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1.LIMITATION TO CHALLENGE AWARD UNDER SECTION 34 (3) STARTS ONLY FROM THE DATE ON WHICH PROCEEDINGS UNDER SECTION 33 ARE DISPOSED OF: SUPREME COURT OF INDIA [JUNE 02, 2026]

Introduction:

In the case of **National Highway Authority of India v. T. Younis & Anr. [1]**, the Hon'ble Supreme Court ruled that the limitation for filing an application for setting aside of arbitral award under Section 34(3) of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") can start only from the date on which the proceedings under Section 33 are disposed of.

Facts:

The Ministry of Shipping, Road Transport and Highways issued a preliminary notification under Section 3A (1) of the National Highways Act, 1956 ("**1956 Act**") for acquisition of land in Bellary District. The said notification included the land belonging to T. Younis ("**Respondent No. 1**"). By a declaration issued under Section 3D(2) of the 1956 Act, the land vested in the Central Government free from all encumbrances. The competent authority by an award determined the compensation under Section 3G(1) of the 1956 Act. The National Highway Authority of India ("**Appellant**") invoked the remedy of arbitration under Section 3G(5) of the 1956 Act and vide an award, the market value of the agricultural and non-agricultural land was redetermined by the Arbitrator. The Hon'ble Karnataka High Court ("**Hon'ble High Court**") set aside the award and remitted the matter back to the Arbitrator for *de novo* consideration.

Pursuant to the remand, the Arbitrator conducted fresh proceedings and passed an award on February 03, 2022, granting the benefit of Sections 23(1-A), 23(2), 28 and 34 of the Land Acquisition Act, 1894 ("**1894 Act**"). The Appellant filed an application under Section 33(1)(a) of the Arbitration Act inter alia on the ground that grant of additional market value under Section 23 and Section 34 of the 1894 Act is not legally sustainable. The Respondent filed an application under Section 33(4) of the Arbitration Act seeking an additional award of 50% above the market value on the ground that such a claim had been raised during arbitral proceeding, but, the same was omitted in the final award. The Arbitrator by a common order dated July 04, 2022, dismissed the applications under Section 33 of the Arbitration Act and the certified copy of the order was received by the Appellant on September 15, 2022.

The Appellant filed applications under Section 34 of the Arbitration Act along with applications seeking condonation of delay. The Respondent objected stating that the applications under Section 34 were filed with delay which was beyond the condonable period of 120 days as provided in the proviso to Section 34(3) of the Arbitration Act. The Hon'ble Principal District and Sessions Judge, Bellary, ("**Hon'ble District and Sessions Judge**") condoned the delay and allowed the Application. The Respondent challenged the order of the Hon'ble District and Sessions Judge before the Hon'ble High Court. The Hon'ble High Court held that Section 33(1)(a) of the Arbitration Act permits correction of computation, clerical or typographical errors or errors of similar nature. It was further held that the prayer made in the application filed by the Appellant seeking modification of the award did not fall within the purview of Section 33(1)(a) and hence the same was not maintainable. The Hon'ble High Court concluded that the benefit of limitation under Section 34(3) of the Arbitration Act was not available and therefore limitation could not be computed from the date of disposal of the application. Aggrieved by the judgement of the Hon'ble High Court, the Appellant approached the Hon'ble Supreme Court.

Issue:

Whether limitation under Section 34 (3) of the Arbitration Act commences from the date of the original award or from the date on which the application under Section 33 is disposed of.

Held:

The Hon'ble Supreme Court perused the provisions of Sections 33 and 34 of the Arbitration Act. It was noted that Section 33 of the Arbitration Act deals with requests made to the arbitral tribunal for correction and interpretation of the award as well as for rendering additional award. An application under Section 33 of the Arbitration Act is required to be made within a period of 30 days from the date of the receipt of the award. It was noted that where a request under Section 33 of the Act has been made, the limitation for filing an application under Section 34 of the Arbitration Act would be reckoned from the date on which such request is disposed of by the arbitral tribunal.

The Hon'ble Supreme Court noted that the aforesaid provision did not distinguish between the applications which would be ultimately allowed or dismissed nor did it indicate that only an application which is maintainable under Section 33 of the Arbitration Act would defer the commencement of litigation under Section 34(3) of the Arbitration Act. The Hon'ble Supreme Court observed that if the legislature intended to restrict the benefit only to the applications which were allowed or maintainable, it would have expressly provided so. It was held that the court cannot read into the provision a restriction which the legislature itself has not consciously incorporated.

The Hon'ble Supreme Court held that once proceedings under Section 33 are initiated and entertained by the arbitral tribunal, the award remains subject to the limited jurisdiction of the tribunal for correction, interpretation or supplementation as contemplated under the provision. So long as the proceedings remain pending, the parties

[1] 2026 INSC 616

cannot be compelled to institute proceedings under Section 34 merely as a matter of abundant caution. It was ruled that parties could effectively pursue their remedy under Section 34 only upon conclusion of the proceedings under Section 33 and that consequently, the limitation prescribed under Section 34(3) could start only from the date on which the proceedings under Section 33 were disposed of.

The Hon'ble Supreme Court opined that the contention of the Respondent that only an application which is "maintainable" under Section 33 can defer the commencement of limitation under Section 34(3) could not be accepted. It was ruled that the only relevant factor was whether the jurisdiction of the arbitral tribunal under Section 33 had been formally invoked and that such proceedings remained pending consideration before the arbitral tribunal. The Hon'ble Supreme Court was of the view that if the interpretation of the Hon'ble High Court was adopted, it would defeat the scheme and object of the Arbitration Act. Further, it was observed that if parties were compelled to institute proceedings under Section 34 during the pendency of proceedings under Section 33 merely as a matter of abundant caution, it would result in multiplicity of proceedings and procedural uncertainty. The Hon'ble Supreme Court further clarified that where applications under Section 33 were found to be a sham, frivolous, or mala fide or solely filed for the purpose of defeating limitation under Section 34(3) of the Arbitration Act, the courts would be justified in imposing exemplary and punitive costs as maintaining the balance between preserving legitimate remedies and preventing abuse of process is fundamental to effective administration of justice.

In the present case, the certified copy of the common order dated July 04, 2022, disposing of the applications under Section 33 were received by the Appellant on September 15, 2022 and thereafter the applications under Section 34 were filed on November 07, 2022. Thus, reckoning limitation from the date of receipt of the order, the Hon'ble Supreme Court held that the applications under Section 34 were instituted within the period contemplated under Section 34(3) of the Arbitration Act. Accordingly, the judgment of the Hon'ble High Court was set aside and the orders passed by the Hon'ble District and Sessions Judge condoning the delay were restored.

2. MERE EXISTENCE OF ARBITRATION CLAUSE CANNOT OUST THE JURISDICTION OF THE CONSUMER COURTS: SUPREME COURT OF INDIA [JUNE 04, 2026]

Introduction:

The Hon'ble Supreme Court in the case of **T.K.A. Padmanabhan v. Abhiyan Cooperative Group Housing Society Ltd. Through its Secretary** **[2]** held that once a complaint under the Consumer Protection Act, 1986 ("CPA") is admitted, the consumer cannot be driven out of that forum merely because the agreement between the parties contains an arbitration clause.

Facts:

T.K.A. Padmanabhan ("**Appellant**"), became a member of Abhiyan Cooperative Group Housing Society Limited ("**Respondent Society**") and paid the full amount towards allotment of a flat in the Respondent Society. A flat was allotted to the Appellant and an agreement was entered into between the parties. The Appellant alleged that there was a delay in handing over possession of the flat which amounted to deficiency in services and therefore a consumer complaint against the Respondent before the District Consumer Forum-VII, New Delhi ("**District Forum**") was filed.

