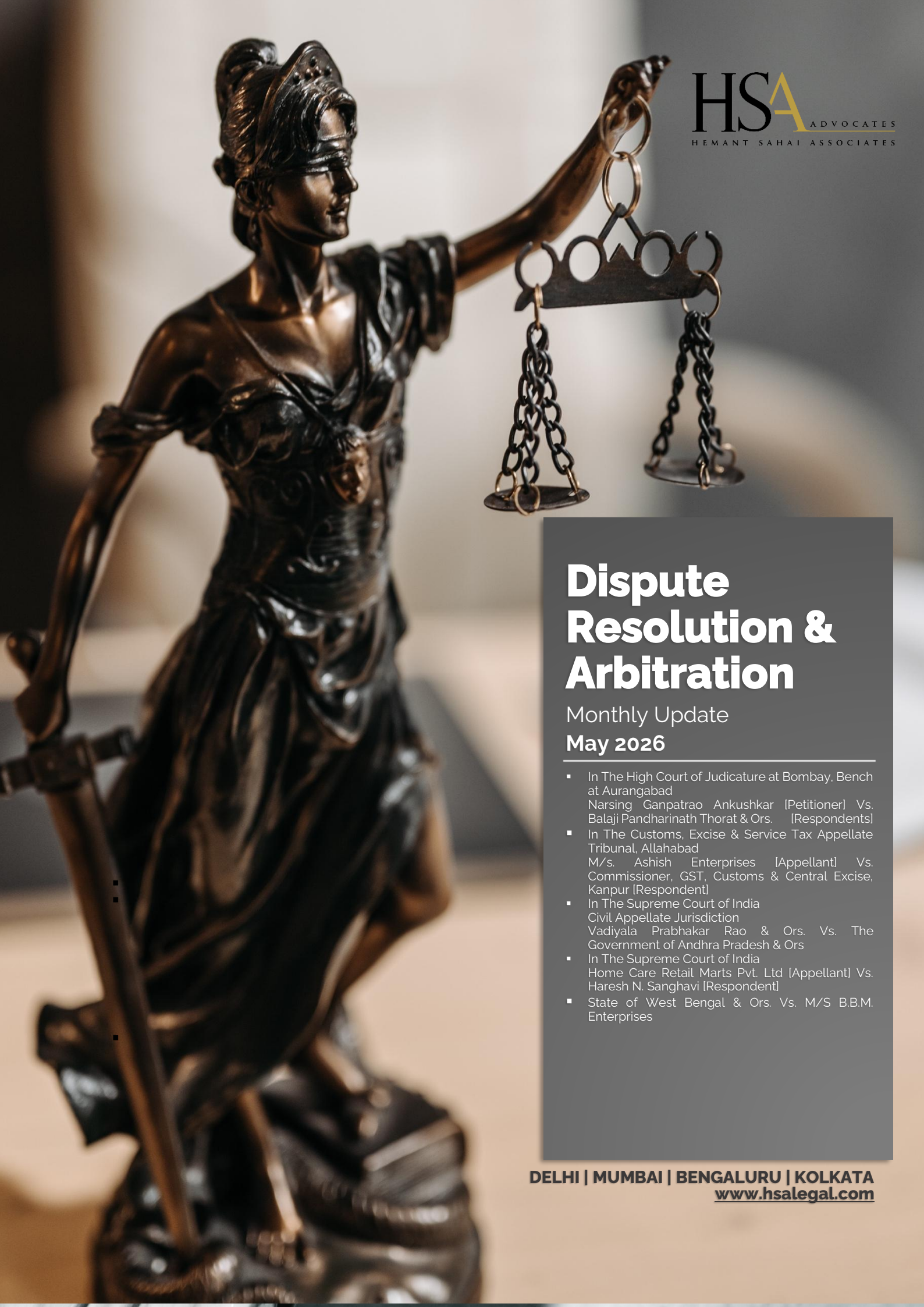

HSA ADVOCATES
HEMANT SAHAI ASSOCIATES

Dispute Resolution & Arbitration

Monthly Update

May 2026

- In The High Court of Judicature at Bombay, Bench at Aurangabad
  Narsing Ganpatrao Ankushkar [Petitioner] Vs. Balaji Pandharinath Thorat & Ors. [Respondents]
- In The Customs, Excise & Service Tax Appellate Tribunal, Allahabad
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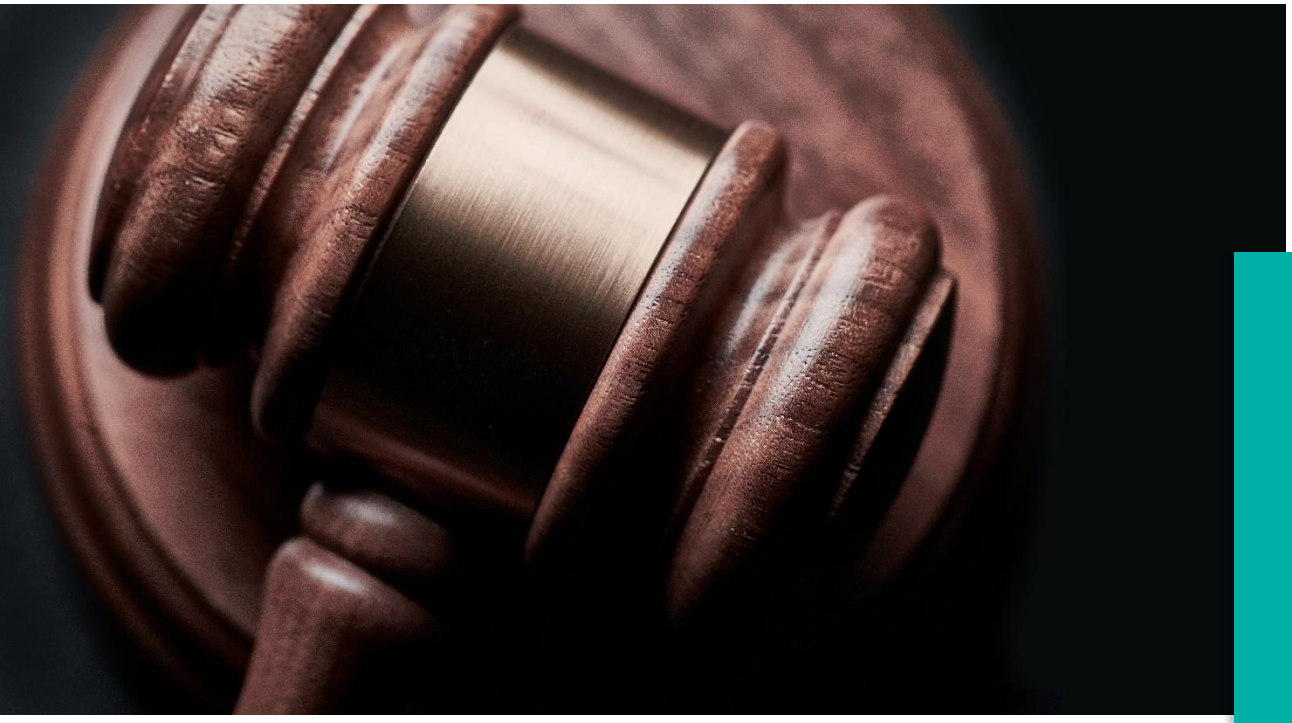
DISPUTE RESOLUTION AND ARBITRATION UPDATE



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In The High Court of Judicature at Bombay, Bench at Aurangabad Narsing Ganpatrao Ankushkar [Petitioner] Vs. Balaji Pandharinath Thorat & Ors. [Respondents]

Writ Petition No. 4075 of 2015 (Decided on 08.04.2026)

Background facts

- The present Writ Petition was filed challenging the order dated 15.01.2015 passed by the State Information Commission, Aurangabad, whereby the Information Officer was directed to disclose the service record of the Petitioner.
- The Petitioner, a public servant serving as Deputy Superintendent of Police, contended that Respondent No.1 had sought information relating to his service record under the provisions of the Right to Information Act, 2005 ("RTI Act").
- The application for disclosure was initially rejected by the Information Officer, and the rejection was upheld by the First Appellate Authority.
- Aggrieved, Respondent No.1 preferred a Second Appeal before the State Information Commission, which allowed the appeal and directed disclosure of the Petitioner's service records.
- The Petitioner challenged the said order on the grounds that: the information sought constituted "personal information" exempt under Section 8(1)(j) of the RTI Act; and no opportunity of hearing was granted to the Petitioner as a "third party" as mandated under Section 11 of the RTI Act.
- Respondent No.1 contended that the information was necessary to verify the genuineness of the Petitioner's caste validity certificate and that disclosure was warranted in larger public interest.

