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February 2025

SECTOR WISE LEGAL UPDATES & JUDGEMENTS

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ARBITRATION LAW

I. **Case Title: AC Chokshi Share Broker (P) Ltd. v. Jatin Pratap Desai**

Citation: 2025 SCC OnLine SC 281

Court: Supreme Court of India

Decided on: 10 February 2025

Brief Facts:

The appellant, a stockbroker and BSE member, entered into a trading relationship with respondent nos. 1 and 2 (husband and wife) in 1999. Following the 2001 stock market crash, respondent no. 2 incurred a debit of Rs. 1,18,48,069/-, which the appellant offset using respondent no. 1's credit balance based on alleged oral assurances of joint liability. The appellant sought arbitration under BSE Bye-law 248(a) for Rs. 1,27,36,670/- with 18% interest. The arbitral tribunal upheld joint liability, awarding Rs. 1,18,48,069/- with 9% interest. On challenge, the single judge upheld the award, citing an implied agreement. However, on appeal under Section 37, the Division Bench set aside the award against respondent no. 1, ruling that the tribunal lacked jurisdiction over him. It held that claims against respondent no. 2 arose from stock market transactions, whereas liability against respondent no. 1 was based on an alleged oral understanding, which could not be adjudicated under the arbitration clause. The Court emphasized that the arbitration clause was statutory, and jurisdiction could not be conferred by consent. The Court further found the tribunal's conclusion on joint liability patently illegal, as no documentary evidence established such liability, and the fund transfer violated SEBI regulations. Since respondent no. 1 was improperly impleaded, his counter-claim was also held non-maintainable. Consequently, the High Court set aside the award against respondent no. 1 while upholding its validity in respect of respondent no. 2.

Issue: Whether husband is jointly and severally liable for the debit balance in wife trading account, despite both having separate client accounts and trading independently.

Judgement:

The Supreme Court, in a judgment delivered by Justice Narasimha, set aside the decision of the High Court. Noting the limited jurisdiction to intervene in arbitral awards save for violations of public policy, the Court held that the High Court had erred in setting aside the award on the technicality of the husband's "separate" liability. The Court determined that the husband's liability for the debit balance in his wife's account provided sufficient grounds for invoking the arbitration clause. “They have effectively entered into the transactions undertaken in each of their trading accounts together, i.e., the performance of the transactions in respondent no. 2's trading account is not only on her behalf but also on behalf of respondent no. 1. Therefore, respondent no. 1 is effectively a party to the client agreement between the appellant and respondent no. 2.”, the court observed.

The Supreme Court held that an oral contract undertaking joint and several liability falls within the scope of an arbitration clause. Holding so, the Court affirmed an arbitral award against a husband, finding him jointly liable for the award due to a debit balance in a joint demat account registered in his wife's name. The Court rejected the contention that the husband's liability constituted a "private transaction" beyond the scope of arbitration. Instead, it held that the arbitration clause, applicable to non-signatories, in conjunction with the husband's active participation in transactions within his wife's account, gave rise to an implied oral agreement establishing joint and several liabilities for both parties.

[Click Here]

II. **Case Title: Union of India v. Reliance Industries Limited & Ors.**

Citation: 2025 SCC OnLine Del 841

Court: Delhi High Court

Decided on: 14 February 2025

Brief Facts

The dispute arose between the Union of India (UOI) and Reliance Industries Limited (RIL) over a Production Sharing Contract (PSC), where ONGC alleged that RIL had unjustly enriched itself by extracting migrated natural gas from an adjoining ONGC block. Based on reports from D&M and the Shah Committee, UOI raised a demand of $1.74 billion against RIL. The Arbitral Tribunal (AT), by a 2:1 majority, held RIL in breach of Article

26.1 of the PSC but deemed it immaterial. UOI's Section 34 challenge on grounds of patent illegality was dismissed by a Single Judge, who ruled that the arbitration was international in nature. On appeal under Section 37, the Delhi High Court held the arbitration to be domestic, finding the AT's award patently illegal for disregarding the 1959 PNG Rules, PSC, and the Public Trust Doctrine. The Court emphasized that natural resources belong to the State under Article 297 of the Constitution and that RIL's failure to disclose key reports amounted to suppression of material facts. Consequently, the Court set aside the arbitral award, reaffirming that private entities cannot extract natural resources without explicit governmental approval. The single judge while dismissing the Section 34 application, observed that the arbitration between UOI and RIL was an 'International Commercial Arbitration' and the ground of patent illegality was not available, for the Courts to interfere with the arbitral award. Aggrieved by the order of the single-judge bench, the UOI filed the present appeal u/s 37 of the A&C Act.

Legal Issue: Whether the arbitral award suffered from patent illegality and violated Indian public policy.

Judgement:

The Delhi High Court (Division Bench) set aside the arbitral award in favor of Reliance Industries Limited (RIL), holding that the Arbitral Tribunal's findings were patently illegal and contrary to Indian public policy. The Court ruled that the arbitration was domestic in nature, as RIL was the sole claimant, and the Single Judge erred in treating it as international commercial arbitration. It further held that the arbitral award suffered from patent illegality, as the Tribunal incorrectly concluded that RIL's breach of Article 26.1 of the Production Sharing Contract (PSC) was not material. The Court emphasized that under Article 297 of the Constitution and the Public Trust Doctrine, natural resources belong to the State, and RIL could not extract migrated gas without explicit governmental permission. RIL's failure to disclose D&M Reports (2003, 2004, 2005) constituted suppression of material facts, further justifying UOI's claim of unjust enrichment. Since the arbitral award violated public policy by allowing a private entity to benefit from a regulatory loophole, the Court, exercising its power under Section 37 of the Arbitration and Conciliation Act, 1996, set aside both the Single Judge's order and the arbitral award, reaffirming State control over natural resources.

[Click Here]

III. **Case Title: Maharashtra Public Service Commission v. Vast India Pvt. Ltd.**

Citation: (2025:BHC-OS:2179)

Court: Bombay High Court

Decided on: 11 February 2025

Brief Facts:

In this Petition under Section 34 of the Arbitration and Conciliation Act, 1996, the Petitioner, the Maharashtra Public Service Commission has challenged an arbitral award passed in favour of the Respondent Vast India Private Ltd. The Award has been passed by the Facilitation Council ("Council") formed under the Micro, Small and Medium Enterprises Development Act, 2006 ("MSME Act") - Vast India is a "small enterprise" for purposes of the MSME Act. MPSC issued a Tender for Digital Asset Management on July 20, 2010 and the contract was awarded to Vast India. The Vast India claimed an unpaid amount from the MPSC which was denied. Subsequently, Vast India filed a reference before the MSME Facilitation Council. Arbitration commenced on June 10, 2021. The Arbitral Tribunal also found that there had been no complaints from MPSC during the performance of the contract either about the quality of work done or about any requirement not being met. However, the payment due to Vast India had not been released. The Arbitral Tribunal, on facts, upon a review of the evidence before it, has returned a conclusive finding that there had been no default on the part of Vast India and the payments due to it ought to be made. The Arbitral Tribunal has ruled that the benefit of access to the forum would not be available to an entity that is not a protectee of the special provisions of the MSME Act.

Issue: Whether the arbitral award passed by the MSME Facilitation Council in favor of Vast India Private Ltd. was invalid on the ground that it was rendered beyond the prescribed time limits under the MSME Act and the Arbitration and Conciliation Act, 1996.

Judgement:

The court examined Section 18 of the MSME Act and affirmed that the MSME Facilitation Council can act as both a conciliator and an arbitrator, with arbitration proceedings

governed by the Arbitration and Conciliation Act, 1996. It clarified that the 90-day period under Section 18(5) is directory, not mandatory, meaning a delay in rendering the award does not invalidate the proceedings. Once arbitration begins, the 12-month timeline under Section 29A of the Arbitration Act applies. Since MPSC filed a counterclaim, the 12-month period reset, making the award timely and valid. The court also upheld the rejection of MPSC's counterclaim, citing Order VIII Rule 6A CPC, which requires counterclaims to be filed before or within the time for submitting the statement of defence. Since MPSC filed its counterclaim nearly a year late, the rejection was legally sound. Concluding that the award was free from jurisdictional defects or illegality, the court dismissed the petition.

[Click Here]

IV. **Case Title: M/s. Kranthi Grand DKNV Hospitalities and another Vs. M/s. Manasa Estates and Hospitality Pvt. Ltd. and 2 others**

Case Number: 2025 SCC OnLine AP 671

Court: Andhra Pradesh High Court

Decided on: 20 February 2025

Brief Facts:

M/s. Kranthi Grand DKNV Hospitalities (Applicant) entered into a Sub-Lease/Agreement with respondent No.1 – M/s. Manasa Estates and Hospitality Pvt. Ltd., who was a lessee of a property with a right of creating a Sub-Lease in favour of third parties. The Sub-Lease was taken to run a hotel from the premises in question, for a period of eight years. The applicant argued that an amount of Rs. 30 lakhs has been invested in renovating the building to make it suitable for running a hotel or restaurant. However, the respondent started interfering into the peaceful possession of the applicant even though the applicant was entitled to remain in possession till 2026 as per the lease deed. The respondents forcibly occupied the property in violation of the terms and conditions of the lease. The Applicant contended that it served a notice upon the respondents invoking the arbitration clause in which name of arbitrator other than the named arbitrator was proposed to which the respondents did not give their consent. Therefore, the present application under section

11(6) of the Arbitration and Conciliation Act, 1996 (Arbitration Act) seeking appointment of an independent arbitrator has been filed.

Issue: Whether an independent arbitrator can be appointed under Section 11(6) of the Arbitration and Conciliation Act, 1996, when the arbitration agreement already specifies a named arbitrator, and there is no evidence to suggest bias or ineligibility of the named arbitrator under Section 12(5) of the Act.

Judgement:

The court dismissed the application under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking the appointment of an independent arbitrator. The Court held that the appointment of the named arbitrator, as per the arbitration agreement, is the rule, and appointing an independent arbitrator is an exception that requires valid reasons, such as bias or ineligibility under Section 12(5) of the Act. The applicant failed to provide any material evidence to demonstrate that the named arbitrator would act in a partial or biased manner. Relying on the Supreme Court's ruling in Indian Oil Corporation Limited v. Raja Transport Private Limited (2009), the Court reiterated that a party cannot invoke an arbitration clause while disregarding the agreed appointment procedure. Consequently, the Court dismissed the application, upholding the validity of the named arbitrator in the agreement

[Click Here].

V. **Case Number: Dixon Technologies (India) Limited vs. M/s Jaiico & Anr.**

Citation: 2025 SCC OnLine Del 893

Court: Delhi High Court

Decided on: 06 February 2025

Brief Facts:

The petitioner, Dixon Technologies (India) Limited, filed a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking the appointment of an arbitrator to adjudicate disputes arising under the Standard Transportation Agreement dated 01.03.2021 and the Customs Clearing Agent Agreement dated 01.04.2022 with Respondent No.1, M/s

Jaiico. The petitioner initially impleaded Respondent No.2, but upon the Court's suggestion that Respondent No.2 was not a signatory to the agreements, the petitioner sought and was granted permission to delete Respondent No.2 from the array of parties, with liberty to move an application under Order I Rule 10 of the CPC before the arbitrator if necessary. The arbitration clauses in Clause 12 of the Standard Transportation Agreement and Clause 23 of the Customs Clearing Agent Agreement stipulated that the seat of arbitration would be Delhi, leading the petitioner to seek judicial intervention for the appointment of an arbitrator.