The Complaint was admitted and notice was issued to the Respondent. Thereafter, the Respondent filed an application under Section 8 of the Arbitration Act ("**Respondent's Application**") seeking reference of the dispute to arbitration. The District Forum rejected the Application on ground that the remedy under the CPA was in addition to any other remedy available to an aggrieved party. The aforementioned order was challenged by the Respondent before the Hon'ble Delhi High Court ("**Hon'ble High Court**") and the same was set aside with a direction to the District Forum to reconsider the issue by passing a reasoned order.
Upon reconsideration, the District Forum allowed the Respondent Society's Application. The said order was affirmed by the Delhi State Consumer Disputes Redressal Commission ("**State Commission**"). The Appellant challenged the order of the State Commission before the National Commission in a revision petition which was eventually dismissed. Aggrieved by the order of the National Commission, the Appellant approached the Hon'ble Supreme Court.

The Appellant submitted that the consumer complaint could not have been referred to arbitration merely on the basis of an arbitration clause in the agreement between the parties. It was stated that the complaint had already been admitted and notice had already been issued to the respondent, therefore, the District Forum ought to have decided the complaint on merits as per the CPA. However, the Respondent contended that the agreement between the parties contained an arbitration clause and therefore, the consumer forum did not commit any error in relegating the parties to arbitration.

Issue:

Whether the consumer complaint filed by the Appellant could have been referred to arbitration without adjudication on merits.

Held:

The Hon'ble Supreme Court reviewed the definition of the term "consumer" under Section 2 (1)(d) of the CPA

[2] 2026 INSC 649

and the term "service" under Section 2 (1)(o) of the CPA. The provisions of Section 3 and 12 of the CPA were also examined by the Hon'ble Supreme Court. The Hon'ble Supreme Court emphasized that the CPA is a beneficial legislation intended to provide a simple, inexpensive and expeditious remedy to consumers who complain about defects in goods or deficiency in services. It was noted that Section 3 of the CPA makes it explicit that the remedy under the CPA is in addition to and not in derogation of any other remedy available under law. It was held that the existence of another forum or another mode of adjudication, therefore, did not by itself exclude the jurisdiction of the consumer fora.

The Hon'ble Supreme Court examined several judgments including the case of *Emaar MGF Land Ltd. v. Aftab Singh (2019) 12 SCC 751* in which it was held that even where an agreement contains an arbitration clause, the consumer forum is not denuded of its jurisdiction to entertain and decide a consumer complaint. It was noted that the reason was that the CPA creates a special and additional remedy for consumers and the jurisdiction conferred could not be displaced merely by reference to an arbitration between the parties. It was observed that the Appellant's complaint was not a civil suit simpliciter; it was a complaint under the CPA alleging deficiency in service due to delay in handing over possession of the flat and mere existence of an arbitration clause was not sufficient to non-suit the Appellant before the consumer forum.

The Hon'ble Supreme Court also examined the case in light of Section 12(4) of the CPA and noted that Section 12 contemplates a statutory sequence. It was noted that at the threshold, the District Forum is required to consider whether the complaint deserves to be admitted or rejected. Once the complaint is admitted and allowed to be proceeded with the forum is required to deal with it in the manner provided under the CPA. The Hon'ble Supreme Court noted that once the Complaint is admitted and allowed to be proceeded with, the forum is required to deal with it in the manner provided under the Act. It was further noted that the proviso to Section 12(4) of the CPA contains a clear legislative restraint which provides that once a complaint has been admitted by the District Forum, it shall not be transferred to any other court, tribunal or authority set up by or under any other law for the time being in force.

Thus, the Hon'ble Supreme Court held that once the mechanism is validly invoked and the complaint is admitted, the consumer cannot be driven out of that forum merely because the agreement between the parties contains an arbitration clause. It was ruled that a private contractual clause cannot be permitted to defeat the continued operation of a statutory remedy which the Parliament has expressly made additional to other remedies under Section 3 of the CPA.

The Hon'ble Supreme Court held that Section 12(4) has to be read harmoniously with Section 3 of the CPA. It was noted that Section 3 preserves the additional character of the consumer remedy and Section 12(4) after admission of the complaint gives procedural effect to that protection by requiring the consumer forum to proceed under the CPA by preventing diversion of the complaint to another forum. It was held that the provision was intended to ensure that a consumer complaint, once admitted, is not rendered illusory by compelling the consumer to begin afresh before another forum or authority.

In view of the foregoing, the appeal was allowed and the Appellant's consumer complaint was restored before the District Forum.

3.BSE BYE-LAWS MANDATING ARBITRATION CANNOT OVERRIDE PRINCIPLES OF ARBITRABILITY: BOMBAY HIGH COURT [JUNE 09, 2026]

Introduction:

The Hon'ble Bombay High Court ("**Hon'ble Court**"), in the case of **ABB India Limited v. Sunil Hariram Jaisingh & Ors. [3]**, held that while the Bombay Stock Exchange ("**BSE**") Bye-Laws mandate submission of certain disputes to arbitration, the principles of arbitrability of disputes could not be given a go-by.

Facts:

The father of Mr. Sunil Hariram Jaisingh ("**Respondent No. 1**") held a certain number of shares in ABB India Limited ("**Petitioner**"). After the demise of Respondent No. 1's father, he applied for transmission of the shares to his name and application to that effect was made by Respondent No. 1's advocate Mr. Talreja. A registered will was presented by Mr. Talreja to TCS, the then Registrar and Transfer Agent ("**RTA**") of the Petitioner, along with the original share certificates and the Death Certificate of the Petitioner's father. TCS addressed a letter to Mr. Talreja asking for a probate of the Will in order to effect the transmission. Mr. Talreja informed the Respondent No. 1 about the receipt of the said letter and requested him to comply with the requirements. Thereafter, Mr. Talreja informed the Respondent No. 1 that the original share certificates were misplaced by him in his office and the date of such intimation was unclear. Eventually, after around ten years, the original share certificates were found and the Respondent wrote to KFIN Technologies Limited ("**KFIN**"), the then RTA for the Petitioner, enclosing copies of the original Share Certificates, the Registered Will and Death Certificate of his late father. The probate was however, submitted after another three years.

KFIN informed the Respondent No. 1 that the shares in question already had been transferred to a different folio number and the same had also been dematerialized on an earlier date and therefore, the Share Certificates enclosed by Respondent No. 1 were no longer valid. Respondent

[3] 2026:BHC-OS:12591

No. 1 objected and claimed that such a transfer was illegal as the same had been effected without his consent or knowledge and when the original Share Certificates were still in his possession. Aggrieved, Respondent No. 1 filed complaints with the Securities and Exchange Board of India ("**SEBI**"). The Petitioner responded to the complaints stating that they were time-barred and fell within criminal jurisdiction due to an evident fraud which was outside the purview of SEBI.

Eventually, Respondent No. 1 invoked the Online Dispute Resolution ("**ODR**") framework stipulated under SEBI's ODR Master Circular dated July 31, 2023 (updated as of December 28, 2023) ("**Master Circular**"). A conciliator examined the matter and held that ascertainment of fraud was the essence of the matter and conciliation was not possible. Thereafter, Respondent No. 1 filed a claim in arbitration before the same institution and the Petitioner filed an application under Section 16 of the Arbitration Act objecting to the jurisdiction of the arbitral tribunal and contended that even a deemed arbitration agreement would not lead to a non-arbitral dispute (owing to fraud) becoming arbitrable.

