

NBA LEGAL

NEWSLETTER

JULY, 2025

ARBITRATION LAWS

DELHI HIGH COURT HOLDS WHATSAPP & EMAIL COMMUNICATIONS CAN FORM VALID ARBITRATION AGREEMENT

CASE TITLE: Belvedere Resources DMCC v. OCL Iron and Steel Ltd. & Ors.

DIARY DETAILS: Petition under Section 9 of the Arbitration & Conciliation Act, 1996; Judgment dated 1 July 2025

- **Case Background:** Belvedere, a UAE company, negotiated the sale of coal to S.M. Niryat Pvt. Ltd. (later merged into OCL Iron & Steel) through WhatsApp in September–October 2022. A draft Standard Coal Trading Agreement (SCoTA), containing an arbitration clause referring disputes to SIAC in Singapore, was shared via email. Despite reminders, Belvedere never received a signed copy or advance payment. S.M. Niryat purported to cancel the deal, prompting Belvedere to initiate arbitration and seek interim relief under Section 9 for attachment/security of approximately ₹23.34 crores.
- **Applicants' Claims:** Belvedere argued that both WhatsApp and email exchanges demonstrated mutual assent to the arbitration clause within SCoTA.

They contended this satisfied the “in writing” requirement of Section 7(4)(b) of the Arbitration Act. They also sought interim measures due to the financial impact of the dispute.

- **Respondents' Position:** OCL and its associates contended there was no concluded contract or signed arbitration agreement, thus no basis for jurisdiction or interim relief.
- **Tribunal's Findings:**
 - **Formation of Arbitration Agreement:** The Court held that Section 7(4)(b) permits an arbitration agreement to be “in writing” even if formal execution is pending, provided the clause is part of a communication exchange. The WhatsApp/email threads evidencing acceptance of SCoTA rendered the arbitration clause valid and binding.
 - **Territorial Jurisdiction:** Delhi lacked jurisdiction, as no part of the cause of action arose there. Negotiations and repudiation occurred elsewhere, and the presence of an insignificant branch office was insufficient.
 - **Interim Relief Under Section 9:** The Court refused interim attachment/security, holding that unliquidated damages are not “debt” until adjudicated; no evidence suggested asset

NBA LEGAL

NEWSLETTER

dissipation or fraud by the respondents.

- **Outcome:** Section 9 petition dismissed. However, the judgment affirms that digital communications like WhatsApp and email can validly form arbitration agreements under Section 7(4)(b), even absent formal contracts.

RAJASTHAN HIGH COURT RULES NOTICE UNDER SECTION 21 NOT MANDATORY IF DISPUTE AWARENESS EXISTS

CASE TITLE: Shekharchand Sacheti & Anr. v. S.M.F.G. India Home Finance Co. Ltd. & Anr.

DIARY DETAILS: Petition under Section 11 of the Arbitration & Conciliation Act, 1996; Judgment dated 10 June 2025

- **Case Background:** Applicants mortgaged part of their property as collateral for a loan from SMFG India Home Finance. After default, their account became a Non-Performing Asset (NPA), prompting SARFAESI proceedings and subsequent civil suit for partition. The respondent objected to the civil suit, relying on an arbitration clause, resulting in a referral under Section 8. The applicants then moved

the High Court under Section 11 for appointment of an arbitrator.

- **Applicants' Claims:** They contended that (i) SARFAESI enforcement and arbitration can run in parallel, and (ii) a formal notice under Section 21 wasn't necessary because SMFG had full knowledge of the dispute through ongoing court interactions—indeed, SMFG itself objected to the suit on arbitration grounds.
- **Respondent's Position:** SMFG argued that (i) arbitration invocation should be deferred while SARFAESI proceedings were pending, and (ii) Section 21 mandate—i.e., a written notice stating intention to arbitrate—was unfulfilled, making the Section 11 petition defective.
- **Tribunal's Findings:** Justice Anoop Kumar Dhand held that:
 - **Parallel Enforcement and Arbitration Permissible:** Citing *M.D. Frozen Foods v. Hero Fincorp*, SARFAESI (enforcement) and arbitration (adjudication) can co-exist.
 - **Notice under Section 21 Not Essential:** Since the respondent actively participated in dispute resolution and contested jurisdiction under Section 8, it was sufficiently aware—thus, technical non-issuance of Section 21 notice did not invalidate arbitration invocation

NBA LEGAL

NEWSLETTER

- **Outcome:** The Court appointed former Acting Chief Justice Sabina as Sole Arbitrator to settle the dispute.