Issue(s) at hand?

- Whether service records of a public servant constitute "personal information" exempt from disclosure under Section 8(1)(j) of the RTI Act?
- Whether compliance with Section 11 of the RTI Act (third-party hearing) is mandatory prior to disclosure of such information?

- Whether disclosure of personal information can be directed without recording satisfaction regarding "larger public interest"?

Findings of the Court

- The Hon'ble Court held that **service records of an employee constitute "personal information"** within the meaning of Section 8(1)(j) of the RTI Act and are ordinarily exempt from disclosure.
- It was observed that disclosure of such personal information can only be justified if the authority records satisfaction that larger public interest outweighs the right to privacy.
- The Court relied on *Girish Ramchandra Deshpande v. CIC*[1] to reiterate that service-related details are private in nature and cannot be disclosed as a matter of right.
- The Court further emphasized that compliance with Section 11 is mandatory where third-party information is sought to be disclosed.
- It was held that failure to issue notice to the affected third party; and provide an opportunity of hearing vitiates the entire decision-making process.
- The Court also relied on *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*[2] to reiterate that third-party consultation is a statutory safeguard and not a mere formality.
- It was further held that the Second Appellate Authority failed to: consider the exemption under Section 8(1)(j); and record any finding regarding existence of larger public interest.
- Consequently, the impugned order was held to be contrary to statutory provisions and legally unsustainable.
- The Writ Petition was accordingly allowed and the impugned order directing disclosure was set asides.

HSA
Viewpoint

This judgment reinforces the delicate balance between **transparency under the RTI regime and the right to privacy of the individuals in question**, particularly public servants.

The ruling underscores that **service records, disciplinary history, and employment-related details fall squarely within the ambit of "personal information"** and cannot be disclosed in a routine manner merely because the individual holds public office.

Importantly, the Court has reiterated that **Section 11 of the RTI Act is not procedural but substantive in nature**, mandating strict compliance before disclosure of third-party information. Any failure to provide notice and hearing renders the decision vulnerable to challenge.

The decision also clarifies that **"larger public interest" cannot be presumed or inferred casually**—it must be specifically recorded and justified by the authority. Mere allegations or suspicion (such as questioning caste validity) do not automatically override privacy protections.

a practical standpoint, this ruling serves as a caution to Information Officers and Appellate Authorities to:

- strictly adhere to statutory safeguards, like notifying and hearing the third party (employee);
- undertake a reasoned analysis of public interest; and
- avoid mechanical directions for disclosure.

The judgment thus strengthens procedural discipline under the RTI framework while safeguarding individual privacy rights against unwarranted intrusion.

[1] (2013) 1 SCC 212
[2] (2020) 5 SCC 48

In The Customs, Excise & Service Tax Appellate Tribunal, Allahabad

M/s. Ashish Enterprises [Appellant] Vs. Commissioner, GST, Customs & Central Excise, Kanpur [Respondent]

Service Tax Appeal No.70204 of 2021

Background facts

- Appellant is engaged in providing construction services *inter alia* in respect of Commercial or Industrial Building and Civil Structure to Government Organizations and also to few private parties. They are registered under 'Works Contract Services', 'Erection, Commissioning Installation Services' and other taxable services.
- Revenue called for documents and attested copies of the ST-3 Return for FY 2010-11 and 2011-12. On perusal of documents and conclusion of an inquiry they opined that the Appellant had suppressed the material facts with intent to evade payment of duties and have evaded Service Tax amounting to Rs.4,74,66,698/- during the period from 01.04.2009 to 31.03.2014.
- Accordingly, a Show Cause Notice dated 21.10.2014 was issued to the Appellant claiming the above dues with interest and penalty.
- Vide order dated 03.01.2017 issued by the Respondent ("**First Order**"), it was directed that Appellant was liable for service tax of Rs. 4,27,31,692.
- The First Order was appealed by the Appellant and the same was allowed by the Ld. Tribunal vide order dated 23.04.2019 ("**Remand Order**") and the matter was remanded back to Respondent for reconsideration particularly on issues of abatement, limitation and in light of the judgment of M/s. Nitesh Estates Ltd. v/s. Commissioner of Central Excise, Service Tax & Customs, Bangalore.
- Vide order dated 29.01.2021 issued by the Respondent ("**Impugned Order**"), partial abatement benefit was allowed and it was held that Appellant was liable for service tax of Rs. 1,67,83,479.
- Aggrieved by the Second Order, the subject appeal was filed by the Appellant.