Subsequently, the arbitral tribunal rendered an award directing the Petitioner to reinstate the shareholding of the Respondent No. 1 within a period of 15 days failing which monetary compensation would be payable to the Respondent No. 1.

Issues:

1.Whether the arbitral award was liable to be set aside for violation of natural justice and patent illegality under Section 34 of the Arbitration Act;

2.Whether a dispute involving serious allegations of fraud, delay and competing third-party rights could be finally decided through arbitration under the SEBI ODR framework.

Held:

The Hon'ble Court opined that the award was entirely untenable not only because of the nature of the findings therein but also due to the manner of conduct of the arbitral process by the arbitral tribunal. The Hon'ble Court noted that pleadings were completed after a hearing was held only on the Section 16 Application. It was further noted that the Statement of Defence and additional submission were pleaded but, no issues were framed and no evidence was rendered. The Hon'ble Court also noted that a summary judgement was rendered in a dispute which the arbitral tribunal itself held to be complex.

The Hon'ble Court noted that the issue of whether transmission of shares could be adjudicated in arbitration or whether the same was in the domain of the National Company Law Tribunal under the Companies Act, 2013, was neither framed nor answered despite a specific objection being raised by the Petitioner. It was held that the manner of consideration of how the fraud took place and at whose end and who would be responsible was answered by a summary ruling of strict liability on a listed company to reinstate shares on occurrence of a fraud was absurd, irrational and perverse.

The Hon'ble Court took note of the fact that the additional submissions and the Statement of Defence were filed after the final date of hearing and that the arbitral tribunal did not hear the parties after these additional pleadings came on record. It was noted that the prime reason for the hurried adjudication, refusal to schedule a further hearing and failure to frame issues after the completion of pleadings was the deadline of 60 days contained in the Master Circular. The Hon'ble Court observed that the arbitral tribunal failed to indicate when the 60-day deadline would commence and how it would be computed, when, even under Section 29A of the Arbitration Act, the timeframe of one year for the mandate of an arbitral tribunal commences from the date on which pleadings are completed.

The Hon'ble Court also noted that instead of considering Respondent No. 1's laxity and contributory negligence, the arbitral tribunal found fault only with the Petitioner. It was held that the issue of limitation is necessarily a mixed question of fact and law which was not adjudicated judicially and no cross examination had taken place. Regarding the issue of fraud, the Hon'ble Court noted that without any probe and no trial of any disputed facts, the arbitral tribunal returned a finding that there was no evidence of fraud committed by the Respondent No. 1 and held that there was a possibility of fraud committed by staff of the Petitioner and TCS. It was held that the arbitral tribunal took a diametrically opposite view to that of the conciliator. The arbitral tribunal went on to adjudicate the dispute without hearings after completion of pleadings, without assessing contributory negligence or absence or mitigation and simply put a premium on the laxity by giving Respondent No. 1 the value of the present value of the shares as compensation.

The Hon'ble Court opined that the arbitral tribunal appeared to have fallen for the adage that justice delayed is justice denied and forgotten the adage that justice hurried is justice buried. It was held that the arbitral tribunal abjectly failed to properly adjudicate the matter and fell into grave error by returning findings that were both perverse and patently illegal, rendering the award wholly untenable. It was ruled that the fraud in issuance of share certificates lies at the heart of the proceedings, making the dispute non-arbitrable. It was noted that the BSE's Bye-Laws mandate submission of disputes arising between an issuer or its registrar to an issue and share transfer agent, to arbitration in accordance with BSE's Bye-Laws. It was ruled that the Bye-Laws of a stock exchange constitute a subordinate law having force of statutory provisions however, the law on arbitrability of disputes could not be given a go-by. The Hon'ble Court held that a shareholder who contends that a decision by the board of a listed company was taken negligently, which resulted in losses for which damages were claimed, could arguably not be the intended beneficiary of the Master Circular and likewise, a grievance about oppression and mismanagement could not be made amenable to arbitration.

The Hon'ble Court ruled that the instant case was clearly a case of fraud and had elements of serious delays, latches and limitation, even assuming that no element of fraud was involved, both of which were handled in a manner which was neither reasonable nor judicially defensible. Thus, the Hon'ble Court quashed and set aside the award for being contrary to the settled principles of law; for awarding damages in utter disregard of the principles governing the assessment of damages; for failing to examine the element of fraud having occurred in rem; and for treating the same as a bilateral fraud without even examining who committed the fraud.

4.MERE ALLEGATION OF CRIMINAL OVERTONES OR PUBLIC OVERTONES DOES NOT MAKE A DISPUTE NON-ARBITRABLE: BOMBAY HIGH COURT [JUNE 09, 2026]

Introduction:

The Hon'ble Bombay High Court ("**Hon'ble Court**"), in the case of **Shashisumeet Production Pvt. Ltd. & Ors. v. Kuresh R. Kushesh @ Dhiren** **[4]**, held that a dispute would not become non-arbitrable merely because a party claims that there are "criminal overtones" or "public overtones". The Hon'ble Court also held that filing of a suit subsequent to filing an Application under Section 8 of the Arbitration Act, would not constitute abandonment of the arbitration agreement, especially if the suit has not gained traction and the party filing such suit was willing to withdraw it.

Facts:

Shashi Summet Production Ltd. ("**Plaintiff No. 1**"), Mr. Sumeet H. Mittal ("**Plaintiff No. 2**") and Mrs. Shashi Sumeet Mittal ("**Plaintiff No. 3**") (*collectively referred to as* "**Plaintiffs**") filed suit against Mr. Kuresh R. Kushesh ("**Defendant**") in 2017, seeking declaratory relief that the Memorandum of Understanding ("**MOU**") and the Share Subscription cum Shareholder Agreement ("**Agreement**") were illegal, void, non est and not binding on the Plaintiffs ("**2017 Suit**"). The Plaintiffs prayed for delivery and deposit of the MOU and Agreement for Cancellation, a claim of Rs. 3,00,00,000/- and an injunction restraining the Defendant from acting in any manner in furtherance of the MOU and Agreement.

The Plaintiffs contended that the person who signed the documents on their behalf had no authority to do so and that they made it clear that the final contract would be executed by Plaintiff No. 2. As per the terms of the transaction, the Plaintiff No. 1 would issue shares to the Defendant which would give him a 15% stake in the equity share capital of the Plaintiff No. 1 and the consideration for the same was received. The Plaintiff stated that the final Agreement had yet to be signed and that they were not in possession of the executed Agreement. The Plaintiff produced various SMS exchanges between the parties to contend that the parties were not ad idem on the final contours of the transaction. The Plaintiffs alleged that there were frequent changes in the Defendant's thought process and the Plaintiffs called off the transaction. The Plaintiffs also offered to give a buy back option to the Defendant and to return the money invested by the Defendant along with interest. The Plaintiffs therefore contended that there was no concluded contract between the parties and that the Agreement in possession of the Defendant was obtained by fraud or misrepresentation and the Plaintiff as Plaintiff No. 2 and 3 were out of the country and could not have executed the Agreement.

The Defendant filed an Application in the 2017 Suit, under Section 8 of the Arbitration Act, placing reliance on the arbitration clause in the Agreement. The Defendant contended that the 2017 Suit is the subject matter of the arbitration clause in the Agreement and therefore the Defendant's Application ought to be allowed and the parties should be referred to arbitration. The Plaintiff submitted that in view of the allegations of forgery and fraud questioning the existence of the arbitration agreement, the disputes between the parties were rendered to be non-arbitrable. The Plaintiff also contended that the Defendant abandoned his right to commence and pursue arbitration because he filed a commercial suit in 2021 ("2021 Suit") and therefore, the Section 8 Application was liable to be rejected. The Defendant indicated that he was willing to withdraw the 2021 suit and refer all disputes to arbitration.