INSOLVENCY LAWS

SUPREME COURT PLEA FILED SEEKING REVIEW OF JUDGMENT TREATING NOIDA AUTHORITY AS SECURED CREDITOR

CASE TITLE: BLOSSOM ZEST FLAT
BUYERS WELFARE ASSOCIATION V.
GREATER NOIDA INDUSTRIAL
DEVELOPMENT AUTHORITY & ORS.

DIARY DETAILS: REVIEW PETITION FILED IN SUPREME COURT AGAINST FEBRUARY 12, 2024 JUDGMENT

- **Case Background:** A homebuyers' association bought flats in a group housing project in Noida where the developer held land allotted by Noida Industrial Development Authority (NIDA). After delays in delivery, the association triggered CIRP under IBC. A resolution plan initially classified NIDA's claim as unsecured (operational creditor). On February 12, 2024, the Supreme Court held that authorities like Noida (and Greater Noida) must be treated as secured creditors due to a statutory charge created under Sections 13 and 13-A of the U.P.

Industrial Area Development Act. NCLT then remitted resolution plans for CoC reconsideration.

- **Applicants' Claims:** The Goast flat buyers contend that the judgment unfairly elevated Noida's claim priority above theirs. They argue that Section 13-A, introduced by a 2016 amendment, cannot apply retroactively to their 2010 agreement. They also assert that RERA Section 11(4)(h) shields their allotments from such statutory charges. They seek clarifications that the Supreme Court's ruling should be restricted to its unique facts or set aside regarding priority treatment.
- **Respondent's Position (NIDA):** Though not detailed in the petition, the reviewer indicates NIDA relies on statutory authority to claim secured status, and enforcement of priority under the U.P. Act.
- **Legal Issues:** The review petition filed by the homebuyers challenges the Supreme Court's ruling that recognized Noida Authority as a secured creditor by raising four key grounds. First, it argues against the **retroactive application of Section 13-A** of the U.P. Industrial Area Development Act, asserting that the statutory charge created in 2016 cannot affect pre-amendment agreements. Third, the petition highlights the **differential treatment** between homebuyers and statutory authorities, contending that equating the two in the

NBA LEGAL

NEWSLETTER

secured creditor hierarchy distorts legislative intent and prejudices homebuyer protection. Finally, it criticizes the **expansion of the term “security interest”** under IBC, alleging that the Supreme Court’s interpretation grants an unwarranted and excessive scope to authorities like Noida.

- **Relief Sought:** The petitioners request that the Supreme Court either set aside paragraphs 54(b)/55(c) of its February 12 judgment or clarify that these apply only to their case’s facts and do not establish a general precedent

NCLT DELHI REJECTS DISSOLUTION PLEA UNDER IBC TO SAFEGUARD ONGOING PMLA PROCEEDINGS

CASE TITLE: M/S GOYAL TEA AGENCIES PVT. LTD. V. SHAKTI BHOG SNACKS LIMITED

DIARY DETAILS: IA-3695/2023 IN IB-1713/2019 | JUDGMENT DATED 30 JUNE 2025

- **Case Background:** Insolvency proceedings were initiated in January 2023 by an operational creditor against Shakti Bhog Snacks Ltd (“SBSL”). The Resolution Professional, unable to proceed due to seized assets and lack of cooperation, filed a petition under Section 54 of the IBC for dissolution,

citing non-viability due to absence of assets, personnel, or business operations.