Issue(s) at hand?

- Whether or not the services provided by the Appellant were in relation to residential plots fulfilling the criteria under the judgment of M/s. Nitesh Estates Ltd. v/s. Commissioner of Central Excise, Service Tax & Customs, Bangalore?

Findings of the Court

- Construction of 'Residential Complex Services' is taxable under section 65(100)(zzz-h) of Finance Act 1994 with effect from 16.06.2005. By virtue of Section 65 (91-a) of Finance Act, the definition of residential complexes does not comprise of residential complexes constructed for personal use.
- In M/s. Nitesh Estates Ltd. v/s. Commissioner of Central Excise, Service Tax & Customs, Bangalore[1] it has thus been categorically held that if a residential complex is to be used for personal use and not commercial or industrial use, the construction services provided for the same is not subject to levy of service tax. The important clarification given was that if the residential complex is constructed for a company which in turn utilises the said complex for accommodating or residential use by the employees of that organisation, such construction services also enjoy the same exemption and are not liable to service tax.
- The matter was remanded back to the Respondent for reconsideration *inter alia* considering the above judgment. The Impugned Order distinguished the facts of the present case with Nitesh Estates case by holding that in the said case the services were provided by a main/primary contractor whereas in the subject matter as the Appellant was a sub-contractor for some of the services they were liable. However, such distinction was deemed incorrect by the Ld. Tribunal. In respect of the services rendered by the Appellant, some of them were for residential colony not used for commerce or industry and accordingly they were not taxable whether or not they were provided as contractor or sub-contractor.
- Further, with respect to the issue of limitation it was observed that the Impugned Order was erroneous. The limitation for claiming service tax dues as per section 73 (1) of Finance Act, 1991 is 30 months but in certain cases such as fraud or collusion, the same may be extended to 5 years. In the present case it was observed that, the Revenue had also failed to show that the Appellant had intentionally supressed any facts. The Appellant had in fact recorded all the transactions in its books and if the service tax was not paid by them, the same was due to their *bona fide* opinion

[1] 2015 (40) STR 815 (Tribunal – Bangalore)

that they were not responsible to pay the same. Further, the case law of Quest Engineers & Consultants Pvt. Ltd. v/s Commissioner CGST[2] makes it clear that extended limitation cannot be claimed for service tax dues where the show cause notice or proceedings have been initiated on the basis of balance sheet or Form 26AS. Therefore, as no case of extended limitation was made out the Revenue was not entitled to claim the dues beyond limitation.

HSA
Viewpoint

The judgment clarifies that arbitration can arise only from a valid agreement between the parties, and that jurisdiction of the Arbitrator to decide on the dispute cannot be created merely through conduct, participation, or unilateral State action. It further removes any ambiguity by holding that mere participation in arbitration does not amount to consent to arbitrate.

Accordingly, doctrines such as estoppel or waiver cannot be invoked to cure the absence of a valid arbitration agreement.

The judgment further clarifies that the State has no authority to impose arbitration on a concluded contract under the guise of statutory or regulatory powers. Such an attempt amounts to a jurisdictional overreach.

The judgment reaffirms that an award passed by an Arbitrator without jurisdiction is void ab initio (non est). It has no legal effect, creates no rights, and can be challenged at any time.

Overall, the judgment reinforces that arbitral jurisdiction must strictly arise from agreement and cannot be imposed or assumed.

[2] Service Tax Appeal No. 70616 of 2019

In The Supreme Court of India
Civil Appellate Jurisdiction
Vadiyala Prabhakar Rao & Ors. Vs. The Government of Andhra Pradesh & Ors.