Issues:

1.Whether in view of the allegations of fraud, the disputes are not arbitrable;

2.Whether in view of the 2021 Suit being filed, despite willingness not to pursue the 2021 Suit, the Section 8 Application must be dismissed.

Held:

On whether allegations of fraud would render the dispute non-arbitrable:

The Hon'ble Court noted that it is a well settled position of law that a mere allegation of fraud in a bilateral situation where there is no public fraud with implications on society at large (in rem), would not make a dispute non-arbitrable. It was further noted that rights in rem could not be adjudicated in arbitration which is

[4] 2026:BHC-OS:12600

essentially a forum privately created by parties enjoying mutual rights and obligations in personam. The Hon'ble Court noted that where the fraud alleged is against society at large (in rem) as opposed to fraud within the scope of implementing the contract or inducing a contract, which contains an arbitration clause, the issue of fraud would be arbitrable.

The Hon'ble Court further took note of the decision of the Hon'ble Supreme Court in the case of *A. Ayyasamy v. A. Paramasivam (2016) 10 SCC 386* where it was held that mere allegation of fraud would not dispel arbitrability and only in cases where allegations were serious the courts could ignore arbitration and continue proceedings. The Hon'ble Court also reviewed the case of *Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties (2021) 4 SCC 786* and noted the ruling of Hon'ble Supreme Court that fraud in inducing a party to execute a contract as set out in Section 17 of the Indian Contract Act, 1872, or fraud in the performance of a contract would be in the nature of a civil wrong and is eminently arbitrable.

The Hon'ble Court opined that merely on the ground that there are "criminal overtones" or because a party claims that there are "public overtones", the dispute would not become non-arbitrable. It was held that the agreement was signed by the Plaintiffs and the Defendant and since the instrument had an arbitration clause, all the contentions regarding the evidentiary value of facts in relation to the existence of the bargain in the Agreement squarely fell in the domain of the arbitral tribunal.

The Hon'ble Court opined that commercial parties' conduct especially of those in a largely informal industrial sector such as film making must be viewed from a commercial lens. The Hon'ble Court was of the view that commercial parties often sign instruments that have already been signed by the counterparty, therefore, the Plaintiff No. 2 not being in India on the date embossed on the Agreement, would not turn the needle against the Section 8 Application. The Hon'ble Court stated that it was highly likely that Plaintiff No. 2 signed the Agreement when he was in the country, while the date embossed on the instrument was a date on which he was not here. The Hon'ble Court held that it was a matter of evidence which could be examined by the arbitral tribunal and was not a facet necessitating rejection of the Section 8 Application.

The Hon'ble Court observed that admittedly, monies have been received by the Plaintiff which was consistent with the very instrument whose existence they sought to deny and instead wanted a bargain which was different from the executed instrument. Therefore, the Hon'ble Court held that there was no prima facie case supporting the non-existence of the arbitration agreement and therefore, the opposition to the Section 8 Application, would fail on that ground.

On whether the Section 8 Application must be dismissed in light of the 2021 Suit:

The Hon'ble Court reviewed the decision in the case of *Ministry of Sound International Ltd. v. Indus Renaissance Partners Entertainment Pvt. Ltd. 2009 SCC OnLine Del 11* and observed that the Section 8 Application was first filed and then the matter remained in limbo. It was further observed that the 2021 Suit was filed much later and was being withdrawn and there was no traction in both the Section 8 Application and the 2021 Suit. The Hon'ble Court ruled that the treatment given by the Hon'ble Delhi High Court in the case of *Ministry of Sound* would apply to the facts of the matter at hand and the Application under Section 8 was allowed and the parties were referred to arbitration.

5. COURT CANNOT GRANT RELIEF UNDER SECTION 9 WHEN THE SAME AMOUNTS TO DECIDING DISPUTED ISSUES: BOMBAY HIGH COURT [JUNE 16, 2026]

Introduction:

The Hon'ble Bombay High Court, in the case of **The Capturing Factory (Division of Israni Entertainment India Limited v. Ullu Digital Limited & Anr. [5],** held that at the interlocutory stage of Section 9 proceedings, the court cannot examine evidence in order to determine which narration of facts is correct. It was held that granting broad injunctive relief would amount to deciding disputed issues which were to be examined by the arbitral tribunal.

Facts:

The Capturing Factory (Division of Israni Entertainment India Limited) ("**Petitioner**") was approached by Ullu Digital Limited ("**Respondent**") for production of a web series. Pursuant to discussions, the parties entered into a Production Services Agreement ("**Agreement**"). After completion of production and post-production activities, the episodes of the web series were delivered to the Respondent and assurances regarding payment continued to be given, however, substantial amounts remained unpaid. The Petitioner alleged that throughout the execution of the project the Respondent repeatedly demanded changes, modifications and corrections at different stages which resulted in additional expenditure and also caused delay in release of payments due to which the Petitioner suffered financial difficulties.

The Petitioner contended that the Respondent accepted the content, completed their internal procedures and thereafter voluntarily released the web series for viewing on their platform. It was submitted that the Respondent's refusal to release payments was inconsistent with their conduct of broadcasting and commercially exploiting the web series. Therefore, the

[5] 2026:BHC-OS:13122

Petitioner approached the Hon'ble Court under Section 9 of the Arbitration Act seeking an injunction restraining the Respondent from exploiting the web series and a direction for deposit of the amount claimed by the Petitioner.

The Respondent submitted that the Petitioner failed to carry out several obligations required under the Agreement which were not disclosed by the Petitioner regarding the pending deliverables, technical requirements and various conditions forming part of the agreement. It was argued that entitlement to pay under the Agreement was not dependent on delivery or telecast of the episodes but was only after all deliverables were furnished in the prescribed manner and after successful completion of the quality control and technical compliance process. It was submitted that the Petitioner failed to adhere to the agreed timelines and that delays commenced from the very first set of deliverables. The Respondent submitted that the episodes came to be released because of commercial commitments and pre-fixed schedules required the Respondent to proceed with the telecast notwithstanding the deficiencies which according to them continued to exist. The Respondent contended that the dispute is essentially contractual and monetary in nature involving several disputed questions of fact requiring examination before the arbitral tribunal. Therefore, it was submitted that no case for grant of interim relief was made out and the Petition deserved to be rejected.

Issue:

Whether the interim relief as sought by the Petitioner ought to be granted.

Held:

After considering the material brought before the Hon'ble Court by both sides, the Hon'ble Court observed that on first glance, it appeared that though both parties were speaking about the same transaction, they had completely different understandings about the entire arrangement. It was held that it would not be proper for the court to accept one version as correct and reject the other version as incorrect.

The Hon'ble Court held that a *prima facie* reading of the clauses of the Agreement indicated that the payment structure was not lined merely with the lapse of time, but with fulfilment of certain obligations. It was held that whether the obligations were fulfilled by the Petitioner or whether the Respondents were placing undue reliance upon such clause to avoid payment were questions requiring detailed scrutiny which was not possible at the stage of proceedings under Section 9 of the Arbitration Act. The Hon'ble Court ruled that at the stage of Section 9 the court is not expected to determine whether every objection raised by the Respondent is correct and whether the Petitioner will establish that the objections were merely a device to postpone payments. It was held that all the aforestated matters fell within the scope of arbitral adjudication and were not required to be decided at the interim stage.