Issue:

Whether the Court should appoint an arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996, when one of the parties was a non-signatory to the agreements.

Judgement:

The Delhi High Court bench of Justice Subramonium Prasad has reaffirmed that an Arbitral Tribunal has the authority to implead non-signatories to an arbitration, provided they are deemed 'necessary parties' to the proceedings. he Court also permitted the petitioner to delete Respondent No.2 from the array of parties since, it was not a signatory to the agreements with liberty to later move an application under Order I Rule 10 of the CPC if it is later deemed a ‘necessary party’. The court appointed an Arbitrator.

[Click Here]

CIVIL AND COMMERCIAL CASES

I. **Case Title: Sachin Jaiswal v. Hotel Alka Raje,**

Citation: 2025 SCC OnLine SC 446

Court: Supreme Court of India

Decided on: 27.02.2025

The Hon’ble Supreme Court of India recently ruled on the ownership of property contributed to a partnership firm under Section 14 of the Partnership Act, 1932. The Hon’ble Court held that once a partner contributes property to the firm, it becomes firm property, and neither the

partner nor their legal heirs can claim exclusive rights over it after the partner's retirement or death. However, they are entitled to their share in the firm's profits.

A bench comprising Justices HMJ Sudhanshu Dhulia and HMJ Ahsanuddin Amanullah dismissed an appeal filed by the legal heirs of a deceased partner who sought ownership of a hotel property contributed to the firm. The appellants contended that the property originally belonged to their deceased father and could not have been transferred to the partnership without a formal relinquishment deed.

The Hon'ble Court, however, ruled that no formal transfer document is required to establish that a property belongs to the firm once a partner introduces it into the partnership stock. Relying on the precedent set in Addanki Narayanappa v. Bhaskara Krishnappa (1966), the Hon'ble Court reaffirmed that any property contributed by a partner becomes the firm's property unless a contrary intention is proven.

Examining the facts, the Hon'ble Court noted that Bhairo Prasad Jaiswal acquired the property in 1965 and, after forming the partnership firm in 1972, jointly constructed a building on it with his brother and co-partner, Hanuman Prasad Jaiswal. The establishment of the hotel on the property was clear evidence that the land was contributed to the firm. The Hon'ble Supreme Court upheld the Trial Court and High Court's findings that the property had become firm property at the time of its contribution and construction.

Rejecting the appellants' claim that a relinquishment deed was necessary, the Hon'ble Supreme Court emphasized that the legal effect of Section 14 of the Partnership Act is that any property brought into the firm's stock becomes its perpetual property. The Hon'ble Court ruled that the heirs of a contributing partner have no individual claim over the firm's assets unless an agreement states otherwise.

[Click Here]

II. Case Title: M.S. Ananthamurthy v. J. Manjula

Citation: 2025 SCC OnLine SC 448

Court: Hon'ble Supreme Court of India

Decided on: 27.02.2025

The Hon'ble Supreme Court of India recently clarified that the nature of a power of attorney (POA) is determined by its subject matter rather than its title. A bench comprising Justices J. B. Pardiwala and R. Mahadevan observed that the label of a POA, whether general or special, does not define its nature. Instead, the extent of authority conferred within the document must be assessed.

The Court emphasized that a POA must be interpreted based on its contents and the intent of the parties rather than its title. It held that even if a POA is termed 'irrevocable,' it does not become irrevocable unless it is coupled with interest. The Court relied on precedents, including Timblo Irmaos Ltd. v. Jorge Anibal Matos Sequeira (1977) 3 SCC 474, to reinforce this principle.

In the present case, the appellants argued that an irrevocable general power of attorney (GPA) was executed in favor of a holder, who later sold the property to her son. The respondents, however, contended that the heirs of the original owner had already transferred the property to another party. The dispute culminated in a suit for a permanent injunction, which was decided in favor of the respondents by both the Trial Court and the High Court.

Analyzing the POA, the Hon'ble Supreme Court held that mere mention of the word 'irrevocable' does not make a POA irrevocable unless it secures an interest for the agent. The Court cited State of Rajasthan v. Basant Nahata (2005) 12 SCC 77, affirming that a power of attorney creates a principal-agent relationship and does not confer ownership rights.

Ultimately, the Court upheld the High Court’s decision, reiterating that a transfer of immovable property can only occur through a registered conveyance deed, and an agreement to sell does not confer ownership rights. Consequently, the appeal was dismissed.

[Click Here]

III. Case Title: Poornima Advani v. State (NCT of Delhi)

Citation: 2025 SCC OnLine SC 419

Court: Hon'ble Supreme Court of India

Decided on: 18.02.2025

The Hon'ble Supreme Court of India recently clarified the doctrine of restitution, reaffirming that a person deprived of the use of money to which they were entitled has the right to be

compensated in the form of interest. The Court emphasized that interest serves as compensation for the unjust enrichment of one party at the expense of another without legal justification. The fundamental objective of awarding interest is to restore the affected party to the financial position they would have been in if the money had been returned promptly.

A bench comprising Justices HMJ JB Pardiwala and HMJ R. Mahadevan adjudicated on a case where the appellant had purchased an e-stamp paper worth ₹28,10,000, which was misplaced by a broker, causing a delay in purchasing a property. The appellant, after fulfilling procedural formalities such as filing a police complaint and publishing a newspaper notice, sought a refund from the Collector of Stamps. The refund was denied, prompting the appellant to approach the High Court. While the High Court ordered the refund of the e-stamp amount, it denied interest on the refund.

The appellant then moved the Hon'ble Supreme Court, arguing that they were entitled to interest as compensation for being deprived of the use of their money. The Hon'ble Supreme Court ruled in favor of the appellant, citing the doctrine of restitution, which mandates restoring to a party what has been lost due to wrongful retention of money.

The Court explained: *"Restitution in its etymological sense means restoring to a party on the modification, variation, or reversal of a decree or order what has been lost to them in execution of the decree or order."* It further stated that money received and retained without right carries with it an obligation to pay interest, even in the absence of an express statutory provision.

Relying on precedents such as *Union of India v. Tata Chemicals Ltd.* (2014) 6 SCC 335 and *Secretary, Irrigation Department, Government of Orissa v. G.C. Roy* (1992) 1 SCC 508, the Court affirmed that interest is a natural accretion on capital and must be awarded when money is wrongfully retained.

Accordingly, the Hon'ble Supreme Court directed the respondents to pay ₹4,35,968/- as interest on the refunded amount within two months, reinforcing the principle that interest is an essential remedy for financial deprivation.

[Click Here]

COMPETITION COMMISSION OF INDIA

I. Case Title: ADGST (SM) Army Purchase Organization And M/s. Gokul Agro Resources Limited & Anr.

Case No.: 03 of 2024

Court/Tribunal: Competition Commission of India

Decided on: 04 February 2025

The CCI vide order dated 04.02.2025 dismissed information received by way of reference against Gokul Agro Resources Limited and Gokul Agri International Limited ("**Opposite Parties**"), for *prima facie* contravening the provisions of Section 3 of the Competition Act, 2002 ("**the Act**"). The CCI observed that there was no evidence to demonstrate bid rigging in the tendering process for procurement of 31,000 MT Edible Oil by the Opposite Parties.

ADGST (SM) Army Purchase Organization **("the Informant")** alleged that the Opposite Parties colluded to rig the bidding process for the tender and sought CCI investigation into, *inter alia*, shareholding structures and shareholding of promoters of the Opposite Parties. The CCI found the Opposite Parties to be independent entities which similar to other bidders, had previously emerged unsuccessful after the conclusion of the bidding process for the tender.

[Click Here]

II. Case Title: XYZ And HP India Sales Private Limited & Ors.

Case No. 26 of 2024

Court/Tribunal: Competition Commission of India

Decided on: 04 February 2025

The CCI vide order dated 04.02.2025 dismissed information against HP India Sales Private Limited, Wideprint System and Solutions, Digital Global, Capricot Technologies Private Limited, Samman Consultants, Sigma eSolutions Private Limited, Transcon Electronics Private Limited and KR Enterprises ("**Opposite Parties**"), for *prima facie* contravening the provisions of Section 3 of the Competition Act,2002 ("**the Act**"). The CCI observed that there was no evidence to demonstrate rigging in the bidding process for the tenders floated by the Gurugram Metropolitan Development Authority and Faridabad Metropolitan Development Authority for the procurement of inkjet/LED A0-A4 size plotter/printers.

The Informant alleged that the Opposite Parties colluded to rig the bidding process for the tender and sought imposition of penalty upon the Opposite Parties. The CCI observed that compliance of the Opposite Parties with the additional buyer conditions was not tantamount to cartelization and found the buyer organizations free to specify the kind of product or service, warranty and cartridges based on their requirements and financial constraints.

[Click here]

CONSUMER LAW

I. Case Title: Godrej Projects Development Limited Vs. Anil Karlekar

Case No.: Civil Appeal No. 3334 Of 2023

Court: Hon'ble Supreme Court of India

Decided on: 03 February 2025

The case pertains to a dispute between the appellant (builder) and the respondents (homebuyers) regarding the forfeiture of earnest money upon cancellation of an allotment. The respondents had entered into an agreement with the appellant in 2014 and paid a substantial amount towards the purchase of a property. However, after possession was offered, the respondents sought cancellation, citing a sharp decline in property prices, which allowed them to purchase a similar flat at a lower price. The appellant deducted a significant portion of the amount paid as forfeiture, leading the respondents to approach the National Consumer Disputes Redressal Commission (NCDRC). The NCDRC held that only 10% of the Basic Sale Price (BSP) could be forfeited and directed the refund of the excess amount along with interest

The Supreme Court, while adjudicating, referred to Section 2(46) of the Consumer Protection Act, 2019, which defines "unfair contract," and found the agreement to be one-sided, imposing unreasonable disadvantages on the consumer. It noted that the clause allowing the builder to retain a significant portion of the amount was unfair and amounted to an unfair trade practice. The Court distinguished between "earnest money" and "part consideration paid," observing that forfeiture of reasonable earnest money does not attract Section 74 of the Indian Contract Act, 1872, unless it is penal in nature. Citing Maula Bux v. Union of India (1969), the Court reiterated that while reasonable earnest money may be forfeited, excessive forfeiture amounts to a penalty. It also relied on Pioneer Urban Land and Infrastructure Ltd., Wing Commander

Arifur Rahman Khan and Aleya Sultana, and Ireo Grace Realtech Pvt. Ltd., which dealt with similar unfair contractual clauses. Additionally, the Court distinguished this case from Satish Batra and Desh Raj, where agreements were balanced, unlike the present case, which was tilted in favor of the builder. The Supreme Court also noted that the NCDRC had consistently ruled that only 10% of the BSP could be considered a reasonable forfeiture amount.

