



**Luthra *and* Luthra**  
LAW OFFICES INDIA

## **DISPUTE RESOLUTION NEWSLETTER**

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It gives us immense pleasure to circulate the **September 2025 edition** of the **Luthra and Luthra Law Offices India's Dispute Resolution Newsletter**. In this edition, we have primarily focused on the recent legal developments in the fields of Criminal Laws, Arbitration, Insolvency Laws etc. Accordingly, we have covered key judgments passed by the Hon'ble Supreme Court and High Court(s) during July-August 2025. We hope you enjoy reading our Newsletter.

## SUPREME COURT

### **Impleading Proprietor Individually is Sufficient, Not Mandatory to Implead Proprietorship Concern Under Order XXX Rule 10 CPC**

The Supreme Court in *Dogiparthi Venkata Satish v. Pilla Durga Prasad*<sup>1</sup> has clarified that it is not mandatory to implead a sole-proprietorship concern in its trade name under Order XXX Rule 10 of the Code of Civil Procedure, 1908 (CPC). A proprietor may be sued in his individual capacity, and such impleadment is legally sufficient. The ruling was delivered in the context of an eviction suit arising from a landlord-tenant dispute involving "Aditya Motors," a proprietorship concern.

The Andhra Pradesh High Court had earlier rejected the plaint under Order VII Rule 11 CPC, holding that the suit was defective since the trade name was not retained on record. Reversing this finding, the Supreme Court held that a proprietary concern is not a juristic person and has no existence apart from its proprietor. The usage of the word "can be sued" in Order XXX Rule 10 of CPC indicates that it is only an option rather than an obligation on the plaintiff to sue in the trade name. Hence, once the proprietor is impleaded, the interest of the concern stands fully represented.

This judgment is significant as it simplifies litigation against sole-proprietors, curbs hyper-technical objections under Order VII Rule 11 of CPC, and provides clarity to courts dealing with disputes involving proprietary concerns. By reaffirming that Order XXX Rule 10 is permissive, the Supreme Court has ensured that substantive justice is not sacrificed at the altar of procedural technicalities.

### **Scope of Section 14(1)(d) IBC: Moratorium Bars Recovery, Not Voluntary Surrender of Leased Property with CoC Approval**

The Supreme Court, in *Sincere Securities Private Limited & Ors. v. Chandrakant Khemka & Ors.*<sup>2</sup>, has clarified the law surrounding the moratorium under Section 14(1)(d) of the Insolvency and Bankruptcy Code, 2016 (IBC) in the context of voluntary surrender of leased property during CIRP Proceedings. The major question before the Hon'ble Supreme Court was whether post the approval by the CoC, whether the voluntary surrender of the Corporate Debtor's property would be barred by section 14(1)(d) of the Insolvency and Bankruptcy Code, 2016.

Reversing the NCLAT's decision, the Supreme Court emphasized that Section 14(1)(d), which prohibits recovery by an owner or lessor of property occupied by the Corporate Debtor, acts as a protective shield. However, same is not an absolute bar on recovery. The Court held that the provision does not prevent the consensual surrender of property where the CoC and Resolution Professional, exercising their commercial wisdom, conclude that continued occupation is financially burdensome and unnecessary. The Court reaffirmed that the commercial wisdom and autonomy of the CoC in CIRP are paramount and should not be subjected to judicial review except where there is manifest illegality or mala fides.

<sup>1</sup> Dogiparthi Venkata Satish v. Pilla Durga Prasad, SLP(C) 25938/2023, 2025 INSC 1046

<sup>2</sup> Sincere Securities Private Limited & Ors. v. Chandrakant Khemka & Ors, Civil Appeal No. 12812 of 2024, 2025 INSC 931



Pertinently, the judgment noted that it was the CoC which accorded assent to this transfer, and thus were desirous of returning the property to the appellants, and they had kept financial implications of retaining or returning the property. Thus, reiterating its decision in *K. Sashidhar v. Indian Overseas Bank*<sup>3</sup>, the Court held that the commercial wisdom of the CoC be given primacy during the CIRP and the decision of the same shall be respected and adhered to. The Supreme Court's decision marks an important precedent that reinforces the commercial wisdom of COC creditor control, expedites CIRP, and secures the efficiency-oriented resolution of the Corporate Debtor.