The Hon'ble Court held that at the interim stage, the Court does not possess material to conclusively decide which side is correct and granting a broad injunction restraining exploitation of content would amount to deciding disputed issues before they are examined in accordance with the law. Upon an overall assessment of the material available, the Hon'ble Court was unable to find any admission of liability by the Respondents which would justify directing the deposit of the amount claimed by the Petitioner.

Thus, the Hon'ble Court dismissed the petition and directed the parties to pursue their remedies before the arbitral tribunal.

6. POST-AWARD INTERIM RELIEF CAN BE GRANTED IN EXCEPTIONAL CIRCUMSTANCES; HOWEVER, COURT CANNOT CONSIDER SUBMISSIONS ON MERITS WHICH CAN BE GRANTED ONLY UNDER SECTION 34: BOMBAY HIGH COURT [JUNE 16, 2026]

Introduction:

In the case of **Oil and Natural Gas Corporation Limited v. Swiber Offshore Construction Pte. Limited [6]**, the Hon'ble Bombay High Court ("**Hon'ble Court**") held that while an unsuccessful party could seek continuation of interim relief under Section 9 of the Arbitration Act, the same could not be granted merely because a petition under Section 34 is filed. It ruled that the applicant must demonstrate existence of exceptional circumstances which are capable of justifying departure from the normal rule.

Facts:

Oil and Natural Gas Corporation Limited ("**Petitioner**") entered into a contract with Swiber Offshore Construction Pte. Limited ("**Respondent**") for a project to be completed within a specified time. As per the contract, if there was a delay or if the Respondent failed to perform its obligations under the contract, the Petitioner would be entitled to recover liquidated damages at the prescribed rate for every week of delay, subject to a maximum limit of 10% of the total contract value. The Respondent sought four extensions. A bank guarantee was furnished on behalf of the Respondent which was replaced and continued and the Petitioner reserved its right to levy liquidated damages.

Eventually, the project was completed and the Petitioner issued a completion certificate. Subsequently, disputes arose between the parties in relation to the contract and the claims arising therefrom. The Respondent invoked the arbitration clause and the Respondent furnished a fresh bank guarantee as a security towards liquidated

[6]2026:BHC-OS:13025

damages. During the pendency of the arbitration, the Petitioner invoked the bank guarantee. Dissatisfied with the invocation the Respondent approached the court by filing proceedings under Section 9 of the Arbitration Act and sought restraint against encashment of the bank guarantee. These proceedings were disposed of based on consent terms.

Thereafter, the Singapore High Court placed the Respondent under judicial management and appointed judicial managers to manage the affairs of the Respondent. Eventually the Petitioner lodged its claims before the Respondent's Judicial Manager. The Petitioner was informed that its claims were admitted to a certain extent and the remaining part had been marked and kept aside for consideration and adjudication at a later stage. The Singapore High Court passed an order directing the winding up of the Respondent and placed the company into liquidation. In the meantime, the arbitral proceedings continued and during the pendency of the arbitration, the Respondent extended the validity of the bank guarantee. The arbitral tribunal delivered its award and held that the Petitioner was not entitled to receive the liquidated damages and consequently directed the return of the bank guarantee to the Respondent. The tribunal partly allowed certain claims made by the Respondent and certain counter claims made by the Petitioner. After adjustment of the amounts the tribunal directed the Petitioner to pay a certain amount to the Respondent along with interest thereon till payment.

Aggrieved by certain findings and directions, the Petitioner filed a petition under Section 34 of the Arbitration Act seeking partial setting aside of the award and also an application under Section 36(3) of the Arbitration Act inter alia seeking stay of operation execution and enforcement of the award. Both parties agreed that the petition under Section 34 could itself be taken up for final hearing based on an assurance made by the Respondent that no steps for enforcement of the award till the challenge to the proceedings were heard and decided. Since the expiry date of the bank guarantee was approaching and the proceedings challenging the award were still pending the Petitioner filed the present proceedings under Section 9 seeking various interim reliefs, including continuation and extension of the bank guarantee till the challenge proceedings were decided.

<u>Issues</u>:

1.What is the scope of post award interim protection sought by an unsuccessful party under Section 9 of the Arbitration Act;

2.Whether the Petitioner possesses a legally enforceable right to insist that a bank guarantee should continue beyond the period agreed between the parties.

<u>Held</u>:

The Hon'ble Court noted that the principles applicable to a post-award petition stand on a different footing. The Hon'ble Court noted the decision of the Hon'ble Supreme Court in the case of *Home Care Retail Marts (P) Ltd. v. Haresh N. Sanghavi, MANU/SC/0404/2026* which clarified that even a party which has not succeeded before the arbitrator is not barred from invoking Section 9 after the award. It was further noted that the Hon'ble Supreme Court made it very clear that such power cannot be exercised in a routine manner and in cases where the applicant is faced with an adverse order, the threshold for obtaining interim relief becomes much higher. The Hon'ble Court opined that the reason for this approach was that once an award is delivered, the findings recorded by the tribunal continue to operate unless they are set aside, therefore, an unsuccessful party cannot point out that a petition under Section 34 is filed and continue to seek interim protection. The Hon'ble Court was of the view that if this principle was accepted, every unsuccessful party would become entitled to interim protection because it challenged the award. It was noted that apart from prima facie case, balance of convenience and likelihood of irreparable injury, the applicant must demonstrate the existence of exceptional circumstances capable of justifying departure from the normal rule. The Hon'ble High Court noted that the real question was whether the circumstances were so extraordinary that refusal of interim protection would result in a situation which could not be later corrected even if the challenge succeeded.

The Hon'ble High Court noted the Petitioner's submissions on the merits of the matter as well as on the financial condition of the Respondent. It was observed that the submissions made by the Petitioner could not be said to be without merit. The Hon'ble Court took note of the Respondent's submissions that the Petitioner failed to disclose the consent terms between the parties whereby the parties agreed that the bank guarantee would remain alive only for a period of 120 days after the award was issued which had expired. The Respondent's submission that the Petitioner was seeking enlargement of its rights beyond the period agreed under the Consent Terms was noted.

The Hon'ble Court opined that fairness required that the court should have been informed about the existence of the arrangement between the parties and that the court exercises discretionary powers on the basis of both legal rights as well as on the point of fairness. Thus, the Hon'ble Court ruled that the Petitioner's omission went against them. Regarding urgency of grant of relief, the Hon'ble Court stated that it is a settled principle that equitable relief is granted in favour of a vigilant litigant. It was observed that the record before the Hon'ble Court did not indicate any immediate effort by the Petitioner in obtaining urgent orders concerning continuation of the bank guarantee for a considerable period.

The Hon'ble Court further observed that the fact of liquidation might strengthen the Petitioner's apprehension regarding recoverability, however, apprehension alone cannot create a legal right. The Hon'ble High Court held that the fact of liquidation, standing alone, is insufficient to elevate the present matter to the category of compelling circumstances contemplated by the Hon'ble Supreme Court in the case of *Home Care Retail Marts*. It was ruled that the merits of the challenge also did not provide the Petitioner with necessary assistance for obtaining relief under Section 9. The Hon'ble Court held that the submissions on merits could be argued in the Section 34 proceedings since this court was not sitting as an appellate authority over the award. It was ruled that the challenge raised arguable issues which would require to be examined in Section 34 proceedings. It was noted that the judgment in the case of *Home Care Retail Marts* requires the existence of circumstances which were truly exceptional. Tested on that standard, it was held that the Petitioner did not reach the level necessary for grant of extraordinary protection.