In conclusion, the Supreme Court upheld the NCDRC's decision directing the refund of the excess amount beyond 10% of the BSP but set aside the award of interest on the refund. It reasoned that the respondents, having voluntarily canceled the allotment, likely utilized the retained amount for other property investments. The Court ordered the appellant to pay the balance sum of ₹12,02,955 to the respondents , thereby allowing the appeal in part.

[Click Here.]

II. Case Title: PNB Metlife India Life Insurance Co. Vs Union of India.

Case No.: Civil Writ Jurisdiction Case No.2862 of 2024

Court: Hon'ble High Court of Patna, Bihar

Dated: 10 February 2025

The present case arises from a dispute between PNB MetLife India Life Insurance Co. Ltd. and the nominee of a deceased policyholder regarding the repudiation of a life insurance claim. The insured had obtained a life insurance policy, under which the nominee, after the insured's demise, filed a claim. The insurer repudiated the claim, citing alleged non-disclosure of pre-existing medical conditions. Aggrieved by this decision, the nominee approached the Consumer Disputes Redressal Forum, which ruled in their favor. The insurer subsequently challenged the order before the State Commission and later the National Consumer Disputes Redressal Commission (NCDRC), both of which upheld the decision in favor of the nominee. Dissatisfied with these rulings, the insurer filed a writ petition before the Patna High Court, challenging the consumer fora's findings and raising issues concerning the interpretation and application of Section 45 of the Insurance Act, 1938.

The Hon'ble High Court, after considering the arguments and judicial precedents, upheld the legislative intent behind Section 45 of the Insurance Act, which limits an insurer's right to repudiate policies after three years except in cases of fraud. The Court relied on Mithoolal Nayak v. LIC (1962), where the Supreme Court held that insurers must act within a reasonable

timeframe when alleging fraud. Further, it referred to Swaran Singh v. New India Assurance Co. Ltd. (2009), which reiterated that insurers cannot arbitrarily deny claims beyond statutory limitations. The Court observed that the insurer had failed to discharge its burden of proving material suppression of facts within the stipulated timeframe. It also emphasized that the Consumer forum had correctly appreciated the evidence and that their findings did not warrant interference under Article 226 of the Constitution.

In view of the above, the Hon'ble High Court, dismissed the writ petition and upheld the orders of the consumer forum. The Court reaffirmed that while fraud vitiates all contracts, the statutory framework ensures that insurers do not indefinitely delay claim assessments under the pretext of fraud investigations. It held that the insurer's repudiation was not legally sustainable and directed it to honor the claim. The judgment reinforces the principle that insurers must exercise their rights within statutory limits and in good faith to maintain fairness in insurance contracts.

[Click Here.]

III. Case Title: Medico Legal Society Of India Vs. Bar Of Indian Lawyers & Ors.

Case No. : Review Petition (Civil) @ Diary No(S). 57132/2024 In C.A. No. 2646/2009

Court: Hon'ble Supreme Court of India

Dated: 12 February 2025

In the present case, the Supreme Court addressed a review petition challenging its earlier decision that upheld the 1995 judgment *in Indian Medical Association v. V.P. Shantha*. The V.P. Shantha ruling had established that medical professionals fall within the ambit of the Consumer Protection Act, 1986 (as reenacted in 2019), thereby allowing patients to seek redress for deficiencies in medical services. The petitioners sought a reconsideration of this precedent, arguing that medical services should be excluded from the Act's purview.

The bench, comprising Justices B.R. Gavai, Prashant Kumar Mishra, and K.V. Viswanathan, dismissed the review petition, stating that there was no justifiable reason to revisit the established legal position. This decision aligns with the Court's earlier stance in November 2024, where a three-judge bench declined to re-examine the V.P. Shantha precedent, emphasizing that the inclusion of medical professionals under the Consumer Protection Act had been settled law for decades. The Court reiterated that while the applicability of the Act to

other professions could be considered on a case-by-case basis, there was no necessity to reconsider the inclusion of medical practitioners.

Consequently, the Supreme Court reaffirmed that doctors and medical professionals remain accountable under the Consumer Protection Act. This ensures that patients can continue to seek legal remedies for medical negligence or deficiencies in service. The Court's refusal to reconsider the V.P. Shantha judgment underscores its commitment to maintaining consumer rights within the healthcare sector.

[Click Here.]

IV. Case Title: The Chief Manager Central Bank of India Vs. Ad Bureau Advertising Pvt Limited

Case No.: Civil Appeal No. 7438 OF 2023

Court: Hon'ble Supreme Court of India

Dated: 28 February 2025

In 2014, Ad Bureau Advertising Pvt. Ltd. availed a loan of ₹10 crore from the Central Bank of India for the post-production of the film Kochadaiyan. The loan account subsequently became irregular, leading to proceedings before the Debt Recovery Tribunal (DRT). A One-Time Settlement (OTS) was ultimately reached for ₹3.56 crore. Ad Bureau alleged that despite making payments in accordance with the settlement, the bank wrongly reported it as a defaulter to the Credit Information Bureau of India Limited (CIBIL), resulting in reputational and business losses. Consequently, Ad Bureau filed a consumer complaint before the National Consumer Disputes Redressal Commission (NCDRC), alleging deficiency in service. The NCDRC ruled in favor of Ad Bureau and directed the bank to pay ₹75 lakh as compensation, along with litigation costs. The Central Bank of India, challenging the maintainability of the complaint under the Consumer Protection Act, 1986, filed an appeal before the Supreme Court.

The Supreme Court, while adjudicating the matter, primarily examined whether Ad Bureau qualified as a 'consumer' under Section 2(1)(d)(ii) of the Consumer Protection Act. The Court reiterated that the determining factor was the dominant purpose of the transaction and whether it was linked to a profit-generating activity. The Court, referring to Shrikant G. Mantri vs. Punjab National Bank (2022), emphasized that a stockbroker who availed an overdraft facility for his business was not a consumer. Further reliance was placed on National Insurance

Company Ltd. vs. Harsolia Motors & Ors. (2023), wherein it was held that the dominant intention or purpose of the transaction must be assessed to ascertain its commercial nature. The Court rejected Ad Bureau's argument that the loan was availed for self-branding, observing that brand-building itself is undertaken to attract more customers and generate profit.

The Supreme Court, in its final ruling, allowed the appeal, setting aside the NCDRC's order. The Court categorically held that Ad Bureau did not fall within the definition of a consumer under Section 2(1)(d)(ii) of the Act, as the loan was taken for a commercial purpose. It further clarified that the judgment was confined to the issue of maintainability and did not examine the merits of the dispute regarding alleged wrongful reporting to CIBIL. This decision reinforces the principle that transactions predominantly undertaken for profit-oriented activities do not fall within the scope of consumer protection laws, thereby reaffirming the jurisprudence established in previous ruling.

[Click Here.]

CRIMINAL LAW

I. The Hon'ble Supreme Court emphasizes exercising judicial caution in criminal proceedings involving family relations.

Case Title: Geddam Jhansi & Anr. v. The State of Telangana & Ors.

Case Citation: 2025 SCC OnLine SC 263

Court: Supreme Court of India

Decided on: 7 February 2025

In the aforementioned case, the two appellants, Geddam Jhansi and Geddam Sathyakama Jabali approached the Hon'ble Supreme Court by way of an SLP challenging two orders of the Telangana High Court seeking quashing of criminal proceedings initiated against them for, inter-alia, cruelty and dowry demand. The first appeal arises from Criminal Petition No. 3105 of 2022, where the Telangana High Court refused to quash proceedings under Section 498A and 506 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, against the appellants. The second appeal arises from Criminal Petition No. 1002 of 2022, in which the High Court declined to quash proceedings under the Protection of Women from Domestic Violence Act, 2005, against the appellants. The underlying complaint of both the appeals stems

from the allegations raised by Premlata (Victim/Complainant), who accused her husband, mother-in-law, mother-in-law's younger sister and her brother-in-law for dowry harassment and domestic violence. The two appellants in the present case, fall under the list of extended family members, who were unnecessarily implicated in this criminal proceedings.

The main legal question before the Hon'ble Supreme Court in the aforementioned case was, whether the criminal proceedings against the appellants should be quashed under Section 482 of the Cr.P.C due to the lack of specific allegations and prima facie evidence against the appellants.

The Hon'ble Supreme Court upon a careful and meticulous examination of the facts and circumstances of the instant case held that, while there were specific allegations against the husband and mother-in-law, the allegations against the appellants were vague and lacked supporting evidence. Even the statements of witnesses produced, including the complainant's parents and panchayat elders, were found to be general in nature, largely constituting hearsay Evidence. The Court also noted that the appellants did not reside with the complainant and were not directly involved in her matrimonial life in any manner. The Court emphasized that invoking criminal law in domestic disputes should be done with great caution by the Courts and that generalized allegations against family members should not lead to criminal proceedings unless there is substantial evidence. The Court reiterated that, mere inaction or failure of certain family members or relatives to intervene in instances of violence or harassment against the victim does not automatically render them perpetrators of domestic violence; their culpability arises only when there is clear evidence of their involvement and instigation. Therefore, implicating such relatives without specific allegations, without attributing any overt acts to them, and proceeding against them in the absence of prima facie evidence establishing their active participation or complicity would constitute an abuse of the law. Therefore, the Supreme Court allowed the appeal and quashed the criminal proceedings against the appellants, while clarifying that, its findings were limited to the appellants and would not affect the proceedings initiated against the other accused. Thus, this judgment reinforced the principle that criminal prosecution must be based on specific allegations backed by credible evidence, ensuring that family disputes are not unnecessarily criminalized in the absence of prima facie evidence so as to prevent miscarriage of justice.

[Click Here]

II. The Hon'ble Supreme Court reiterates that for an Offence of Abetment to Suicide, harassment must be of such a degree that it leaves the Victim with no viable alternative but to end their Life.

Case Title: Ayyub & Ors. Vs. State of Uttar Pradesh & Anr.

Case Citation: 2025 SCC OnLine SC 259

Court: Supreme Court of India

Decided on: 7 February 2025

In the above-mentioned case, an appeal was filed by the appellants, Ayyub & Ors., challenging the decision of the Allahabad High Court, refusing to quash proceedings against the appellants under Section 306 of the IPC. The entire case originates from an unfortunate chain of events concerning the deaths of Ziaul Rahman and Tanu. There was a suspected relationship between the deceased Ziaul Rahman, and the other deceased Tanu, and upon unfolding of their relationship, Ziaul Rahman was allegedly assaulted by the relatives of Tanu, leading to his death due to shock and hemorrhage as a resultant of such injuries. Subsequently, on that same day, Tanu allegedly took her own life, purportedly due to threats and humiliation by Ziaul Rahman's family. Upon Tanu's death, her family, Vijay Saini (i.e complainant) lodged an FIR under Section 306 of the IPC, accusing the appellants (Ziaul Rahman's family) of abetting Tanu's suicide. The complaint alleged that the appellants, on the day of Ziaul Rahman's death, humiliated and threatened Tanu, attributing Ziaul Rahman's death to her and warned her of legal consequences, which allegedly led to her suicide.

