
NBA LEGAL

NEWSLETTER

OCTOBER, 2025

ARBITRATION LAWS

DELHI HIGH COURT PROTECTS ALLOTTEES' INTERESTS IN DISPUTE WITH DEVELOPER OVER COMMERCIAL SPACES

CASE TITLE: Harmeet Singh Kapoor & Ors. v. Neo Developers Pvt. Ltd. & connected matters

DIARY DETAILS: FAO (COMM) 237/2025, 238/2025, 239/2025, 204/2025, 210/2025, 211/2025; Judgment dated 18 September 2025

- **Case Background:** Appellants booked units in *Neo Square Mall, Gurugram* through MoUs. Disputes arose over assured returns, construction delays, and possession. HARERA (14 Aug 2024) directed Neo Developers to pay assured returns, hand over possession post-OC, and execute conveyance deeds. Instead, developer leased units to *Vexto Commercials Pvt. Ltd.* (allegedly a front company), leading appellants to file execution proceedings before HARERA and Section 9 petitions before Commercial Court. Commercial Courts dismissed petitions as non-maintainable due to RERA remedies already availed.
- **Petitioners' Claims:** Section 9 petitions were maintainable as *reliefs* sought were

distinct and arose after issuance of OC. Developer's lease to Vexto was sham/fraudulent. Despite payments since 2015, no possession or benefit accrued to appellants.

- **Respondent's Position:** Relied on *Ireo Grace Realtech v. Abhishek Khanna* (2021) 3 SCC 241 – once a RERA remedy is chosen, arbitration is barred. MoU clauses gave respondent discretion in leasing. Fit-out charges payable by appellants. Alleged non-cooperation by allottees.
- **Court's Findings:**
 - **Maintainability:** Section 9 petitions not barred – HARERA proceedings (pre-OC) and arbitration petitions (post-OC) arose at different stages, amounting to continuing cause of action.
 - **Relief:** Appellants had made substantial payments without possession; respondent enjoying rental income. Protection required.
- **Outcome:** Appeals allowed in part. Court directed:
 - Respondent to deposit **entire lease rent** earned from appellants' units with the Registrar General from July 2025 onwards.
 - Appointment of **Local Commissioner** to inspect units,

NBA LEGAL

NEWSLETTER

record occupancy, obtain lease deeds, and file report.

- Computations of dues to be filed by both sides before next hearing.
- Interim protections to continue; matter listed for 30 Oct 2025.

DELHI HIGH COURT REJECTS SECTION 11 PETITION WHERE EXISTENCE OF ARBITRATION AGREEMENT WAS NOT ESTABLISHED

CASE TITLE: escom Mineral Trading FZE v. Rashtriya Ispat Nigam Limited

DIARY DETAILS: Petition under Section 11(6) of the Arbitration & Conciliation Act, 1996; Judgment dated 9 September 2025

- **Case Background:** Rescom sought appointment of an arbitrator, alleging concluded contracts for supply of steam coal with RINL. Draft contracts contained arbitration clauses. RINL denied any final agreement, asserting only preliminary negotiations occurred.
- **Petitioner's Claims:** Exchanged emails and draft contracts reflected consensus; arbitration agreement under Section 7(4)(b) can arise even without formal execution.
- **Respondent's Position:** No binding contract was ever executed; drafts were "subject to approval" and no purchase

orders were issued; hence, no arbitration clause came into force.

- **Court's Findings:** A valid arbitration agreement requires clear and concluded consensus. Here, unlike in *Vedanta v. GSPC* (where bid documents showed acceptance), the record showed only negotiations without final commitment. Section 7 cannot apply to incomplete discussions.
- **Outcome:** Petition dismissed. Court held that in absence of a concluded contract, no valid arbitration agreement existed, and Section 11 could not be invoked.

INSOLVENCY LAWS

NCLT HOLDS MORATORIUM UNDER IBC DOES NOT BAR PMLA ATTACHMENTS

CASE TITLE: Mr. Vikram Kumar, Resolution Professional of Dr. Jain Video on Wheels Ltd. v. Directorate of Enforcement

DIARY DETAILS: I.A. 4373/2021 & I.A. 5680/2023 in C.P. IB No. 843 (ND)/2018; National Company Law Tribunal, New Delhi Bench (Court-IV); Judgment dated 02 September 2025

- **Case Background:** CIRP was initiated against Dr. Jain Video on Wheels Ltd.

