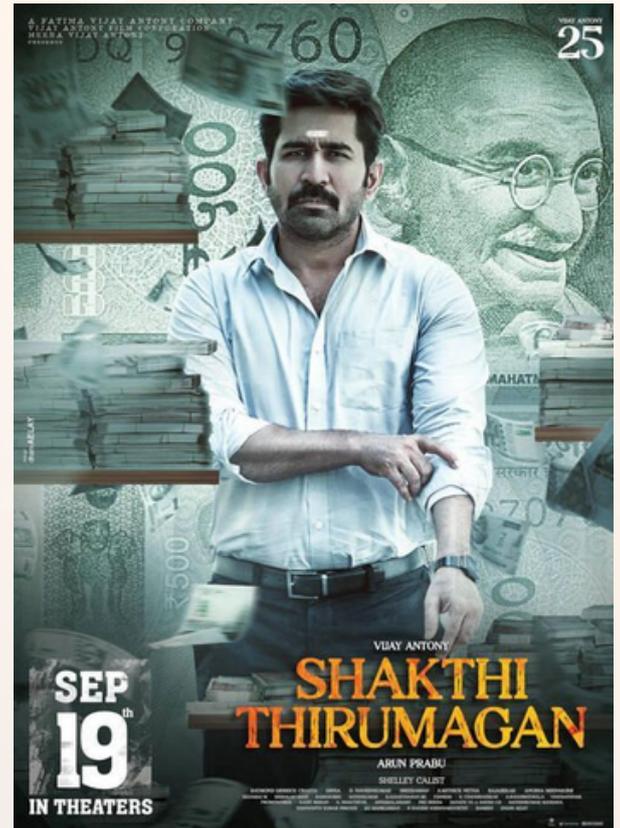


ANM Global's Partner Sneha Nanandkar represented the firm at INDIA ADR WEEK 2025 by MCIA and IPBA Arbitration Day, Mumbai, engaging with global practitioners on issues from arbitration regime lacunas to ESG, treaties, enforceability of arbitral awards, and climate change, reinforcing ANM Global's commitment to international arbitration discourse and stronger dispute resolution frameworks.



FIRM HIGHLIGHTS

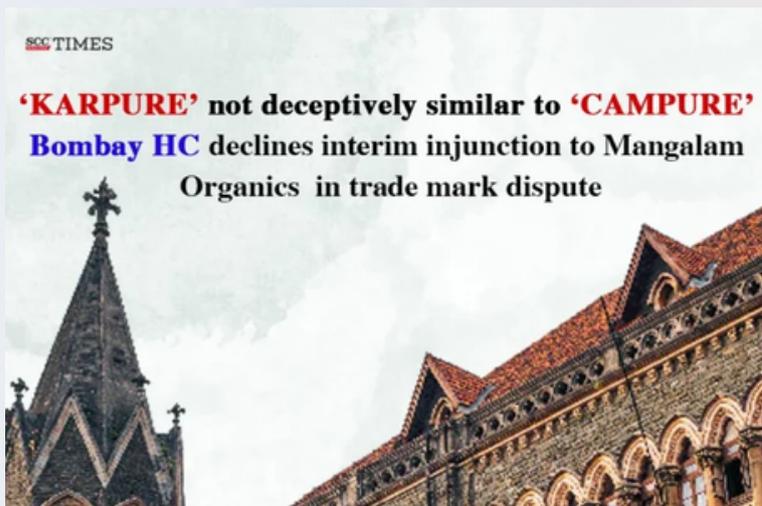
ANM Global represented RKD Studios in acquiring and exploiting dubbing rights of Shakthi Thirumagan, directed by Arun Prabhu Purushottaman with Vijay Antony and cast, released on 19th September 2025, enabling wider reach in all world languages except South Indian through its Hindi dubbed version.



ANM Global provided legal support to I AM Buddha Entertainment & Media LLP for Hindi film “The Bengal Files”, directed by Vivek Ranjan Agnihotri and released on 5th September 2025, handling production-related legal matters, contractual engagements, and distribution deals across mediums, while extending best wishes to the team.

FIRM HIGHLIGHTS

ANM Global represented Tips Music Limited in drafting, negotiating, and executing the exploitation agreement for Mirai's music rights. Directed by Karthik Gattamneni. The epic tale features Teja Sajja, Ritika Nayak, Manoj Kumar Manchu, and cast.



ANM Global successfully represented N. Ranga Rao & Sons Private Limited in the matter of Mangalam Organics Ltd. v. N. Ranga Rao & Sons Pvt. Ltd., where the Hon'ble Bombay High Court refused to grant an interim injunction against the use of the marks "KARPURE" / "AIR KARPURE."

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