The key legal issue before the Hon'ble Supreme Court herein, was whether the evidence on record established a prima facie case under Section 306 of IPC against the appellants. The Court in detail scrutinized the FIR, post-mortem report, and statements recorded under Section 161 of the Cr.P.C, alongside legal precedents on abetment to suicide.

The Hon'ble Supreme Court, upon a comprehensive examination and analysis of the facts and legal principles, found that the necessary ingredients of Section 306 of the IPC were not met. The Supreme Court, while analyzing the case, noted several inconsistencies and concerning aspects in the investigation. Firstly, the delay in filing the FIR concerning Tanu's death was noted, as her post-mortem had already been conducted on November 2, 2022, with the FIR being lodged a day later. Secondly, the police investigation seemed to have solely relied on the complainant's version, with the statements of witnesses being recorded much later, which were

merely repetition of the allegations verbatim. The Court found it troubling that no alternative angles, including potential other causes for Tanu's suicide, were explored. Additionally, the sequence of events suggested a possible attempt to retaliate against Ayyub and his family for initiating legal proceedings regarding Ziaul's murder. Relying on settled jurisprudence, the Court reiterated that mere verbal abuse or humiliation, unless accompanied by clear instigation or coercion, does not constitute abetment under Section 306 IPC. The Court referred to precedents such as 'Swamy Prahaladdas vs. State of M.P. & Anr. (1995 Supp (3) SCC 438), where casual remarks like 'go and die' were held insufficient to establish abetment. Similarly, in cases like 'Madan Mohan Singh vs. State of Gujarat (2010) 8 SCC 628), and 'M. Mohan vs. State' (2011) 3 SCC 626), the Supreme Court emphasized that the accused must have actively instigated or conspired to drive the victim to suicide. In the present case, the Court found that the police report failed to establish any direct incitement by the accused beyond the alleged statements, which, even if taken at face value, were insufficient to prove the necessary mens rea for abetment.

Accordingly, the Hon'ble Supreme Court quashed the proceedings against the appellants. The Court clarified that its observations were limited to the quashing of proceedings against the appellants and that the reinvestigation would proceed independently. This ruling of the Hon'ble Supreme Court reaffirmed the judiciary's commitment to preventing the misuse of criminal law while ensuring a fair and thorough investigation into sensitive matters.

[Click here]

III. Chhattisgarh High Court rules that Non-Consensual Unnatural Sex by a Husband with his Wife does not constitute an Offence under Section 377 of the IPC.

Case Title: Gorakhnth Sharma vs. State of Chhattisgarh

Case Citation: 2025 SCC OnLine Chh 2287

Court: Chhattisgarh High Court

Decided on: 10 February 2025

The abovementioned case involves an appeal filed by the appellant, Gorakhnth Sharma, under Section 374(2) of the Cr.P.C, challenging his conviction pronounced by the Additional Sessions Judge (FTC), Bastar, Jagdalpur, in Sessions Trial No. 32 of 2018. The trial court convicted him under Sections 377, 376, and 304 of the IPC and sentenced him to rigorous

imprisonment for ten years under each count, along with fines. The prosecution alleged that on the night of December 11, 2017, the appellant engaged in non-consensual, unnatural sexual intercourse with his wife, which resulted in severe injuries leading to her death. The case was registered at Bodhghat Police Station following the victim's hospitalization and subsequent death. A dying declaration was recorded before the magistrate, wherein the victim stated that her condition deteriorated due to the forced sexual act by the appellant. The prosecution relied on medical evidence, including post-mortem findings, which indicated rectal perforations and peritonitis as the cause of death. The trial court, relying heavily on the dying declaration and medical evidence, found the appellant guilty beyond a reasonable doubt and convicted him accordingly.

The fundamental legal issue before the Hon'ble High Court was to meticulously evaluate whether the elements of Sections 376, 377, and 304 of the IPC were sufficiently proven to sustain the conviction of the accused. The Court was tasked with determining the reliability of the dying declaration of the deceased, the admissibility of medical and forensic evidence, and the legal interpretation of marital sexual offenses under the IPC. The defense contended that the victim had pre-existing medical conditions, including a history of piles, which could have contributed to her injuries. Furthermore, it was argued that the prosecution failed to establish beyond reasonable doubt that the injuries resulted from non-consensual acts by the accused.

The Hon'ble High Court carefully analyzed all the evidence and reports and noted that the dying declaration did not unequivocally establish that the victim directly attributed her injuries to the appellant's actions. The Executive Magistrate who recorded the statement could not recall whether a medical officer was present during the declaration, thereby raising doubts about its authenticity. Additionally, the medical evidence, although indicating rectal perforations, did not conclusively establish that the injuries resulted from forced sexual intercourse. The court further considered the legal question regarding marital rape and Section 377 of the IPC. Relying on the exception in Section 375 of the IPC, the court reaffirmed that non-consensual intercourse between a husband and wife, while morally condemnable, does not constitute rape under the Indian law. The court also examined the Supreme Court's ruling in 'Navtej Singh Johar vs. Union of India' 2018(10) SCC 1, which decriminalized consensual unnatural sex but did not clarify its applicability within marital relationships. Given the lack of explicit statutory backing, the court found it legally untenable to convict the appellant under Section 377 of the IPC. Regarding Section 304 of the IPC, the court held that there was insufficient evidence to prove that the appellant's actions were the proximate cause of the

victim's death. The prosecution failed to establish the necessary mens rea or recklessness required for a culpable homicide conviction under Section 304 of the IPC.

Therefore, the High Court set aside the conviction of the appellant under Sections 376, 377, and 304 of the IPC. The court held that the prosecution failed to prove the charges beyond a reasonable doubt, primarily due to inconsistencies in the dying declaration and a lack of corroborative evidence. The court reiterated that while the case presented tragic circumstances, the law, as it stands, does not criminalize non-consensual sexual acts within marriage under Sections 375 or 377 of the IPC. The court also quashed the conviction under Section 304 IPC, finding no direct causal link between the appellant's actions and the victim's death. Accordingly, the appellant was acquitted of all charges, and it was directed that he be released from custody unless required in any other case. Thus, the judgment highlights the continuing legal discourse on marital rape and underscores the need for legislative clarity on this complex and sensitive issue.

[Click Here]

IV. The Hon'ble Supreme Court declares that a 'child is a competent witness' in the eyes of law.

Case Title: State of Madhya Pradesh vs. Balveer Singh

Case Citation: 2025 SCC OnLine SC 390

Court: Supreme Court of India

Decided on: 24 February 2025

In the above-mentioned case, the deceased, Birendra Kumari, was married to the respondent and had two sons and one daughter named, Rani. On the night of July 15, 2003, the complainant, Bhoora Singh and his father heard cries from the house of the accused. By the morning, they learned that the deceased had died, and her body had been cremated. Upon investigation, it was revealed that the accused had allegedly killed his wife by choking her neck with his leg after throwing her to the ground. The accused, along with his sister, Jatan Bai, cremated the body that same night to conceal the crime. The complainant lodged an unnatural death report, leading to the registration of an FIR under Sections 302, 201, and 34 of the IPC. The police conducted an inquiry, collected forensic evidence, recorded witness statements, and arrested the accused. The case was committed to trial, and the prosecution presented eight

witnesses, including Rani, the Daughter (then aged 7 years), who was the sole eyewitness to the crime. The Trial Court found the accused guilty based on circumstantial and eyewitness evidence, convicting him under Sections 302 and 201 IPC. However, the High Court of Madhya Pradesh acquitted him, leading the State to appeal before the Supreme Court.

The primary legal issue before the Supreme Court was, whether the conviction of the accused, based primarily on the testimony of the child witness, Rani, was sustainable in the eyes of law. The Supreme Court was called upon to assess whether the High Court had erred in disbelieving the testimony of the child witness and whether the prosecution had established the guilt of the accused beyond a reasonable doubt. The legal principles governing the appreciation of child witness testimony, circumstantial evidence, and the applicability of Section 106 of the Indian Evidence Act, 1872, were examined.

The Hon'ble Supreme Court did an in-depth analysis of the record and found that a child witness's testimony, if found to be reliable, does not require corroboration. The Trial Court had found Rani's testimony to be trustworthy, consistent, and free from contradictions. She had provided a vivid account of the events, stating that she saw her father attacking her mother and later carrying the body for cremation. The Supreme Court also examined whether the High Court had correctly interpreted the circumstantial evidence, particularly the clandestine cremation, the history of domestic violence, and the accused's flight from the scene; wherein the Supreme Court found that the High Court had placed excessive emphasis on the delay in recording the child's statement while disregarding the corroborative evidence, including forensic findings, witness testimonies, and the accused's conduct. The Supreme Court reaffirmed that minor inconsistencies in witness statements do not undermine the entire prosecution case, particularly when the evidence collectively points to the guilt of the accused.

Therefore, the Hon'ble Supreme Court held that the High Court had erred in acquitting the accused, and reinstated the conviction and sentence imposed by the Trial Court, emphasizing that the prosecution had successfully proven the case beyond a reasonable doubt. The Court underscored that the accused's actions, including the secretive cremation and history of domestic abuse, corroborated Rani's testimony. It concluded that the delay in recording Rani's statement was not fatal to the prosecution's case, given her natural presence at the crime scene and her direct knowledge of the events. Consequently, the Supreme Court allowed the appeal, convicting Balveer Singh (Husband) for murder and destruction of evidence under Sections 302 and 201 of the IPC, and sentenced him to life imprisonment.

[Click Here]

ENVIRONMENTAL LAWS

I. Case Title: State of Uttarakhand & Ors. v. Niranjan Bagchi & Ors.

Citation: Civil Appeal No. 1440/2025

Court Name: Supreme Court of India

Decided on: 10 February 2025

Brief Facts:

The case pertains to the issue of encroachments on the riverbed and floodplain zone of the Rispana River in Uttarakhand. The National Green Tribunal (NGT) had previously issued an order directing the removal of these encroachments in accordance with the provisions of the Environment Protection Act, 1986, and the notifications issued under it. The NGT order specifically mandated that the Uttarakhand government take legislative and executive measures to ensure compliance with environmental laws and prevent further encroachments. Additionally, it required the personal appearance of key government officials, including the Principal Secretary of Urban Development, the Principal Secretary of Irrigation, the Commissioner of the Municipal Corporation of Dehradun, the District Magistrate of Dehradun, and the Vice Chairman of the Mussoorie-Dehradun Development Authority, to assist in adjudicating the matter.

The dispute primarily involved 20 encroachments, which the State of Uttarakhand claimed had existed before March 11, 2016. The state government argued that these encroachments were protected under two state laws: the Uttarakhand Reforms, Regularization, Rehabilitation and Resettlement and Prevention of Encroachment of the Slums located in the Urban Local Bodies of the State Act, 2016, and the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018. However, the NGT ruled that the notification dated October 7, 2016, issued by the Ministry of Water Resources, River Development, and Ganga Rejuvenation under various sections of the Environment Protection Act, 1986, superseded state legislation. Consequently, the NGT held that even the encroachments that predated March 2016 had no legal protection.