Thus, the Hon'ble Court examined the facts of the present matter in light of the requirements for grant of interim relief under Section 9, namely, existence of a prima facie case, balance of convenience irreparable injury as well as the principles laid down in the case of *Home Care Retail Marts* ruled that the Petitioner failed to establish entitlement to the exceptional interim protection sought in the present proceedings. Therefore, the petition was dismissed.

7.ARBITRATION CLAUSE IN ANOTHER DOCUMENT GETS INCORPORATED INTO A CONTRACT BY REFERENCE ONLY IF THE CONTRACT CONTAINS A CLEAR REFERENCE TO THE DOCUMENT WITH THE ARBITRATION CLAUSE AND IT INDICATES PARTIES INTENTION TO ARBITRATE: BOMBAY HIGH COURT [JUNE 17, 2026]

Introduction:

The Hon'ble Bombay High Court ("**Hon'ble Court**") in the case of **Apurvakriti Infrastructure Private Limited v. Tata Projects Limited & Anr. [7]** held that an arbitration clause in another document would get incorporated into the contract by reference, only if the contract contains a clear reference to the document containing the arbitration clause and such reference clearly indicates the intention to incorporate the arbitration clause into the contract.

Facts:

Tata Projects Limited ("**Respondent No. 1**") issued a Work Order to Apurvakriti Infrastructure Private Limited ("**Applicant**") for construction work ("**Work Order**"). CIDCO ("**Respondent No. 2**") entrusted the work to Respondent No. 1 and the Applicant, being a sub-contractor of Respondent No. 1, undertook the work. Certain disputes arose between the Applicant and Respondent No. 1 regarding payments of outstanding amounts and the Applicant issued a Demand Letter to Respondent No. 1.

Since the outstanding amounts were not paid, the Applicant issued a notice under Section 21 of the Arbitration Act invoking Clause 31.3 of the Special Conditions of Contract ("**SCC**") executed between Respondent Nos. 1 and 2 contending that the said clause of the SCC was applicable to the agreement between the parties. Respondent No. 1 replied to the said notice stating that amicable settlement talks were going on between the parties. Thereafter, another notice invoking the arbitration clause was issued and the same was not responded to, therefore, the Applicant approached the Hon'ble High Court under Section 11 of the Arbitration Act.

The Applicant contended that the SCC has been incorporated by reference into the Work Order and by virtue of such incorporation, the arbitration clause as provided in the SCC executed between Respondent No. 1 and Respondent No. 2 would apply to the contract between the Applicant and the Respondent No. 1. However, the Respondent No. 1 argued that the Applicant is not party to the SCC and the arbitration clause would not apply to the work order as there was no incorporation of the arbitration clause from the SCC. Therefore, the dispute between the parties could not be referred to arbitration.

Issue:

Whether an arbitration clause contained in another document stands incorporated in the contract between the parties.

Held:

The Hon'ble Court observed that the entire Work Order did not have an independent arbitration clause. The Hon'ble Court reviewed the provisions of the arbitration clause in the SCC. The Hon'ble Court examined the judgment in the case of *M. R. Engineers And Contractors Private Limited v. Som Datt Builders Limited (2009) 7 SCC 696* and case of *Hirani Developers v. Nehru Nagar Samruddhi CHS Ltd. & Anr. (2026) SCC Online SC 854* wherein the Hon'ble Supreme Court held that an arbitration clause in another document would get incorporated into the contract by reference, if the contract contains a clear reference to the document containing the arbitration clause and such reference to the other document clearly indicates the intention to incorporate the arbitration clause into the contract. It was also noted that the Hon'ble Supreme Court clarified that a general reference to another contract would not have the effect of incorporating the arbitration clause from the referred document into the contract between the parties.

The Hon'ble Court further noted that in the case of *NBCC (India) Limited v. Zillion Infra Projects Private Limited (2024) 7 SCC 174,* the Hon'ble Supreme Court

[7]2026:BHC-OS:13298

observed that Section 7(5) of the Arbitration Act provides for a conscious acceptance of the arbitration clause from another document by the parties. The Hon'ble Court perused several other judgments and noted that there has to be a specific incorporation of the arbitration clause where the parties refer to another document and seek to apply the same to a later contract.

The Hon'ble Court noted that Work Order indicated that all the technical specifications, annexures and other terms and conditions of the SCC executed between Respondent No. 1 and Respondent No. 2 were incorporated in the Work Order. However, there was no specific clause incorporating the arbitration clause of the SCC in the Work Order. The Applicant's submission that the issue regarding the applicability of the SCC to be left to the arbitrator to be decided under Section 16 was rejected considering the aforementioned judgments.

Accordingly, the application was dismissed.

8.DEVELOPER CAN SEEK RELIEF UNDER SECTION 9 AGAINST NON-SIGNATORIES TO THE DEVELOPMENT AGREEEMENT, BUT, THE SAME MUST BE CONSONANT WITH STAGES PROVIDED UNDER AGREEMENT: BOMBAY HIGH COURT [JUNE 18, 2026]

Introduction:

In the case of **Wadhwa Estates and Developers (India) Pvt. Ltd. v. Moon Craft Apartments Cooperative Housing Society Ltd. & Ors** **[8]**, the Hon'ble Bombay High Court ("**Hon'ble Court**") held that a developer can seek relief under Section 9 against dissenting members of a cooperative housing society even if they are not signatories to the agreement. However, it was ruled that the Court is required to review the development agreement and can grant relief only as per the stages prescribed by the agreement between the parties.

Facts:

Wadhwa Estates and Developers (India) Pvt. Ltd., the ("**Petitioner**") was appointed as the developer for redevelopment of Moon Craft Apartments Cooperative Housing Society Ltd. ("**Respondent No. 1**"). A Development Agreement was executed between the Petitioner and Respondent No. 1. The Development Agreement provided a stage wise mechanism for redevelopment which required the Petitioner to first obtain the MDP IOD. After obtaining the MDP IOD, the members of Respondent No. 1 were required to execute Consenting Member Declarations. The obligation to vacate the flats was to arise only after the Petitioner obtained the Full IOD and issued a notice of forty-five days for the same.

The Petitioner obtained the MDP IOD and informed the Respondent No. 1 accordingly. While majority of Respondent No. 1's members executed the requisite Consenting Member Declarations, Respondent Nos. 2 to 11 refused to comply.

[8]2026:BHC-OS:13408

The Petitioner and Respondent No. 1 thereafter called upon Respondent Nos. 2 to 11 to vacate their respective flats however, the Respondent Nos. 2 to 11 failed to adhere to the requests. The Petitioner approached the Hon'ble Court under Section 9 of the Arbitration Act seeking directions against Respondent Nos. 2 to 11 to execute the Consenting Member Declarations and hand over possession of their respective flats after receipt of the Full IOD. The Petitioner also prayed that the Respondent Nos. 2 to 11 be restrained from creating third-party rights in respect of their flats.

Issues:

1.Whether interim relief under Section 9 of the Arbitration Act can be granted against members of a co-operative housing society who were not signatories to the redevelopment agreement;

2.Whether the Hon'ble Court could direct the Respondent Nos. 2 to 11 to execute the Consenting Member Declarations;

3.Whether the Hon'ble Court could direct the Respondent Nos. 2 to 11 to hand over possession of their flats before the contractual conditions governing possession had been fulfilled.