- **ED’s Submission:** The Enforcement Directorate intervened, revealing that SBSL was accused of money laundering under the PMLA. Allegations include funneling ₹97.87 crore to group companies and layering ₹127.81 crore via bogus transactions between FY 2007-08 and FY 2014-15. Attached assets and summons were issued in September 2024 by the Special PMLA Court.
- **Tribunal’s Findings:** A two-judge bench (Venkat Balram Das & Sanjeev Ranjan) determined that dissolving the corporate debtor while PMLA proceedings are active would extinguish SBSL’s legal existence—effectively derailing criminal prosecution, asset attachment, and recovery efforts. Citing precedents (e.g., *Embassy Property*, *Kiran Shah*), the NCLT found such dissolution would constitute judicial overreach.
- **Legal Principle Established:** The IBC cannot override or sidestep ongoing PMLA process. Even if assets are minimal, it’s the nature of pending criminal prosecution that matters—not the amount involved.
- **Outcome:** The Tribunal dismissed the dissolution application. SBSL remains a legal entity to allow the continuation of PMLA proceedings and ED’s investigations and recovery actions.

NBA LEGAL

NEWSLETTER

CIVIL LAW

RAJASTHAN HIGH COURT RULES TERMINATION OF PROBATIONER FOR QUESTIONABLE INTEGRITY CARRIES STIGMA AND REQUIRES INQUIRY

CASE TITLE: Prakash Manda v. The Rajasthan State Road Transport Corporation & Anr.

DIARY DETAILS: Writ Petition; Judgment dated 17 July 2025

- **Case Background:** A probationary conductor employed by the State Road Transport Corporation was terminated under Clauses 8(iii) and (iv) of the Rajasthan State Road Transport Workers & Workshop Employees Standing Orders, 1965, following allegations of allowing passengers to travel without tickets on four occasions. His service was ended without any formal inquiry or opportunity to respond.
- **Applicant's Claims:** The petitioner argued that such termination was punitive and stigmatic due to charges impugning his integrity, and therefore mandatory principles of natural justice – specifically, an enquiry – were required before such action.
- **Respondent's Position:** The employer maintained that the petitioner failed to

satisfy the integrity requirement for confirmation, and that probationary service could be terminated without inquiry under the standing orders.

- **Tribunal's Findings:** Justice Vinit Kumar Mathur held that when termination is based on integrity allegations, it becomes stigmatic and cannot be effected without an enquiry. The Court relied on precedents, including *Hanuwant Singh v. RSRTC*, affirming that punitive termination demands a fair hearing
- **Outcome:** The petition was allowed. The High Court quashed the termination order and remitted the matter for a proper enquiry before any disciplinary action.

NBA LEGAL

NEWSLETTER

ABOUT US

NBA Legal is a law firm offering a wide range of services to its clients in all spheres of law.

Lawyers at the firm present a proper blend of legal proficiency and commercial insight required in providing legal and transactional support services. The firm has its fully functional state of art office at Jaipur with channel offices located at Jodhpur.

The firm's practice is aimed at rendering well-conceived advice and strategies founded on legal, commercial that are receptive to the clients' needs.

The firm's clientele includes renowned corporate blue chips, notable public sector undertakings and NGO's.

The firm also assists private individuals who need avant-garde legal advice. It assists its clients in litigation before all judicial and quasi -judicial forums, international and domestic arbitration and dispute resolution, corporate legal advice, establishment of companies (including obtaining requisite permissions and licences), investments, property development and real estate due diligence, infrastructure, hospitality and entertainment, insurance laws, intellectual property, consumer protection and labour laws.

The firm also has access to a large pool of consultants in various specialized fields.



NBA LEGAL
ADVOCATES & CONSULTANTS

Offices:

Jaipur: Ground Floor, Plot No 23 Lane No 4,
Dharampark Colony, Opp. Parth
Sunshine, Behind Sodhani Sweets, Ajmer
Road Jaipur - 302034, Jaipur, Rajasthan
302012

Jodhpur: S1, Ashiana Amarbagh, Mail Pali Road,
Jodhpur

Contact: +91-9785636364 | +91-9001329267

Email: firm@nbalegal.in