The notification in question contained Clause 6(3), which prohibited any permanent or temporary construction for residential, commercial, or industrial purposes on the floodplain or riverbank. However, the State of Uttarakhand contended that the NGT had overlooked the second proviso to Clause 6(3), which provides for a review by the National Mission for Clean Ganga before any removal of completed constructions. The state, therefore, approached the Supreme Court seeking relief from the NGT's order.

Key Issues:

- The primary issue was whether the two state laws that allowed for regularization of pre-2016 encroachments could override the notification issued under the Environment Protection Act, 1986, which explicitly prohibited construction in floodplain areas.
- The key legal question was whether the second proviso of Clause 6(3), which mandates a review of completed constructions before their removal, should have been considered by the NGT before ordering eviction and demolition.
- Another legal issue was whether the NGT could direct the state government to initiate legislative amendments to align with environmental laws.

Order:

The Supreme Court, after hearing arguments from both sides, decided to grant partial relief to the State of Uttarakhand. The Court acknowledged the state's argument that the NGT had not considered the second proviso to Clause 6(3) of the 2016 notification, which allows for a review process before the removal of completed constructions. In light of this, the Supreme Court permitted the State of Uttarakhand to approach the NGT with an application to bring this provision to its attention and seek appropriate directions.

The Court further put the NGT's order on hold for three weeks, thereby granting temporary relief to the state and the affected residents. The state government was directed to file its application before the Tribunal within two weeks from the date of the order. The Supreme Court also clarified that if the Tribunal's subsequent ruling remained adverse, the state would have the liberty to return to the Supreme Court and challenge both the NGT's initial order and any subsequent decision.

With these observations, the Supreme Court disposed of the matter while keeping the stay in effect for a limited period. It also directed that any pending applications related to the case be treated as disposed of.

[Click Here]

II. Case Title: Nizamuddin West Association vs. Union of India & Ors.

Citation: Original Application No. 6/2012

Court Name: NGT Principal Bench, New Delhi

Decided on: 21 February 2025

Brief facts:

The case of Nizamuddin West Association vs. Union of India & Ors. revolves around the unauthorized construction, environmental degradation, and pollution of the Yamuna River floodplains in Delhi. The Nizamuddin West Association, a resident welfare group, filed a petition before the National Green Tribunal (NGT) in 2012, seeking action against illegal encroachments and government inaction in protecting the floodplains.

The Yamuna River floodplains serve as natural water recharge zones, helping in flood prevention and maintaining ecological balance. However, rapid urbanization, unauthorized constructions, and unchecked pollution have severely impacted the river and its surroundings

In 2015, the NGT ruled that no construction should take place on the Yamuna floodplains and directed authorities to take strict action against illegal encroachments. It also emphasized the need for floodplain zoning and ecological restoration. Despite these orders, violations continued, prompting further judicial intervention.

In 2021, the NGT directed the DDA and the National Mission for Clean Ganga (NMCG) to take immediate steps for restoration of the floodplains and prevention of pollution. However, enforcement remained weak, leading to another appeal before the Supreme Court in 2022. The Supreme Court upheld the NGT's orders and mandated continuous monitoring of Yamuna cleanup efforts.

In 2023, following the Supreme Court's directions, the NGT formed a High-Level Committee (HLC) led by the Lieutenant Governor of Delhi to oversee the removal of encroachments, improvement of sewage treatment, and overall rejuvenation of the Yamuna River.

The court continues to emphasize the need for strict environmental protection measures and accountability of government agencies to ensure the long-term sustainability of the Yamuna ecosystem.

Key Issues:

- Determining which governmental agency is accountable for the timely and effective desilting of the 24 drains leading into the Yamuna River.
- Addressing the encroachments on 22 of these drains that hinder the desilting process and contribute to pollution.
- Implementing measures to prevent further pollution of the Yamuna River due to untreated sewage and solid waste discharge.
- Ensuring effective collaboration among various government bodies, such as the Irrigation and Flood Control Department (I&FCD) and the Delhi Urban Shelter Improvement Board (DUSIB), to address these environmental challenges.

Order:

The order issued by the National Green Tribunal (NGT) in the case *Nizamuddin West Association vs. Union of India & Ors.* primarily focuses on the desilting of 24 drains discharging into the Yamuna River and the removal of encroachments obstructing these drainage systems. The Tribunal reviewed the report submitted by the Irrigation and Flood Control Department (I&FCD) on 20.02.2025, which detailed the current status of desilting efforts and the challenges posed by unauthorized constructions along 22 of these drains.

After considering the submissions, the NGT directed the concerned authorities, including I&FCD and DUSIB, to take urgent and coordinated action to ensure that desilting is completed within a specified timeframe. It emphasized the need for a clear action plan to systematically remove encroachments and prevent further environmental degradation. The Tribunal also stressed the importance of inter-agency coordination, instructing different government departments to collaborate effectively to meet the environmental compliance standards.

Furthermore, the NGT mandated regular status reports from the authorities, requiring them to update the Tribunal on progress at specific intervals. It warned of potential legal consequences if any department failed to comply with its directives. The order also acknowledged the broader issue of Yamuna pollution and urged the implementation of long-term measures to prevent further contamination. The Tribunal reserved the right to issue additional directives based on the progress reports submitted in the upcoming hearings.

[Click Here]

III. Case Title: Vanashakti v. Union of India

Citation: Writ Petition (s) (Civil) No. (s) 166/2025

Court Name: Supreme Court of India

Order Date: 24 February 2025

Brief facts:

The case Vanashakti v. Union of India was filed as a Public Interest Litigation (PIL) before the Supreme Court of India by Vanashakti, an environmental NGO. The petition challenged a notification issued by the Ministry of Environment, Forests, and Climate Change (MoEFCC), which exempted certain building and construction projects from obtaining prior environmental clearance under the Environment Impact Assessment (EIA) Notification, 2006.

Vanashakti argued that this exemption would lead to unregulated urban expansion, increased pollution, and environmental degradation, as construction projects significantly impact air quality, water resources, and biodiversity. They contended that the MoEFCC's move violated the fundamental principles of environmental protection enshrined in Article 21 of the Constitution (Right to Life) and previous Supreme Court judgments

The notification allowed projects such as industrial sheds, educational institutions, hostels, and other buildings up to 150,000 square meters to proceed without environmental clearance. Earlier, projects exceeding 20,000 square meters required a detailed environmental assessment before construction.

The Ministry of Environment, Forests, and Climate Change (MoEFCC) issued a notification on January 29, 2025, exempting certain building and construction projects from obtaining prior environmental clearance under the Environment Impact Assessment (EIA) Notification, 2006.

Key issues:

- Whether the exemption granted by the MoEFCC violates environmental laws and the EIA Notification, 2006? and can such an exemption lead to uncreased pollution and ecological damage?
- Whether the notification violated citizens' right to a clean environment under Article 21 of the Constitution?

Order:

The Supreme Court, on February 24, 2025, stayed the MoEFCC's notification, stating that environmental protection is paramount and required the government to justify the exemption before the next hearing on March 28, 2025.

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TAXATION LAWS

I. **Case Title: Celebi Delhi Cargo Terminal Management India Pvt. Ltd. v. Sales Tax Officer, New Delhi**

Citation: 2024 SCC OnLine Del 6587

Court: High Court of Delhi

Decided on: 17 September 2024

The Delhi High Court has sent a GST matter back for reconsideration after a show cause notice (SCN) was issued due to an underreporting of output tax and a mismatch between GSTR-01 and GSTR-09. The court set aside an order passed under Section 73 of the Central Goods and Service Tax (CGST) and Delhi Goods and Service Tax Acts (DGST) for the financial year 2018-19, dated April 13, 2024. The petitioner had challenged the order, citing a technical error that resulted in a significant tax demand.

As a result, the court annulled the impugned order and remanded the matter. Additionally, the hearing scheduled for October 3, 2024, was cancelled, and the petition, along with all pending applications, was disposed of.

[Click Here]

II. **Case Title: Director Of Income Tax New Del V. Anz Grindlays Bank Citation**

Citation: ITA 563/2007

Court: High Court of Delhi

Decided on: 19 September 2024

In a significant ruling, a Division Bench of the Delhi High Court held that payments related to credit cards issued by foreign branches of banks are not subject to tax in India. The central

issue revolved around the taxation of credit card commissions related to cards issued by foreign branches but used within India.

It was observed that, "Undisputedly the credit cards had been issued by the foreign branches of the respondent. It was in the aforesaid backdrop that the Tribunal noted that the charges are received by the foreign branch for providing and extending a credit line to the account holder outside India. It has further been noted that the amount payable by those card holders would clearly be a debt incurred outside India." The Delhi High Court confirmed that income generated from such activities remains outside the purview of Indian taxation unless explicitly sourced or attributed to operations within India.

[Click Here]

III. Case Title: International Hospital Limited Vs DCIT Circle 12

Citation: (2025) 472 ITR 400

Court: High Court of Delhi

Decided on: 26 September 2024

In a recent ruling, the Delhi High Court determined that an assessment order issued in the name of a non-existent entity, following an amalgamation, cannot be rectified under Section 292B of the Income Tax Act, 1961. The case involved writ petitions challenging the validity of assessment and reassessment actions taken against entities that had ceased to exist after a merger. Although the tax authorities were informed of the merger, the assessment orders and notices were still issued to the pre-merger entity instead of the new one.

Ultimately, the division bench, consisting of *Justice Yashwanth Varma* and *Justice Ravinder Dudeja*, annulled the assessment and reassessment orders, ruling that proceedings initiated against an entity that no longer existed could not be upheld under the provisions of the Income Tax Act.

[Click Here]

WHITE COLLAR CRIME

I. Case Title: Bhushan Power & Steel Limited vs. Union of India & Anr.

Case no.: 2025 SCC OnLine Del 651

Court: High Court of Delhi

Decided on: 30 January 2025

Justice Manmeet Pritam Singh Arora of the Delhi High Court, ruled that under Section 32A(1) of the Insolvency and Bankruptcy Code, 2016 (IBC), when a Corporate Debtor that has successfully undergone a resolution process under Section 31 of the IBC, it cannot be prosecuted for offences committed before the initiation of the Corporate Insolvency Resolution Process (CIRP). In the case concerning Bhushan Power and Steel Limited (BPSL), the National Company Law Tribunal (NCLT) initiated CIRP against the company on 26.07.2017, with JSW Steel Ltd. emerging as the successful resolution applicant. Meanwhile, the Central Bureau of Investigation (CBI) registered an FIR against BPSL and its key officials on 05.04.2019, followed by the Enforcement Directorate (ED) recording an Enforcement Case Information Report (ECIR) on 25.04.2019. Despite the NCLT approving JSW's resolution plan on 05.09.2019, it did not grant BPSL immunity from past liabilities. Subsequently, the ED issued a Provisional Attachment Order under the Prevention of Money Laundering Act, 2002 (PMLA), which was stayed by the National Company Law Appellate Tribunal (NCLAT).