### **Supreme Court Reaffirms NCLT's Wide Jurisdiction in Oppression & Mismanagement Cases**

The Supreme Court in *Mrs. Shailja Krishna v. Satori Global Limited & Ors.*<sup>4</sup> has reaffirmed that the National Company Law Tribunal (NCLT) has broad jurisdiction to examine allegations of fraud, coercion, and manipulation when integral to resolving claims of oppression and mismanagement under the Companies Act, 1956.

The NCLAT had held that the NCLT lacked jurisdiction to adjudicate complex fraud issues, relegating them to civil courts. Rejecting this, the Supreme Court emphasized that the Tribunal's jurisdiction under Sections 397-398 of Companies Act, 1956 is wide and remedial, aimed at finally resolving oppression and mismanagement claims. The Supreme Court held that the NCLT can assess the legality of disputed documents, including share transfers, when central to corporate oppression and mismanagement issues.

While referring to its earlier judgments namely *Radharamanan v. Chandrasekara Raja*<sup>5</sup> and *Kamal Kumar Dutta v. Ruby General Hospital*<sup>6</sup>, the Apex Court noted that the Company Law Board (CLB) was entrusted with wide jurisdiction and quasi-judicial powers while deciding petitions under section 397 and 398 of the Companies Act, 1956. Furthermore, the court relied upon its decision in *Tata Consultancy Services Ltd. v. Cyrus Investments (P) Ltd.*<sup>7</sup>, that the object of the regime surrounding oppression and mismanagement revolves around the proposition that the tribunal ought to bring the complaints to an end and must not elongate the same. Thus, relying on these judgments the court specifically observed subject to any other law barring the jurisdiction of NCLT/CLB, these bodies possess wide jurisdiction in cases of complaints alleging oppression and mismanagement.

### **No Review or Recall Permissible Once Criminal Orders Signed Under Section 362 CrPC**

The Supreme Court, in *Vikram Bakshi and Others v. R.P. Khosla and Another*<sup>8</sup>, delivered a crucial judgment on the scope of review and recall powers of criminal Courts under the Code of Criminal Procedure, 1973 (CrPC), particularly in proceedings initiated under Section 340 of CrPC concerning perjury allegations.

The Delhi High Court had recalled its earlier order refusing to entertain the perjury proceedings based on subsequent information regarding the withdrawal of the Company Petition and restored the perjury proceedings. The Appellants challenged this recall before the Supreme Court.

<sup>3</sup> *K. Sashidhar v. Indian Overseas Bank*, 2019 SCCOnline SC 257

<sup>4</sup> *Mrs. Shailja Krishna v. Satori Global Limited & Ors*, 2025 INSC 1065, Civil Appeal No. 6377-6378 of 2023.

<sup>5</sup> *Radharamanan v. Chandrasekara Raja*, (2008) 6 SCC 750

<sup>6</sup> *Kamal Kumar Dutta v. Ruby General Hospital*, (2006) 7 SCC 613

<sup>7</sup> *Tata Consultancy Services Ltd. v. Cyrus Investments (P) Ltd.*, (2021) 9 SCC 449

<sup>8</sup> *Vikram Bakshi and Others v. R.P. Khosla and Another*, 2025 INSC1020.