Held:

The Hon'ble Court first considered the character of a co-operative housing society and noted that it occupies a distinct position in law. The Hon'ble Court noted that matters affecting the society must be decided collectively and that it is for this reason that the General Body of a co-operative society has been recognized as the supreme authority in matters concerning the affairs of the society. It was noted that the decisions concerning redevelopment and matters affecting the property of the society are taken through resolutions of the General Body. The Hon'ble Court noted that redevelopment affects all the members and the land on which the building stands. It was therefore noted that redevelopment cannot proceed on the basis of consent of every individual member in every case and that collective decisions must govern such matters.

The Hon'ble Court reviewed the decisions of the Hon'ble Supreme Court in the case of *Daman Singh v. State of Punjab (1985) 2 SCC 670* wherein it was ruled the society was an entity distinct from its members and that when an individual becomes a member, he loses his individuality. Therefore, a member cannot disregard a decision because he does not agree with it. The judgment of *Daman Singh* held that collective decision making prevails over individual dissent. In view of the ratio laid down in *Daman Singh* the Hon'ble Court ruled that where a member derives his rights through the society, occupies the premises because of membership, seeks benefits arising from redevelopment and raises disputes connected with redevelopment, the court may consider grant of appropriate interim protection under Section 9 and the enquiry does not end merely because the member has not signed the development agreement. It was held that the court must examine the nature of the relationship between the member, the society, the redevelopment project and the rights, benefits and obligations claimed by him thereunder. The Hon'ble Court held that if the relationship indicates that the member's position is rooted in the redevelopment arrangement, the absence of an individual's signature may not conclude the issue while considering grant of interim measures under Section 9.

The Hon'ble Court also perused the decisions in the case of *Girish Mulchand Mehta & Another vs. Mahesh S. Mehta & Another 2010 (2) Mah.L.J. 637* and *Pranav Constructions Limited vs. Priyadarshini Cooperative Housing Society Limited Arbitration Appeal (L) No. 20093 of 2025* wherein it was held that individual members cannot place themselves outside the decisions taken by the society. Accordingly, it was ruled that decisions taken through lawful procedures bind all the members. The Hon'ble Court opined that if every member were allowed to disregard redevelopment decisions merely because he had not signed the development agreement, redevelopment projects would become impossible.

The Hon'ble Court further held that the court is required to review the development agreement. The Hon'ble Court noted that in the case at hand, the parties agreed to a redevelopment process in different stages and have not intended that every obligation should become enforceable at the same time. It was noted that the stage for furnishing the Consenting Member Declarations had arisen and therefore, the Hon'ble Court was of the view that the Respondent Nos. 2 to 11 could not keep the redevelopment process in a condition of uncertainty by withholding the aforestated declarations.

Since the Development Agreement contemplated that possession would be handed over only after receipt of Full IOD and the stipulated notice had been issued, the Hon'ble Court declined the relief of granting possession to the Petitioner. It was ruled that since the contractual stage requiring delivery of possession had not arrived, the members could not be called upon to vacate their flats.
In view of the above findings and holdings, the petition under Section 9 of the Arbitration Act was only partly allowed.

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FIRM HIGHLIGHTS

ANM Global is pleased to have represented KVN Thespian Films LLP, successfully advising on the transactions, including drafting, negotiation and execution of the agreements for the production and exploitation/distribution of the film.

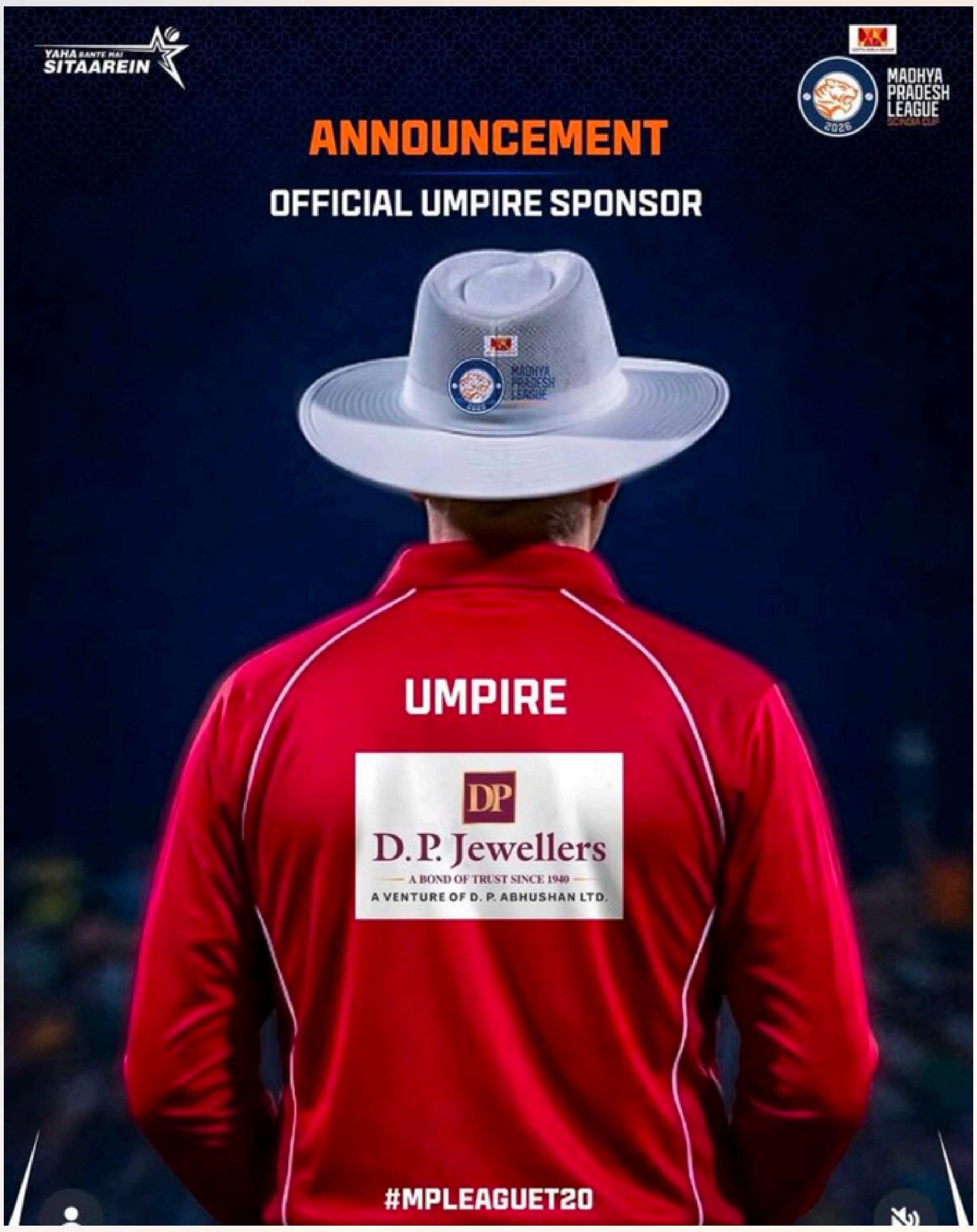
ANM Global is pleased to have represented Clout (a division of Pocket Aces Pictures Private Limited), acting for its exclusive talent Mr. Viraj Ghelani in negotiating and finalizing the Lead Artist agreement for the project.

ANM Global is pleased to have represented Applause Entertainment, successfully advising on the transaction, including drafting, negotiation and execution of the agreements for the production and exploitation/distribution of the film.