On 17.01.2020, the ED filed a prosecution complaint against BPSL, along with its former Chairman, Managing Director, and other officials, alleging involvement in a ₹47,204 crore bank fraud. The NCLAT later ruled on 17.02.2020 that the attachment of BPSL's assets was illegal under Section 32A of the IBC. However, when the ED appealed to the Supreme Court, the apex court did not issue a definitive interpretation of Section 32A(2) or the ED's authority to attach assets of a Corporate Debtor undergoing CIRP. In response, BPSL filed a petition under Article 226 of the Constitution and Section 482 of the Cr.P.C, seeking to quash the ECIR and the prosecution complaint dated 17.01.2020. The High Court reaffirmed that once a resolution plan is approved and conditions under Section 32A are met, the Corporate Debtor cannot be prosecuted for offences committed before CIRP. However, individual officers or directors responsible for such offences before CIRP initiation would continue to face prosecution.

The court emphasized that while the Corporate Debtor is absolved of criminal liability post-resolution, the trial of its former management would still examine the company's role during their tenure. Allegations under Section 70 of the PMLA warranted further scrutiny into the previous operations of the company. In its ruling, the High Court allowed the writ petition in

part, setting aside the prosecution order against BPSL while clarifying that its judgment was subject to the Supreme Court's final decision on the resolution plan's approval. The decision reinforced the protection offered by Section 32A(1) of the IBC, ensuring that a successfully resolved company is not held liable for past misdeeds, while accountability remains intact for individuals involved in unlawful activities before CIRP.

[Click Here]

II. Case Title: In Re, Narayan Dey & Ors.

Case No: 2025 SCC OnLine Cal 1371

Court: High Court of Calcutta

Decided on: 13 February 2025

The Calcutta High Court's Division Bench, comprising Justices Tapabrata Chakraborty and Prasenjit Biswas, has granted bail to three delivery personnel employed by Delhivery Ltd., who were accused under the NDPS Act, 1985. The court observed that the accused were engaged in their regular duties, collecting and transporting shipments based on orders received through the company's portal. It held that there was no prima facie evidence indicating that the accused were in conscious possession of the contraband or had any intent to possess it. The court emphasized that possession alone is not sufficient to establish guilt under the NDPS Act and that there was no indication the accused were aware that the cartons they were transporting contained illegal substances. Acknowledging the impact of arrest on personal liberty and livelihood, the court noted that the accused were permanent residents of Coochbehar with families dependent on them, and there was no reason to believe they would abscond or hinder the investigation.

The accused argued that the contraband was booked through Delhivery's online portal by a business associate and that they were merely executing their assigned task of collecting and transporting shipments. They stated that they picked up the cartons from M/s Natabari Medical Stores and were intercepted by authorities while returning. The petitioners asserted that they had no knowledge of the contents of the cartons and had been falsely implicated, resulting in their prolonged custody for over 135 days. Their legal representatives contended that their role was limited to logistics and did not involve any criminal intent or awareness regarding the illicit nature of the consignment.

On the other hand, the Additional Public Prosecutor opposed the bail plea, arguing that substantial incriminating evidence existed against the accused. He pointed out that a large quantity of contraband was found in their possession, which triggered statutory restrictions under Section 37 of the NDPS Act. Additionally, he emphasized that the investigation was ongoing and that granting bail at this stage would be premature. However, the court took note of the fact that the person who had booked the consignment had not been apprehended and that the accused were not a flight risk. Taking these factors into consideration, the court deemed it appropriate to grant them bail.

[Click Here]

III. Case Title: Sooryanarayanan v. State of Kerala

Case no: 2025:KER:2135

Court: High Court of Kerala at Ernakulam

Decided on: 13 January 2025

The Kerala High Court recently ruled that it would be unjust to deny a 24-year-old man, the fourth accused in an NDPS case, permission to travel abroad for employment, especially when the conclusion of his trial was not expected in the near future. Justice VG Arun criticized the Sessions Court for citing the examples of Vijay Mallya and Nirav Modi to justify denying the petitioner's request, deeming such comparisons unwarranted. The case against the petitioner was registered in 2018 under Sections 22(b) and 20(b)(ii)(B) of the NDPS Act, and the corresponding district court case was pending before the Additional Sessions Court-III, Thrissur from 2019.

The petitioner, who was 18 years old at the time of the alleged offense, had been granted bail in March 2019. He approached the Sessions Court seeking permission to travel abroad for employment but was denied based on concerns over flight risks, which the High Court found unreasonable. The High Court sought a report from the Additional Sessions Judge regarding the status of the case and the expected timeline for its resolution. The report revealed that the charges against the petitioner had not yet been framed and that the Sessions Court was burdened with over 4,000 pending cases, including more than a thousand cases older than five years.

Recognizing the backlog and the extended timeframe required for trial completion, the High Court held that preventing the petitioner from seeking employment abroad for another two

years would be unfair. Given the circumstances, the Court directed the Additional Sessions Judge to grant him permission to travel abroad, ensuring that delays in the judicial process did not unjustly impact his right to livelihood.

[Click Here]

IV. Case Title: Arun Pati Tripathi v. Directorate of Enforcement

Case No: Criminal Appeal No.725 OF 2025

Court: Supreme Court of India

Decided on: 12 February 2025

The Supreme Court, while granting bail to an IAS officer accused in the Chhattisgarh liquor scam, emphasized that the provisions of the Prevention of Money Laundering Act (PMLA) should not be misused to keep individuals in prolonged detention. The bench, comprising Justices Abhay S. Oka and Ujjal Bhuyan, was hearing the bail plea in a PMLA case arising from the alleged scam. Justice Oka noted that the accused had been in custody since August 8, 2024, despite the High Court quashing the Sessions Court's order taking cognizance of the complaint. He expressed concern over the tendency to detain individuals indefinitely under PMLA, comparing it to the misuse of Section 498A of the IPC in the past.

During the hearing, Additional Solicitor General SV Raju, representing the Enforcement Directorate, argued that the cognizance order was quashed solely due to the absence of government sanction and not because the offense was unsubstantiated. However, Senior Advocate Meenakshi Arora, appearing for the appellant, countered that the accused had already suffered prolonged detention without any valid legal basis. Justice Oka questioned the implications of keeping an individual in custody after the cognizance order had been set aside, asking what kind of message such actions conveyed.

The bench ultimately granted bail, stating that continued detention was unjustified once the order taking cognizance had been quashed. The Court clarified that if the accused violated any bail conditions, the authorities would have the right to seek cancellation of bail. This decision reinforces the principle that PMLA provisions should not be used to unjustly prolong incarceration, ensuring that legal safeguards against arbitrary detention are upheld.

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V. Case Title: Udhaw Singh vs. Directorate of Enforcement

Case No: 2025 INSC 247

Court: Supreme Court of India

Decided on: 17 February 2025

The Allahabad High Court recently ruled that the accused is not entitled to receive an advance copy of an application filed by the Enforcement Directorate under Section 50 of the Prevention of Money Laundering Act, 2002, as they have no right to oppose it. Section 50 empowers ED officers to summon individuals and seek information related to an ongoing investigation. In the Shine City Scam case, where further investigation was underway, the ED sought permission from the Special PMLA Court in Lucknow to confront the accused in jail with newly gathered evidence. The court granted the request, prompting the accused to challenge the order before the High Court.

The petitioner's counsel, Advocate Purnendu Chakravarty, argued that once a chargesheet had been filed, further interrogation should not have been permitted. Additionally, he contended that the accused should have received a copy of the application to seek legal counsel. However, the ED's counsel, Advocate Kuldeep Srivastava, countered that new material evidence had surfaced, making it necessary to confront the accused and record his statement. The High Court acknowledged that the Trial Court had noted the scale of the fraud, which amounted to thousands of crores, and emphasized that the accused had the opportunity to respond to any evidence presented against him.

Justice Rajesh Singh Chauhan observed that while serving an advance copy of the application to the accused would have been a precautionary measure, its absence did not constitute a violation of natural justice. The Court held that since the investigation was ongoing and the new evidence was directly related to the accused, it was essential to confront him with the findings. However, in the interest of fairness, the Court directed that the accused's statement be recorded in the office of the Jail Superintendent or Jailer in Lucknow, with his legal counsel present to assist him.

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VI. Case Title: Sikandar Singh v. Directorate of Enforcement

Case No: 2025:PHHC:015042

Court: High Court of Punjab and Haryana

Decided on: 31 January 2025

The Punjab & Haryana High Court has granted bail to a company director accused under the Prevention of Money Laundering Act (PMLA) for allegedly fabricating bank guarantees and defrauding 1,500 prospective home buyers. The petitioner, Sikander Singh, was accused of failing to complete housing projects on time, misappropriating funds, and cheating home buyers out of approximately ₹363 crore. Justice Mahabir Singh Sindhu noted that Singh had been in custody since April 30, 2024, for over nine months, yet there had been no progress in the trial beyond the cognizance stage, with charges still pending before the Special Court. The judge highlighted that given the 32 prosecution witnesses cited by the Enforcement Directorate, there was little possibility of the trial concluding within a reasonable timeframe.

The Court also observed that none of the 1,500 home buyers had lodged a complaint against Singh, and there were legal remedies available under the Real Estate (Regulation & Development) Act, 2016, for home buyers seeking compensation or penalties due to project delays. Justice Sindhu pointed out that there was no evidence on record showing that any affected party had pursued such legal action. Based on this, the Court determined that the statutory bar under Section 45 of the PMLA would not be applicable in this case. The bench was hearing Singh's second bail plea, as he was booked under Sections 3 and 4 of the PMLA.

During the hearing, Singh's senior counsel argued that despite his full cooperation with the ED, including appearing for questioning 37 times between December 2021 and October 2023, the agency had still obtained open-ended warrants against him, his father, and his brother with alleged mala fide intent. It was further submitted that of the 1,500 flats, around 1,000 were already constructed, with 800 nearly completed at 95% and another 200 at 75-80% completion. Taking these factors into account, the Court ruled that keeping Singh in custody would serve no useful purpose and would amount to punishment before guilt was established, thereby granting him bail.

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REGULATORY

COMPETITION COMMISSION OF INDIA

I. CCI approves the proposed acquisition of certain shareholding in POSCO - India Pune Processing Center Private Limited by POSCO India Processing Center Private Limited

The Competition Commission of India (CCI) has approved POSCO Group's intra-group restructuring, where POSCO-India Processing Centre Private Ltd (PIPC) will acquire the entire shareholding of LX International Corporation in POSCO-India Pune Processing Centre Private Ltd (IPPC). This acquisition, aimed at consolidating control over the group's steel processing and distribution network in India, involves both companies processing and distributing value-added steel products. The transaction, considered an intra-group realignment, is not expected to affect market concentration or competition, as the exiting seller, LX International Corporation, is unrelated to the group, ensuring a clean transfer.

II. Competition Commission of India (CCI) approves the acquisition of certain interest in Blackwater Coal Mine by NS Blackwater Pty Limited and JFE Steel Australia (BW) Pty Ltd.

