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## NEWSLETTER

MAY, 2025

### ARBITRATION LAWS

#### SECTION 37 ARBITRATION ACT: NO RELIEF AGAINST LD REFUND WHERE DELAY ATTRIBUTABLE TO CLAIMANT

CASE TITLE: RAJASTHAN URBAN INFRASTRUCTURE DEVELOPMENT PROJECT V. M/S NATIONAL BUILDERS

DIARY DETAILS: D.B. CIVIL MISC. APPEAL NO. 2034/2019

- **Case Background:** M/s National Builders was awarded a contract by Rajasthan Urban Infrastructure Development Project (RUIDP) for a sewerage work package in Bhilwara. The contract was terminated citing slow progress, and the matter was referred to arbitration.
- **Contractor's Claims:** National Builders sought compensation for wrongful termination, including claims for unpaid work, cost escalation, overheads, idle charges, and loss of profit.
- **RUIDP's Position:** RUIDP contended that National Builders failed to perform satisfactorily despite

extensions and that termination was lawful under the contract. They also challenged the arbitral award as excessive and flawed.

- **Court's Findings:** The High Court held that the arbitral tribunal had assessed the evidence properly, and interference under Section 34 or 37 of the Arbitration Act is limited. The award did not suffer from perversity or patent illegality. The tribunal rightly held the termination unjustified and allowed appropriate compensation.
- **Outcome:** The High Court dismissed RUIDP's appeal and upheld the arbitral award in favor of National Builders, affirming the compensation granted for wrongful termination and related claims.

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### TRADEMARK DISPUTES LINKED TO LICENSING AGREEMENTS ARE ARBITRABLE WHEN IN PERSONAM IN NATURE

**CASE TITLE:** K. MANGAYARKARASI & ANR. V. N.J. SUNDARESAN & ANR.

**DIARY DETAILS:** SLP(C) NO. 13012 OF 2025

- **Case Background:** The petitioners filed a civil suit seeking permanent injunction and damages against the respondents for alleged unauthorized use of the trademark "Sri Angannan Biryani Hotel." The respondents moved an application under Section 8 of the Arbitration and Conciliation Act, 1996, citing arbitration clauses in trademark assignment deeds.
- **Petitioners' Claims:** The petitioners argued that the assignment deeds were forged or signed under misrepresentation and fraud, and that trademark disputes were non-arbitrable due to their nature as rights in rem.
- **Respondents' Position:** The respondents contended that the

disputes arose out of contractual trademark assignment deeds containing valid arbitration clauses, making the matter arbitrable.

- **Court's Findings:** The Commercial Court referred the parties to arbitration, a decision upheld by the Madras High Court and now affirmed by the Supreme Court. The Court reiterated that disputes concerning trademark assignments are arbitrable when they pertain to contractual rights in personam. Allegations of fraud were found insufficient to oust arbitration when they do not involve public domain implications.
- **Outcome:** The Supreme Court dismissed the Special Leave Petition, confirming that the parties must resolve their disputes through arbitration in accordance with the agreements.

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### IINSOLVENCY LAWS

#### WITHOUT AGREEMENT TO SELL OR ALLOTMENT LETTER, INVESTORS NOT RECOGNIZED AS ALLOTTEES

**CASE TITLE:** SUJATA SHEKHAR  
SHAH & ORS. V. MIRADOR  
CONSTRUCTION PRIVATE LIMITED

**DIARY DETAILS:** IA (IBC) NO.  
3892/MB/2024 IN CP (IB) NO.  
2054/MB/2019

- **Case Background:** Financial creditors, including Sujata Shekhar Shah and others, filed an insolvency application under Section 7 of the IBC against Mirador Construction Pvt. Ltd., relating to investments in a real estate project “Oasis Avani.” They later sought to amend the application to add more investors as financial creditors to meet the statutory threshold introduced by the 2020 amendment to Section 7.
- **Applicants’ Claims:** The applicants contended they were allottees under

the real estate project and had invested over ₹4.7 crores. The amendment application aimed to include 38 more such investors to meet the numerical requirement post-amendment.

- **Corporate Debtor’s Position:** The respondent argued that many applicants had already settled with the corporate debtor and lacked the legal basis to amend the petition. It was also contended that the applicants were investors with commercial agreements, not genuine “allottees” under RERA or IBC.
- **Tribunal’s Findings:** The NCLT found that none of the applicants had registered agreements for sale or allotment letters, as required to qualify as “allottees” under the IBC and RERA. The tribunal held that the applicants were financial creditors due to the commercial effect of borrowing, not “allottees” of a real estate project, and thus could not invoke the amended Section 7 provision.