NBA LEGAL

NEWSLETTER

on 03.06.2021. The Enforcement Directorate (ED) provisionally attached the Corporate Debtor's industrial plot (Surajpur, Gautam Budh Nagar, 4654 sq. mtrs.) on **31.03.2021** under Section 5 PMLA, later **confirmed on 06.12.2021**. The Resolution Professional (RP) sought stay of PMLA proceedings and removal of the attachment, arguing it violated the **moratorium under Section 14 IBC**.

- **Petitioner's Claims:** Moratorium under Section 14 IBC prohibits continuation of any proceedings, including PMLA attachments, against the Corporate Debtor. Section 238 IBC overrides conflicting provisions of other statutes, thus IBC must prevail over PMLA. PMLA proceedings are "civil" in nature and fall squarely within the moratorium. ED should file its claim before RP as a creditor rather than attach CIRP assets. Relied on *P. Mohanraj v. Shah Brothers Ispat (2021)*, *Alchemist ARC v. Hotel Gaudavan (2017)*, *Sterling SEZ*, etc.
- **Respondent's Position:** The attached property represents "proceeds of crime" identified by CBI FIR (inflated bills causing Rs. 2.83 crore loss to exchequer). Attachment confirmed by PMLA Adjudicating Authority (06.12.2021) is final, and NCLT has no jurisdiction to interfere. Section 32A IBC applies only after approval of resolution plan, not during CIRP.

PMLA, being a special law on money laundering, has primacy; remedies lie before PMLA Appellate Tribunal. Relied on *Embassy Property (2019)*, *Varrsana Ispat (2019)*, *Kiran Shah v. ED (2021)*, etc.

- **Tribunal's Findings:**

- Jurisdiction: NCLT cannot override or set aside PMLA orders; only PMLA Appellate Tribunal is the competent forum.
- Moratorium (Sec. 14 IBC): Does not extend to PMLA proceedings regarding attachment of "proceeds of crime."
- Sec. 32A IBC: Immunity to corporate debtor assets arises only post-approval of a resolution plan; not triggered here.
- Harmonious Construction: IBC and PMLA operate in distinct fields; directing de-attachment would amount to trenching upon PMLA jurisdiction.

- **Outcome:** Applications dismissed as devoid of merit. NCLT held that moratorium under IBC does not shield corporate debtor assets from attachment under PMLA. Remedy of RP lies before PMLA Appellate Tribunal, not NCLT.

NBA LEGAL

NEWSLETTER

NCLAT: SECTION 9 APPLICATION BARRED BY LIMITATION DESPITE SECTION 8 NOTICE

CASE TITLE: Haabia Resources Pvt. Ltd. v. Vidyut Metallics Pvt. Ltd.

DIARY DETAILS: Company Appeal (AT) (Ins) No. 1027 of 2025; Judgment dated 1 September 2025

- **Case Background:** Haabia Resources Pvt. Ltd. filed a Section 9 application under the Insolvency and Bankruptcy Code (IBC) based on MSME Council Awards dated 26 February 2011. These awards were challenged up to the Supreme Court, which recorded withdrawal of appeal on 11 March 2013. The application was filed on 23 March 2022, nearly nine years after the award attained finality.
- **Appellant's Claims:** The appellant argued that the limitation should be computed from the date of Section 8 notice (1 December 2019), and that the Section 9 application filed on 3 March 2020 was within time. They contended that the right to sue accrued only after the corporate debtor failed to pay post-notice.
- **Respondents' Position:** The respondent maintained that the MSME award had attained finality in 2013, and the application filed in 2022 was clearly time-barred under Article 137 of the Limitation Act. They emphasized that proceedings under IBC are not akin to execution of decrees.
- **Tribunal's Findings:**
 - o **Limitation Triggered by Final Award:** The right to sue accrued when the arbitral award became final in 2013. Section 8 notice cannot reset or extend the limitation period.
 - o **Article 137 Applies:** The Tribunal reaffirmed that Article 137 governs limitation under IBC, as held by the Supreme Court in B.K. Educational Services v. Parag Gupta.
 - o **Section 8 Notice Irrelevant to Limitation:** The 10-day waiting period post-Section 8 notice is a procedural requirement, not a basis for computing limitation.
- **Outcome:** The appeal was dismissed. The Tribunal upheld the Adjudicating Authority's finding that the Section 9 application was hopelessly barred by limitation. However, it clarified that the dismissal does not preclude the appellant from pursuing execution remedies under applicable law.

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.



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, Rajasthan 302012

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

Contact: +91-9785636364 | +91-9001329267

Email: firm@nbalegal.in