The Competition Commission of India (CCI) has approved the acquisition of a combined 30 percent stake in Australia's Blackwater Coal Mine by NS Blackwater Pty Ltd and JFE Steel Australia (BW) Pty Ltd. Under the deal, NS Blackwater will acquire 20 percent, and JFE Steel BW will take 10 percent of the Queensland-based mine, which has been operating since 1967 and supplies coking coal to India. Both acquiring entities are special purpose vehicles, with NS Blackwater owned by Japan's Nippon Steel Corporation and JFE Steel BW a subsidiary of JFE Holdings. The acquisition aligns with India's growing demand for high-quality coking coal, essential for steel production, and underscores the strategic collaboration between India and Japan in securing vital resources. The deal highlights the ongoing importance of the Blackwater mine in the global coal supply chain and India's role as a key importer of Australian coal.

III. Commission approves amalgamations of Chaitanya India Fin Credit Private Limited and Svatantra Holdings Private Limited into Svatantra Microfin Private Limited

The Competition Commission of India (CCI) has approved the amalgamation of four entities within the Svatantra Group: Svatantra Holdings Pvt Ltd (SHPL), Svatantra Microfin Pvt Ltd (SMPL), Chaitanya India Fin Credit Pvt Ltd (CIFCPL), and Svatantra Micro Housing Finance Corporation Limited (SMHFCL). As part of the merger, CIFCPL and SHPL will be amalgamated into SMPL, with SMHFCL becoming a wholly-owned subsidiary of SMPL. SHPL, a Core Investment Company, primarily engages in equity investments, while SMPL and CIFCPL provide microfinance and personal loans to low-income households in rural and semi-urban areas. SMHFCL, now under SMPL's full ownership, focuses on secured housing loans and loans for construction projects. This consolidation aims to enhance financial inclusion and streamline operations within the microfinance and housing finance sectors.

IV. The Draft Competition Commission of India (Determination of Cost of Production) Regulations, 2025

Court/Tribunal: Competition Commission of India

Dated: 17.02.2025

The CCI published the Draft Competition Commission of India (Determination of Cost of Production) Regulations, 2025 ("**Draft Regulations**") for stakeholder consideration up to 19.03.2025. The Draft Regulations provide that the determination of cost under the Competition Act, 2002 ("**the Act**") will now include cost concepts based on industry specifics and expert reviews in the event that enterprises dispute the determination of costs by the CCI.

The Draft Regulations ensure a transparent, consistent, and adaptable framework for cost determination that will enable the CCI to make well-informed decisions.

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DATA PRIVACY AND CYBER SECURITY LAWS

I. Rajasthan High Court took Suo moto cognizance of 'Digital Arrest Scams'

Case Title: In Re, In the matter of tackling the issue of 'Digital Arrest Scams', Cyber Crimes and saving the innocent people from losing their money and lives.

Citation: CW/1311/2025

Court: High Court of Rajasthan (Jaipur Bench)

Decided on: 22 January 2025

A Suo moto cognizance was taken by Rajasthan High Court of the increasing trend of one of the insidious forms of cybercrime 'digital arrest scams.' The Court opined that public campaigns through print, electronic, social media, television and FM Radio shall be organized every day to make public aware about digital arrests having no legal standing under the Indian laws as well as to educate people about the lawful process of arrests in India and the rights associated with it.

The Court reviewed best practices from **Singapore, Australia, and the USA**, including:

- **Singapore**: AI-powered scam detection reduced cases by **25%**.
- **Australia**: Stricter cybercrime laws and harsher penalties.
- **USA (FTC & IC3)**: Public awareness campaigns and reporting platforms.
- **INTERPOL & EUROPOL**: Joint operations leading to arrests and asset seizures

Court's Directives for Immediate Action

- **RBI**: Develop mechanisms to **halt fraudulent transactions instantly**.
- **Ministry of Home Affairs (MHA)**: Submit a detailed report on anti-scam measures.
- **Rajasthan Government**: Update the court on **Operation Anti-Virus** progress.
- **NPCI** (National Payments Corporation of India): Implement **real-time tracking** of fraudulent transactions.
- **Public Awareness Campaigns**: Run daily campaigns via **TV, social media, and FM radio** to inform citizens about the scam.

The High Court's intervention highlights the **urgent need for a coordinated approach** involving **law enforcement, financial institutions, and public awareness** to combat **Digital Arrest Scams**. Justice Anoop Kumar Dhand emphasized:

"These scams are a serious threat in our interconnected world, requiring collective efforts at local, national, and global levels."

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II. SEBI issued Policy for Sharing Data for the Purpose of Research and Analysis

Dated: December 20, 2024

Background and Purpose

SEBI issued this circular to establish a uniform policy for sharing data among Stock Exchanges, Clearing Corporations, and Depositories specifically for research and academic publications. The policy aims to balance data privacy concerns with providing access to necessary data for research purposes.

Scope and Application

The policy applies to all market intermediaries and data sources in Indian securities markets. It distinguishes between data that can be shared publicly and data that requires confidentiality due to its sensitive nature.

Data Classification

- **First Basket (Publicly Shareable Data):**
  - Aggregate and analyzed data available on respective websites.
  - Includes reporting, disclosure data mandated by regulators.
  - Shareable anonymized data not identifying individuals/entities directly.
- **Second Basket (Confidential Data):**
  - KYC information, trade logs, holding details with entity/individual identities.
  - Anonymized data that could potentially identify individuals/entities.
- **Implementation and Compliance**
  - MIIs (Stock Exchanges, Clearing Corporations, Depositories) are required to categorize and frame their data sharing policies in accordance with the circular.
  - They must submit data lists under each basket to SEBI for approval within 60 days of the circular's issuance and review annually.
- **Communication and Enforcement**

- MIIs must communicate their implementation status to SEBI within three months.
- The circular is issued under SEBI's authority to protect investor interests and regulate the securities market.

This circular is effective immediately upon issuance and aims to streamline data sharing practices while safeguarding data privacy and regulatory compliance in the Indian securities market.

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III. Case Title: Badri Prasad vs. Central Bureau of Investigation & Ors.

Citation: S.B. Cr. Miscellaneous (Petition) No. 6518/2024

Court: High Court of Rajasthan (Jaipur Bench)

Decided on: 14 November 2024

The petitioner was accused of accepting 1% commission from contractors as undue gratification for clearing their bills. A charge sheet was filed, supported by telephonic conversation recordings between the petitioner and the contractors. Subsequently, the Public Prosecutor applied for the petitioner's voice samples to enable forensic comparison with the recorded conversations. The petitioner was directed to provide the voice samples which was later challenged in Court. Here the Court observed Article 20(3) of the Indian Constitution states that the accused could not be compelled to be a witness against himself and not that the accused could not be compelled to be a witness at all. As a result, asking the accused to furnish his/her voice samples did not amount to self-incrimination when the incrimination was contingent on comparing that voice sample with the recordings available.

The Court held that voice is a unique personal trait and furnishing a voice sample is comparable to providing a blood sample. It cannot be equated with a statement made by the petitioner. Furthermore, the voice samples are needed for investigation in a corruption matter and thus was necessary in public interest.

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IV. Department of Telecommunications notified Telecommunications (Telecom Cyber Security Rules) 2024

Dated: 21 November 2024

The rules aim to enhance the cybersecurity of telecom networks in India by imposing obligations on **licensees (telecom service providers - TSPs)** to protect infrastructure, data, and services from cyber threats. Following are the key features of the rules:

- **Mandatory Cyber Incident Reporting**
    - Telecom companies must report any cybersecurity incident within six (6) hours of detection.
    - Additional details, such as user impact, duration, and remedial actions, must be provided within 24 hours of the initial report.
- **Compliance & Security Measures**
    - Entities must implement cybersecurity policies that include:
        - Regular testing of networks and equipment.
        - Timely response to security threats.
        - Forensic analysis of incidents.
        - Periodic audits to ensure adherence to security protocols.
- **Prohibited Activities**
    - Telecommunication equipment, networks, or services must not be used for activities such as:
        - Fraud, cheating, and personation.
        - Transmitting fraudulent messages.
        - Committing or attempting any cyber-related offenses.
- **Chief Telecommunication Security Officer (CTSO)**
    - Every telecom entity must appoint a CTSO, who will:
        - Liaise with the Central Government for cybersecurity implementation.
        - Ensure the entity complies with security mandates.

- **Impact & Compliance Requirements**
    - Stronger security measures to safeguard telecom infrastructure.
    - Rapid response & reporting obligations for cyber threats.
    - Strict enforcement with penalties for non-compliance.
    - Increased responsibility on telecom providers to prevent fraudulent and malicious activities.

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REAL ESTATE UPDATES

I. GODREJ PROJECTS DEVELOPMENT LIMITED v. ANIL KARLEKAR & ORS., CIVIL APPEAL NO. 3334 OF 2023, SUPREME COURT

The Supreme Court delivered a significant ruling on the aspect of forfeiture of earnest money upon cancellation of flat bookings and observed that the amount to be forfeited must be reasonable and not punitive, as per Section 74 of the Contract Act, 1872.

In this case, the respondents booked an apartment in the Godrej Summit project in Gurgaon, Haryana, in 2014. An Apartment Buyer Agreement (ABA) was executed, containing a clause for forfeiture in case of booking cancellation. In 2017, when the apartment was ready for possession, the buyers declined due to market recession and sought a refund of ₹51,12,310/- (amount paid). Godrej Projects Development Ltd., the builder, invoked the forfeiture clause to withhold 20% of the earnest money. The buyers contested this, arguing that the forfeiture was excessive and amounted to a penalty under Section 74, especially since the cancellation did not constitute a breach of contract.

When the matter went for adjudication before the National Consumer Disputes Redressal Commission (NCDRC), it ruled in favour of the buyers, permitting the builder to forfeit only 10% of the Basic Sale Price (BSP) as earnest money and directing the refund of the balance with 6% interest per annum. Being aggrieved by the said decision, the builder approached the Supreme Court challenging the said decision.

The Supreme Court upheld the NCDRC's ruling, observing that the forfeiture of 20% earnest money was excessive and arbitrary. It held that the agreement was one-sided and unfairly favored the developer, thus constituting an "unfair trade practice." The Court referred to prior

judgments, including *Pioneer Urban Land and Infrastructure Limited* and *Ireo Grace Realtech Private Limited v. Abhishek Khanna*, emphasizing that unfair clauses in agreements contravene consumer protection laws. The Court also cited *Central Inland Water Transport Corporation Limited v. Brojo Nath Ganguly*, highlighting that courts would not enforce unfair contractual terms imposed by parties with unequal bargaining power. This judgment reinforces that forfeiture of earnest money in real estate transactions must be reasonable and proportionate, ensuring fairness and protecting consumer rights.

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II. M/S RAMPRASTHA DEVELOPERS PVT LTD AND ORS v. STATE OF HARYANA AND ORS, CWP-24591-2024, PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

The Punjab & Haryana High Court, in the present case has affirmed that home buyers who have deposited certain amounts and are prospective allottees are entitled to file complaints before the Real Estate Regulatory Authority (RERA) for redressal of grievances. The present case, came as a significant clarification reiterating the jurisdiction of RERA, observing that under RERA Act, both existing and prospective allottees have the right to seek relief, even if the project is yet to be launched.