2026 SCC Online SC 815

Background facts

- In the present case, the dispute arose from land situated in Survey No. 81 of Kalvalanagaram Village, located in the State of Telangana. The land originally belonged to the Nizam of Hyderabad, and pattas were granted in favour of the Appellants and their predecessors, after a proposal was made to notify about 787 acres in Survey No. 81 as forest land (**"Subject Land"**). Thereafter, the land was mutated in the names of predecessors and later on in favour of the Appellants.
- Subsequently, a Gazette Notification dated 06.02.1950 was issued under Section 7(1) of the Hyderabad Forest Act, 1326, whereby an extent of 787 acres in Survey No. 81 of Kalvalanagram village was declared as a reserved forest. The Appellants claimed that the inclusion of their alleged patta lands within the forest block was illegal. Therefore, the Petitioner filed an application before the Joint Collector, Khammam, seeking exclusion of nearly 600 acres of land situated in Survey No. 81 of Kalvalanagram village, Khammam District. The Appellants also relied upon an order dated 08.10.1984, whereby the Commissioner of Survey, Settlement and Land Records was directed to conduct an inquiry and submit a report. In the said report, it was acknowledged that no primary record relating to the Subject land was available. However, another report dated 07.01.1990 of Mandal Revenue Officer, Pinapaka, Mandal, Khammam District, despite the absence of such records, suggested that the patta lands in Survey No. 81 be excluded from the proposed forest land area and also observed that the Forest Settlement Officer had the power to consider and decide exclusion of such land accordingly. Nevertheless, the Joint Collector rejected the Appellants' claim in 2003 on the ground that they had failed to produce original title documents, namely the patta certificates, and that mere revenue entries could not establish ownership.
- The Single Judge of the Andhra Pradesh High Court subsequently allowed the Writ of Mandamus bearing WP No. 19107 of 2003, wherein the Appellants had prayed for (i)Issuance of Writ of Mandamus declaring the Joint Collector order dated. 19.05.2003 illegal, and (ii) Claims and rights of Appellants over the Subject land under sections 10 & 11, Hyderabad Forest Act, 1355F. The Single Judge of the High Court held that the forest reservation proceedings were ultra vires. However, the Division Bench reversed this decision, leading to the Appeal before the Supreme Court.
- The Appellants argued that their title was sufficiently established through long-standing revenue entries and supporting revenue documents. According to them, the names of their predecessors had consistently appeared in revenue records, thereby creating a presumption of ownership and possession.
- However, the State Government and Forest Department strongly opposed the Appellants' claim. Their principal argument was that revenue records by themselves do not create or confer title. The respondents emphasised that the Appellants had failed to produce the foundational document of title, namely the original patta.

Issue(s) at hand?

- The Supreme Court primarily considered the following issues:
  - Whether entries in revenue records such as Pahanies, Faisal Patti, Vasool Baqi, and mutation registers are sufficient to establish title over immovable property.
  - Whether the Appellants had successfully proved ownership over the disputed land despite the non-production of original patta documents.
  - Whether the matter ought to have been remanded for adjudication before a competent civil forum.

Decision of Court/Tribunal

- The Supreme Court delivered an important reiteration of the settled principle that revenue entries do not confer title. The Court carefully analysed earlier precedents and reaffirmed that mutation records, Pahanies, Jamabandi entries, and similar revenue documents are maintained only for fiscal and administrative purposes. Revenue entries may raise a limited presumption regarding possession, but they cannot replace substantive title documents. In the present case, the appellants' inability to produce the original pattas significantly weakened their claim.

- The Court also relied upon *Sohan Lal vs. Union of India*, citing that such property disputes are to be resolved by civil courts and are not under the purview of Article 226 of the Constitution of India. The Court further correctly observed that writ jurisdiction under Article 226 is not intended for adjudicating disputed questions of title involving complex factual controversies. The Single Judge had effectively granted a declaration of ownership while exercising limited judicial review powers, which exceeded the permissible scope of writ jurisdiction.

HSA
Viewpoint

In India, especially in rural and agricultural disputes, many people believe that mutation entries, Pahanies, or revenue receipts are equal to ownership documents. This judgment once again clarifies that they are not, and the procurement of documentary title evidence is inevitable.