FIRM HIGHLIGHTS

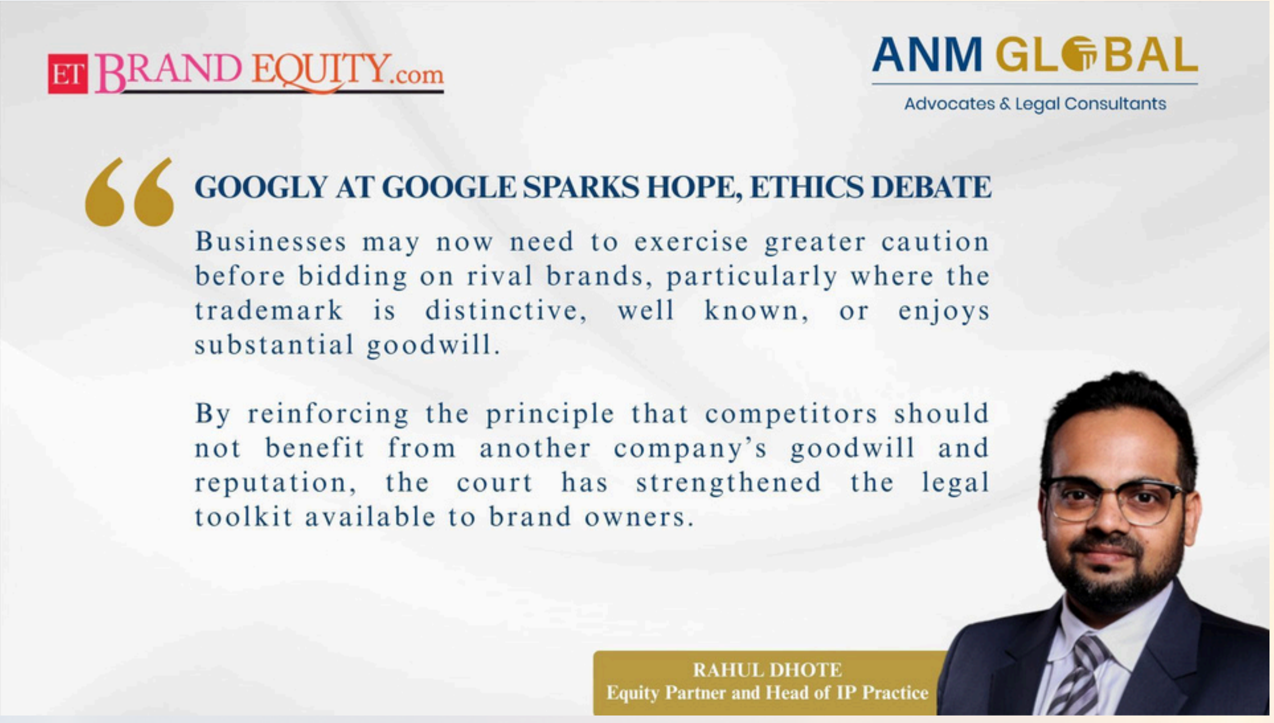
ANM Global is pleased to have represented Balaji Telefilms Ltd. in successfully advising on the production and release of the series Lock Upp, including drafting, negotiating, and finalising the agreements with the platform, hosts, and participants.

ANM Global advised and represented DP Jewellers (DP Abhushan Limited) in negotiating and finalising its engagement as an Official Sponsor and the Exclusive Umpire Sponsor for the Madhya Pradesh League for the Scindia Cup.

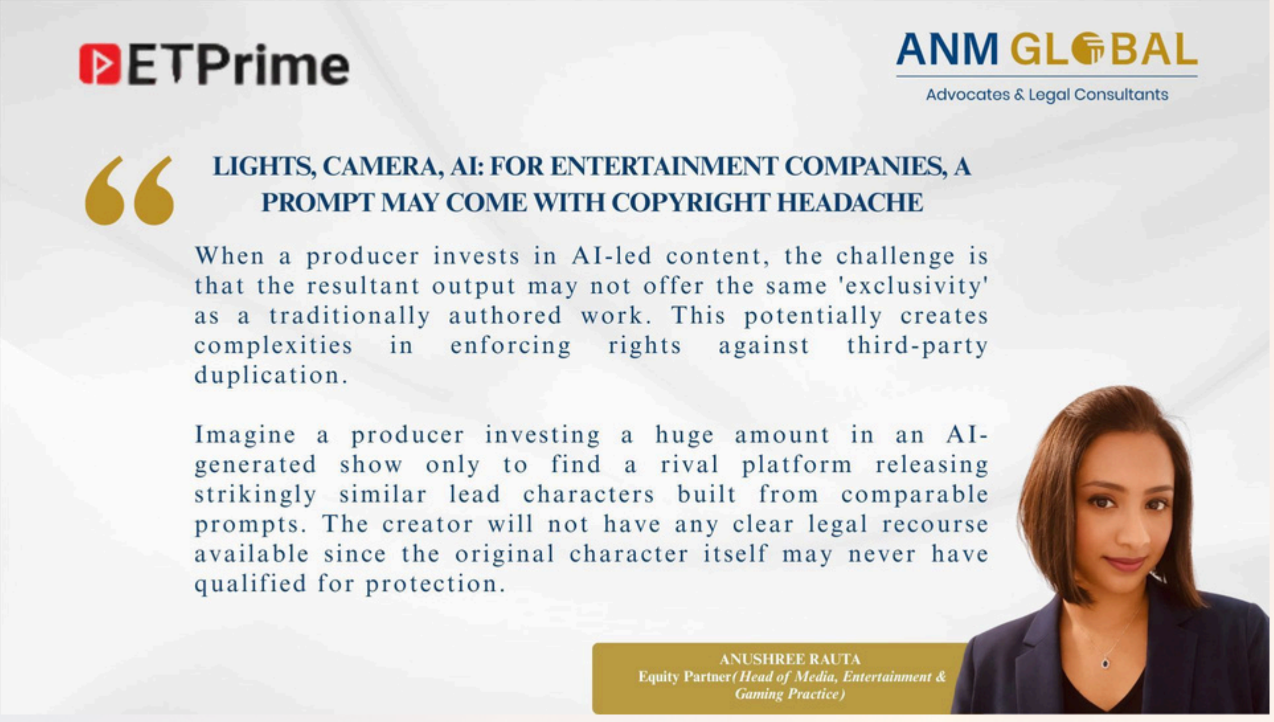


FIRM HIGHLIGHTS

We are pleased to share that our Equity Partner (Head – Media, Entertainment & Gaming Practice), Anushree Rauta, has been quoted in ET Prime in the article “Exit Ranveer, Enter a Clearer Picture for Artist Exit.”



In an article published by ET BrandEquity (The Economic Times), Rahul Dhote, Equity Partner and Head of Intellectual Property at ANM Global, examines the implications of the decision for brand owners and advertisers, including the heightened legal risks associated with bidding on competitor trademarks and the Court’s approach to protecting brand goodwill in the digital marketplace.



Anushree Rauta, Equity Partner and Head of the Media, Entertainment & Gaming Practice, has been quoted in ET Prime in its article, Lights, Camera, AI: For Entertainment Companies, a Prompt May Come with Copyright Headache.

FIRM HIGHLIGHTS

We are proud to share that ANM Global has been recognised in the latest IP STARS (Managing IP's rankings publication) as a Notable Firm under Copyright and Related Laws.

We are equally delighted to announce that our Equity Partner and Head of IP Practice, Rahul Dhote has been recognised as a Trademark Star.

ANM Global has been recognised as one of the winners of the India Business Law Journal (IBLJ) Law Firm Awards 2026 for its work in Media & Entertainment.

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