The petition was filed by M/S Ramprastha Developers Pvt. Ltd. and others, challenging an order passed by the Haryana Real Estate Regulatory Authority (RERA), Gurugram, which was based on complaints filed by homebuyers. The petitioners contended that the complainants were not home buyers or allottees, as the project was not yet in existence and only advance payments were made for prospective projects. They argued that no cause of action arose and thus, RERA lacked the jurisdiction to entertain the complaints.

When the matter was taken to Hon'ble High Court for adjudication under the Writ Petition, the division bench of Justice Sureshwar Thakur and Justice Vikas Suri rejected the arguments presented by the petitioners, terming their stance as "rudderless." The Court clarified that under the statutory definition of 'allottee' in RERA, the term encompasses not only current but also potential and prospective allottees, including those related to upcoming projects. Thus, complaints can be filed for both ongoing and future projects.

The Court held that RERA has the jurisdiction to entertain complaints from allottees under Sections 31 and 37 of the RERA Act. Section 31 allows any aggrieved person to file a

complaint with the Authority for violations of the Act, while Section 37 empowers the Authority to issue binding directions to promoters, allottees, and real estate agents.

Dismissing the writ petition, the Court ruled that the petitioners' argument of an alternative remedy under Section 43(5) was not tenable, as the challenge was based on jurisdictional grounds. Consequently, the Court upheld the RERA order, confirming the maintainability of complaints from prospective allottees.

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III. NIRMITI DEVELOPERS v. STATE OF MAHARASHTRA, CIVIL APPEAL NOS. 3238-3239 OF 2025, SUPREME COURT

In the present case the Supreme Court addressed the issue of land reservation under the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act).

The cause of action in the present case aroused when the appellants purchased 2.47 hectares of land in 2015, which had been reserved for a private school since 1993 as per a revised development plan. Despite the reservation, no acquisition proceedings were initiated by the respondents for over a decade. The original owners had served a purchase notice under Section 49 of the MRTP Act in 2006, but no action was taken within the stipulated one-year period, leading to the appellants' writ petition, which was disposed of by the High Court. Aggrieved by the inaction, the appellants approached the Supreme Court, seeking either compensation or a declaration that the reservation had lapsed.

The Hon’ble Supreme Court was presented to adjudicate upon the primary issue of whether the reservation of land for the private school had lapsed due to the failure of the authorities to acquire the land within the prescribed timeline under Section 127 of the MRTP Act. Additionally, the Court examined whether the appellants, as purchasers of the land, could utilize the property for permissible purposes, given the inordinate delay in acquisition.

The Supreme Court, based on the facts and circumstances, held that under Section 127 of the MRTP Act, if the land reserved for public purposes is not acquired or if proceedings for acquisition are not initiated within the stipulated period, the reservation automatically lapses. The Court observed that the timeline under the Act is sacrosanct and must be adhered to by the State or its authorities, emphasizing that landowners cannot be deprived of land use indefinitely. The Court concluded that the reservation for the private school lapsed on 02-01-

2008, as the authorities failed to commence acquisition proceedings within one year from the confirmation of the purchase notice. Referring to *Kolhapur Municipal Corporation v. Vasant Mahadev Patil* (2022) 5 SCC 758, the Court noted that once a reservation lapses, it does so for all purposes, allowing the landowner to utilize the land without restriction. In light of the thirty-year delay, the Court declared the reservation to have lapsed, permitting the appellants to use the land as if no reservation had ever existed.

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IV. GAZAL SRIVASTAVA & ORS. v. DHAJARAM CHARITABLE TRUST, NEW DELHI THRU. ITS CHAIRMAN CAPTAIN DILAVAR SINGH SANGHWAN(RTD.) & ANR, MATTERS UNDER ARTICLE 227 No. - 6346 of 2024, ALLAHABAD HIGH COURT

In a significant ruling, the Allahabad High Court in the present case, comprehensively discussed on the core issue of whether the property, which was privately owned by the petitioners but was mentioned in the company's balance sheet, could be considered company property for the purpose of recovering debts. More particularly the court in the present matter examined that whether the property could be auctioned for recovery from the judgment-debtor company despite the absence of a registered sale deed transferring ownership to the company.

The facts of the present case are such that a suit was filed in Delhi for the recovery of arrears of profit share, rent, and damages against Lavanaya Ayurvedic Pvt. Ltd., of which Petitioner No.1 is a Director and Petitioner No.4 is the Chairman. An ex-parte decree was passed against the company, explicitly stating that no decree was issued against Defendant No. 2, Sangeet Srivastava (Petitioner No. 4). Subsequently, an execution case was filed in Lucknow seeking attachment of the company's movable and immovable properties. The petitioners claimed individual ownership of the auctioned property, asserting that it was privately owned by them and was not transferred to the company. However, their claims were dismissed by the execution court. Despite filing multiple objections, including a recall application, their petitions were rejected, leading them to file writ petitions before the Allahabad High Court.

The Hon'ble Court held that the property could not be considered as belonging to the company for the purpose of debt recovery in the absence of a registered sale deed. The Court observed that merely mentioning the property in the company's balance sheet does not make it company property. It emphasized that property transfer can only be effected through a registered sale deed, as per the Transfer of Property Act and the Registration Act. The Court referred to the

Supreme Court's ruling in *Suraj Lamp and Industries Private Limited v. State of Haryana and Anr.*, reiterating that ownership of property cannot be presumed without a formal conveyance deed. Furthermore, the Court clarified that Section 93 of the U.P. Revenue Code did not apply since the property was not agricultural land and no loan transaction was involved. Consequently, the Court set aside the execution decree and held that the petitioners, despite being Directors, retained their individual ownership rights. However, a cost of Rs. 50,000 was imposed for non-disclosure of the petitioner's position as Chairman of the company.

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TELECOM REGULATORY AUTHORITY OF INDIA

I. TRAI responds to the DoT's back-reference in respect of the TRAI's recommendations dated 18.09.2024 on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023

The Telecom Regulatory Authority of India (TRAI) has issued its response to the Department of Telecommunications (DoT) with respect to the back-reference received on TRAI's recommendations, concerning the 'Framework for Service Authorisations under the Telecommunications Act, 2023.' Previously, DoT had sought TRAI's recommendations on terms, conditions, and fees for authorisations to provide telecom services under the Act. TRAI had responded to this request after consulting stakeholders. In response, DoT reviewed TRAI's recommendations and shared its initial views in a back-reference on January 14, 2025. TRAI has now finalized its response, which has been published on its website.

II. TRAI releases Recommendations on 'Framework for Service Authorizations for provision of Broadcasting Services under the Telecommunications Act, 2023'

The Telecom Regulatory Authority of India (TRAI) has released recommendations for the Framework for Service Authorisations under the Telecommunications Act, 2023, aimed at improving the broadcasting sector. Notably, TRAI has proposed the following:

a. Removing the ₹100 crore minimum net worth requirement for Internet Service Providers to offer IPTV services and aligning it with the Department of Telecom's Internet Services authorisation.

b. Setting up separate Programme and Advertisement Codes for radio broadcasters by the ministry of information and broadcasting.

c. Voluntary migration of existing licenses to the new regime, with no entry or processing fees required for broadcasting services.

It also emphasizes the need for TRAI's recommendations before amending service authorisation terms and encourages voluntary infrastructure sharing among service providers. The recommendations aim to enhance growth and ease of doing business in the broadcasting sector.

III. TRAI Strengthens Consumer Protection with Amendments to TCCCPR, 2018

The Telecom Regulatory Authority of India (TRAI) has revised the Telecom Commercial Communications Customer Preference Regulations (TCCCPR), 2018, to strengthen consumer protection against Unsolicited Commercial Communication (UCC). The revised regulations allow consumers to file complaints about spam calls and messages from unregistered senders without needing to register preferences first, with an extended complaint window of 7 days (up from 3). Access providers are now required to act within 5 days (down from 30) to block violators and ensure easier access to complaint registration via mobile apps and web portals. Telecom operators must also include an opt-out option in promotional messages and suspend telecom resources of senders found guilty of repeated violations. The new regulations also mandate strict traceability between Principal Entities and Telemarketers and impose financial penalties of Rs 2 to 10 lakh for misreporting UCC data.

IV. TRAI releases report on IDT conducted in five cities viz. Karnataka LSA, Himachal Pradesh LSA, Tamil Nadu LSA, Punjab LSA and Kolkata LSA during Nov 2024

In November 2024, the Telecom Regulatory Authority of India (TRAI) conducted Independent Drive Tests (IDT) across five major cities—Mysuru, Dharamshala, Chennai, Chandigarh, and Kolkata—to assess the quality of voice and data services provided by leading telecom operators: Bharti Airtel, BSNL/MTNL, Reliance Jio, and Vodafone Idea. The tests covered multiple network technologies (2G, 3G, 4G, 5G) and measured key performance indicators (KPIs) such as call setup success rate, drop call rate, speech quality, coverage, data throughput, packet drop rate, video streaming delay, latency, and jitter. The results reflect real-time network

performance and provide insights into areas for improvement, helping enhance the overall service quality for consumers in these cities.

V. TRAI releases recommendations on Revision of National Numbering Plan

The Telecom Regulatory Authority of India (TRAI) has proposed changes to the National Numbering Plan to accommodate the growing demand for telecom services. These include shifting fixed-line phones to a 10-digit numbering system, similar to mobile numbers, with a '0' required before dialling landline-to-landline calls. Mobile call dialling will remain the same. TRAI has set a six-month timeline for this transition and plans to introduce fixed-line number portability within five years. To combat spam calls and caller ID fraud, TRAI recommends the quick rollout of the Calling Name Presentation (CNAP) service and stronger caller ID verification. Inactive numbers will only be deactivated after 90 days of non-use, and those inactive for a year will be deactivated. TRAI also suggests moving Machine-to-Machine (M2M) devices to a 13-digit numbering system and restricting special short codes, like emergency numbers, to government use, with regular audits.

VI. TRAI releases Recommendations on the Frequency Spectrum in 37-37.5 GHz, 37.5-40 GHz, and 42.5-43.5 GHz bands Identified for IMT

The Telecom Regulatory Authority of India (TRAI) has recommended the inclusion of spectrum in the 37-37.5 GHz and 37.5-40 GHz frequency ranges in the upcoming spectrum auction. TRAI suggests adopting Band Plan n260 with Time Division Duplexing (TDD)-based configuration for the 37-40 GHz range. Additionally, the auction should offer a block size of 100 MHz for licensed service areas, with a validity period of 20 years. TRAI also recommends that access service providers, internet service providers, and machine-to-machine service providers under the Unified License be allowed to participate in the auction.

However, due to the lack of a device ecosystem in the 42.5-43.5 GHz range, TRAI advises that this spectrum not be included in the auction. This follows a request from the Department of Telecommunications (DoT) for TRAI's views on the matter.