From a practical perspective, the Court was justified in questioning the Appellants' case because the most important document i.e. the original patta, was never produced. The entire claim rested on secondary revenue entries and old fiscal records. Courts generally expect that if someone claims ownership over such a large extent of land, there must be at least some foundational title document supporting the claim. Without that, it becomes difficult to displace the State's long-standing claim that the land formed part of a forest area.

An another aspect is that revenue records can sometimes be manipulated, altered, or created without proper authority, especially over Government Lands.

At the same time, from a humanitarian and equitable perspective, one may still sympathise with the appellants to a certain extent. The dispute traces back to the Nizam era and involves records allegedly lost during historical events such as the 1948 police action. In older land matters, especially involving princely states, documentary gaps are not uncommon. The appellants may genuinely have believed that the continuous appearance of their names in revenue records reflected recognition of their rights.

The present judgment reinforces that the title to immovable property cannot merely be relied upon revenue paperwork; however, it must originate from a legally valid source such as a sale Deed or an inheritance document.

In The Supreme Court of India
Home Care Retail Marts Pvt. Ltd [Appellant] Vs. Haresh N. Sanghavi [Respondent]

2026 SCC OnLine SC 670

Background facts

- The present appeals arose from the Impugned Order passed by the Hon'ble Bombay High Court in SLP (C) No. 29972 of 2015, whereby the appeals filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as **"the Act"**) were dismissed. While dismissing the appeals, the Hon'ble Bombay High Court relied upon its earlier judgment in *Dirk India Pvt. Ltd. vs. Maharashtra State Electricity Generation Co. Ltd., 2013 SCC OnLine Bom 481*, wherein it was held that post-award interim relief under Section 9 of the Act is intended only to protect the "fruits of the arbitral award". The Hon'ble Court in the said judgment had further observed that proceedings under Section 34 of the Act only permit the Court to either set aside or uphold the arbitral award and not modify it. Accordingly, since an unsuccessful party has no "fruits of the award" to protect, such a party was held not entitled to seek interim relief under Section 9 of the Act.
- Prior to the present judgment, conflicting views existed among various High Courts on the issue of whether an unsuccessful party in arbitral proceedings could maintain a petition under Section 9 of the Act at the post-award stage. While the Hon'ble Bombay High Court in ***Dirk India Pvt. Ltd. vs. Maharashtra State Electricity Generation Co. Ltd., 2013 SCC OnLine Bom 481***, the Hon'ble Delhi High Court in ***Nussli Switzerland Ltd. vs. Organizing Committee Commonwealth Games, 2010, 2014 SCC OnLine Del 4834*** as well as ***National Highways Authority of India vs. Punjab National Bank and Anr., 2023 SCC OnLine Del 4810***, the Hon'ble Madras High Court in ***A. Chidambaram vs. S. Rajagopal and Ors., OA No. 843 of 2024*** and the Hon'ble Karnataka High Court in ***Smt. Padma Mahadev & Ors. vs. M/s. Sierra Constructions Private Limited, COMAP No. 2 of 2021, dated 22nd March 2021*** have held that a party unsuccessful in arbitral proceedings cannot maintain a petition under Section 9 of the Act.
- On the other hand, the Hon'ble Telangana High Court in ***M/s Saptarishi Hotels Pvt. Ltd & Anr. vs. National Institute of Tourism & Hospitality Management (NITHM), 2019 SCC OnLine TS 1765***, the Hon'ble Gujarat High Court in ***GAIL (India) Ltd. vs. Latin Rasayani Pvt. Ltd., 2014 SCC OnLine Guj 14836*** and the Hon'ble Punjab and Haryana High Court in ***M/s DLF Home Developers Ltd. vs. M/s Orris Infrastructure Pvt. Ltd. & Ors., FAO-CARB-51-2024 (O&M), dated 21 st February, 2025***), have taken a contrary view and held that even an unsuccessful party may, in appropriate circumstances, can maintain a petition under Section 9 of the Act.

Issue(s) at hand?