The Supreme Court held that Section 362 of CrPC expressly prohibits a criminal court from reviewing or altering its judgment or final order once signed, except to correct clerical or arithmetical errors. This prohibition is full and absolute, and no review or recall is permissible beyond the limited exceptions specifically provided by law. The Court clarified that proceedings under Section 340 of CrPC are criminal in nature, governed wholly by the CrPC, and a review petition filed under provisions of the Code of Civil Procedure (CPC) is not maintainable in such criminal proceedings. While the Supreme Court recognized limited exceptions where review or recall may be permissible such as lack of jurisdiction, fraud, collusion, mistakes causing prejudice, or non-service of a party, however, none of the aforesaid applied to this case.

The Court reaffirmed the principle that a court becomes *functus officio* (without further jurisdiction) upon signing its final order or judgment, and the bar under Section 362 CrPC cannot be circumvented even by invoking inherent powers under Section 482 of CrPC. The Apex Court also emphasized that a “procedural review” distinct from “substantive review” may be permissible in exceptional cases, but in this instance, the recall action did not fall within those narrow exceptions.

Accordingly, the Supreme Court set aside the High Court’s order recalling the earlier judgment and upheld the binding directions that the perjury matter and related company disputes must continue to be decided exclusively by the NCLT as previously ordered. The judgment underscores the finality of criminal court orders under the CrPC and delineates strict limits on review and recall, protecting against attempts to prolong or reopen criminal proceedings outside legally sanctioned grounds.

## HIGH COURT

### Delhi High Court Clarifies Scope of Anti-Arbitration Injunctions in Foreign-Seated Cases

The Hon’ble Delhi High Court in *Engineering Projects India v. MSA Global LLC*<sup>9</sup>, has held that civil courts in India can exercise their jurisdiction to examine and, in rare circumstances, restrain foreign-seated arbitral proceedings if they are shown to be vexatious, oppressive, or violative of public policy.

The contract between the parties in the matter provided for disputes to be resolved under the ICC Arbitration Rules, with jurisdiction of courts in New Delhi. Arbitration commenced in Singapore under the ICC. The Petitioner filed a Challenge Petition against Ld. Arbitrator alleging the lack of disclosure and thereby raising doubts over the independence, neutrality and impartiality, which was dismissed.

The Petitioner then approached the Delhi High Court, seeking a declaration and permanent injunction against continuation of the ICC Arbitration, arguing that the proceedings were unconscionable and against Indian public policy. The Defendant countered that only Singapore courts, as the arbitral seat, had supervisory jurisdiction, and that EPIL was engaging in forum shopping.

The Court, after reviewing Indian and foreign precedents, reiterated that while judicial intervention in arbitration is minimal, Indian courts can grant anti-arbitration injunctions in “extraordinary and rare” cases where proceedings are oppressive or violate fundamental principles of justice. Relying on decisions such as *ONGC v. Western Co. of North America*<sup>10</sup> and *Union of India v. Dabhol Power Co*<sup>11</sup>, the Court underscored that the Courts can exercise their jurisdiction and inherent powers under Section

<sup>9</sup> *Engineering Projects India v. MSA Global LLC*, CS(OS) 243/2025, 2025:DHC:6093

<sup>10</sup> *ONGC v. Western Co. of North America*, 1987 AIR 674

<sup>11</sup> *Union of India v. Dabhol Power Co*, [2006] 71 SCL 274 GUJ



9 and 151 of the CPC respectively to safeguard the misuse of the arbitral process, unless expressly barred by any statute. It further noted that if the arbitral proceedings become vexatious and oppressive to any party, it becomes duty of the Courts to intervene as the custodian of the civil rights.

This ruling reaffirms that while arbitral autonomy and party choice of seat are respected, Indian courts may intervene when proceedings are tainted by bias, lack of impartiality, or oppressive conduct. It provides clarity on the limited but real scope of anti-arbitration injunctions in India, especially where public sector undertakings are involved in cross-border projects.



*This bulletin is only for general informational purposes, and nothing in this bulletin could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts). However, should you have any queries, require any assistance, or clarifications with regard to anything contained in this bulletin, please feel free to contact the Dispute Resolution team at the contact listed below. © Luthra and Luthra Law Offices India 2025. All rights reserved.*

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