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- **Outcome:** The amendment application was dismissed as not maintainable. The main insolvency application was kept pending for further proceedings

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### **CREDITOR AWARE OF CIRP CAN'T SUBMIT CLAIMS AFTER COC CLEARS RESOLUTION PLAN**

**CASE TITLE:** T.C.A. SURVEYORS & ADVISORS PVT. LTD V. POOJA BAHRY, EST. RP FOR UNITED NEWS OF INDIA & ORS

**DIARY DETAILS:** CIVIL APPEAL NOS. 51-52 OF 2025

- **CASE BACKGROUND:** T.C.A. Surveyors & Advisors Pvt. Ltd. (Appellant) entered into a Development Agreement with United News of India (Corporate Debtor) in 2015. After the Corporate Debtor terminated the agreement in 2017, the Appellant sought to recover outstanding amounts under the Insolvency and Bankruptcy Code (IBC). The Appellant filed a Section 9 application in 2018, which was

dismissed as the transaction was deemed more of a collaboration than an operational debt. Subsequently, the Appellant filed a commercial suit in the Delhi High Court in 2019. In 2023, the Corporate Debtor entered into the Corporate Insolvency Resolution Process (CIRP), and a Resolution Plan was approved by the Committee of Creditors (CoC) in 2024. The Appellant filed a late claim, which was rejected by the Resolution Professional and the Adjudicating Authority.

- **APPELLANT'S CLAIMS:** The Appellant contended that its claim should be classified as financial debt, reflecting in the Corporate Debtor's financial statements under 'Other Long-Term Liabilities.' It argued that the Resolution Professional erred in categorizing it as an 'other creditor' and sought condonation of the delay in filing its claim.
- **RESPONDENTS' POSITION:** The Resolution Professional, CoC, and SRA argued that the Appellant was aware of the CIRP but failed to file its

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claim in time. They contended that the Appellant's claim, even if reflected in financial statements, was rightly categorized as 'other creditor' and that no payment was proposed for such creditors in the approved Resolution Plan. They supported the dismissal of the Appellant's application.

- **TRIBUNAL'S FINDINGS:** The NCLAT found that the Appellant was aware of the CIRP proceedings but delayed in filing its claim. The Tribunal held that the Appellant's claim was correctly classified as 'other creditor' based on the financial statements and the nature of the transaction. It emphasized that the CoC's decision to allocate nil payment to 'other creditors' was a commercial decision and that the Appellant's late claim could not be entertained after the Resolution Plan's approval.
- **OUTCOME:** The Appeals were dismissed, and the Adjudicating Authority's order approving the Resolution Plan and rejecting the Appellant's application was upheld. The Appellant's claim, being filed

after the CoC approved the Resolution Plan, was not accepted.

### CIVIL LAW

#### **SUIT CAN BE DISMISSED AS TIME-BARRED EVEN WITHOUT FRAMING LIMITATION ISSUE**

**CASE TITLE:** R. NAGARAJ (DEAD) THROUGH LRS. AND ANOTHER VERSUS RAJMANI AND OTHERS

**DIARY DETAILS:** CIVIL APPEAL NO. 5131 OF 2025 (ARISING OUT OF SLP (C) NO. 36 OF 2021)

- **CASE BACKGROUND:** This long-pending litigation originated from a 1965 suit for maintenance filed by the wife and daughter of Samiappan against Samiappan, his father Rangappa Gowdar, and his brother Dasappa Gowdar. The suit was decreed, and the properties were attached. Subsequent sales and legal proceedings saw the property purchased by various parties. In 1982,

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Respondent Nos.1 to 3 (daughters and wife of Dasappa Gowdar) filed a suit to set aside the 1965 decree and partition the properties. The trial court dismissed the suit in 1994, and the appellate court affirmed this in 1997. The High Court, however, allowed a second appeal in 2020, remanding the matter to the trial court for a fresh trial on limitation issues.

- **APPELLANTS' CONTENTIONS:**

The appellants argued that Respondent Nos.1 to 3 were aware of the earlier proceedings but filed the suit after 17 years, making it time-barred. They contended that the High Court erred in remanding the case, as the trial and first appellate courts had rightly dismissed the suit on limitation grounds without needing to frame a separate limitation issue.

- **RESPONDENTS' POSITION:**

Respondent Nos.1 to 3 argued that the High Court was correct in remanding the matter, as the trial court had not framed a specific limitation issue. They claimed lack of

knowledge of the earlier decree and alleged fraud.

- **SUPREME COURT'S FINDINGS:**

The Supreme Court held that under Section 3 of the Limitation Act, courts must dismiss time-barred suits even if no specific limitation issue is framed. The Court found that the delay of 17 years in filing the suit made it hopelessly time-barred. It also emphasized that Section 100 of the Code of Civil Procedure requires High Courts to decide second appeals on substantial questions of law without remanding cases to trial courts, especially after prolonged litigation.

- **OUTCOME:** The Supreme Court set aside the High Court's judgment, restoring the trial court's dismissal of the suit. The Court underscored the importance of strict adherence to limitation periods and procedural laws to prevent indefinite litigation and protect the rights of bona fide purchasers.
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**NBA Legal** is a law firm offering a wide range of services to its clients in all spheres of law.

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

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