- The substantial question of law that arises for consideration is whether a petition under Section 9 of the Act at the post-award Stage, by an unsuccessful party that has lost in the arbitral proceedings and has no enforceable award in its favour, maintainable in law?

Findings of the Court

- The Hon'ble Supreme Court held that the expression "a party" under Section 9 of the Act must be interpreted in its plain and ordinary sense. Since Section 2(h) defines a party simply as a party to the arbitration agreement, the provision does not distinguish between a successful and an unsuccessful party in arbitration proceedings. The Court observed that by inferring such a restriction into Section 9 of the Act would amount to rewriting the statute, which is impermissible in law. Accordingly, the meaning of the expression "a party" cannot change depending upon the outcome of the arbitral proceedings.
- The Hon'ble Supreme Court further observed that Section 9 of the Act permits parties to seek interim protection before commencement of arbitration, during arbitral proceedings, and after the award until its enforcement under Section 36 of the Act. The provision nowhere restricts post-award interim relief only to successful parties. Therefore, any party to the arbitration agreement may seek protection under Section 9 of the Act until the judicial process reaches its conclusion.
- The Hon'ble Court also clarified that Sections 34 and 36 of the Act operate in a different sphere from Section 9. While Sections 34 and 36 of the Act deal with challenge and enforcement of arbitral awards, Section 9 of the Act concerns protection of the subject matter of the dispute. The Court observed that denying interim protection to an unsuccessful party may leave such a party without an effective remedy, particularly where the award is under challenge and may ultimately be set aside.
- The Hon'ble Supreme Court further held that the judgments in *Dirk India*, *Nussli Switzerland*, *Padma Mahadev* and *A. Chidambaram* did not lay down the correct law insofar as they restricted

Section 9 of the Act only to securing the "fruits of the award". Relying upon *Gayatri Balasamy v. ISG Novasoft Technologies Ltd., 2025 SCC OnLine SC 986* the Hon'ble Court observed that courts possess limited powers to modify or sever arbitral awards, and therefore the rights of parties may still change during proceedings under Sections 34 and 37 of the Act. The Hon'ble Court also held that the expressions "subject matter of arbitration" and "amount in dispute" used in Section 9 of the Act are wider than merely protecting the award-holder.

- The Hon'ble Supreme Court further observed that the interpretation of Section 9 of the Act must include unsuccessful parties in exceptional situations, such as cases involving fraud, lack of notice, or risk of irreparable prejudice pending challenge proceedings under Section 34. The Hon'ble Court recognised that immediate withdrawal of interim protection after an award may, in certain cases, defeat the purpose of challenge proceedings.
- At the same time, the Hon'ble Supreme Court clarified that interim relief under Section 9 of the Act would continue to depend upon established principles such as existence of a *prima facie* case, balance of convenience, and irreparable harm. However, the threshold for grant of interim relief would naturally be higher where such relief is sought by an unsuccessful party, and such relief should be granted only in rare and compelling circumstances.
- Accordingly, the Hon'ble Supreme Court held that an unsuccessful party in arbitration is also entitled to invoke Section 9 of the Act at the post-award stage, and the contrary views taken by various High Courts where unsuccessful parties in arbitration were denied the right to seek relief under Section 9 of the Act does not lay down the correct law.

HSA
Viewpoint

The judgment of the Hon'ble Supreme Court brings much-needed clarity to the law relating to post-award interim relief. By holding that an unsuccessful party can also seek relief under Section 9 of the Act, the Hon'ble Court has resolved the conflicting views taken by various High Courts, thereby settling the legal position on the issue.

The judgment is likely to have a significant practical impact on arbitration proceedings. Parties challenging arbitral awards under Section 34 of the Act can now seek interim protection to preserve the subject matter of the dispute, safeguard assets, or prevent irreparable prejudice during the pendency of challenge proceedings. Parties that were earlier limited to seeking a stay under Section 36 of the Act may now invoke Section 9 of the Act for broader interim protection. This ensures that parties are not left without any remedy merely because they were unsuccessful before the Arbitral Tribunal.

However, the Hon'ble Supreme Court has clarified that such relief should be granted only in rare and exceptional cases and subject to the settled principles governing interim relief.

State of West Bengal & Ors. Vs. M/S B.B.M. Enterprises

2026 INSC 358

Background facts

- The dispute arose out of a construction contract under which the Respondent contractor completed the entrusted works on July 30, 2000. Thereafter, a communication dated January 4, 2001, was issued concerning part payment to be made to the Respondent contractor. However, no final bill was prepared or determined, nor was any final measurement certificate issued by the Engineer-in-Charge in terms of the contractual framework.
- Following the aforesaid communication of 2001, the Respondent contractor took no further steps in relation to its alleged claims and remained inactive for approximately 21 years. It was only on June 2, 2022, that the Respondent contractor issued a notice invoking arbitration and seeking commencement of arbitral proceedings.
- Subsequently, proceedings were initiated before the High Court under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of an arbitrator. The High Court allowed the application, holding inter alia that Clause 7 of the agreement was ambiguous in nature and that the failure of the Engineer-in-Charge to determine the final payable amounts or issue the requisite measurement certificate had the effect of neutralizing the objection as to limitation.
- Aggrieved by the revival of a dispute after more than two decades, the State of West Bengal preferred an appeal before the Supreme Court challenging the order appointing the arbitrator.

Issue(s) at hand?

- Whether a notice for arbitration issued 21 years after the completion of work can validly initiate dispute resolution proceedings.
- Whether the failure of an authority to issue a final measurement certificate or determine final dues indefinitely extends the limitation period for a substantive claim.

Findings of the Court

- The Hon'ble Supreme Court set aside the order of the High Court, holding that the claims sought to be referred to arbitration were *ex facie* dead and hopelessly barred by limitation. The Hon'ble Court reiterated that although arbitration is a preferred mode of dispute resolution, it cannot operate in derogation of settled legal principles, particularly the principle that the law aids the vigilant and not those who sleep over their rights.
- Relying upon the decisions in *Vidya Drolia and Ors v. Durga Trading Corporation* and *BSNL and Anr. v. Nortel Networks India Private Limited*, the Hon'ble Court drew a distinction between the limitation applicable to filing a petition seeking reference to arbitration, which is procedural in nature, and the limitation governing the substantive contractual claims. While observing that the Referral Court is not expected to undertake a detailed evidentiary examination at the referral stage, the Hon'ble Court clarified that it is nevertheless duty-bound to decline reference where the claims are *ex facie* barred by limitation. In the facts of the present case, the contractor had remained inactive for nearly 21 years, rendering the claims "dead claims" incapable of being revived through arbitration proceedings.
- Placing reliance on *Arif Azim Company Limited v. Aptech Limited*, the Hon'ble Court further reiterated that courts must, at the threshold stage, *prima facie* scrutinize and reject non-arbitrable or stale claims so as to prevent parties from being subjected to prolonged and unnecessary arbitral proceedings. Applying Section 18 of the Limitation Act, 1963, which prescribes a limitation period of three years for recovery claims, the Hon'ble Court rejected the High Court's view that the Engineer's failure to act had the effect of extending limitation.
- The Supreme Court held that upon the Engineer's inaction, the Respondent contractor ought to have invoked arbitration within the prescribed period instead of remaining dormant for over two decades. The Supreme Court accordingly observed that the Respondent contractor had neither raised a final bill nor sought payment for an inordinate period of 21 years, thereby rendering the claims hopelessly time barred.
- In view of the foregoing findings, the Hon'ble Supreme Court concluded that the claims were *ex facie* dead and barred by limitation and, consequently, set aside the initiation of arbitration proceedings. The Supreme Court emphasized that judicial processes cannot be employed to resurrect claims that have long extinguished under the scheme of the Limitation Act, 1963.

HSA
Viewpoint

This judgment reaffirms the Supreme Court's settled position that while arbitration is a preferred mode of dispute resolution, it cannot be invoked to resurrect claims that are barred by limitation. The Court clarified that inaction or delay on the part of departmental authorities, including Engineers or certifying officials, does not indefinitely suspend or extend the limitation period, and parties are required to invoke their contractual remedies within the time prescribed under the Limitation Act, 1963. The decision further strengthens the role of courts at the Section 11 stage by affirming their duty to refuse reference to arbitration in cases involving manifestly "dead claims", thereby preventing parties from being subjected to unnecessary and protracted arbitral proceedings.

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