

BRIEF BITES

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Legal Updates, Insights and Summary Judgements

This update covers:

01 Recent Judgements _____

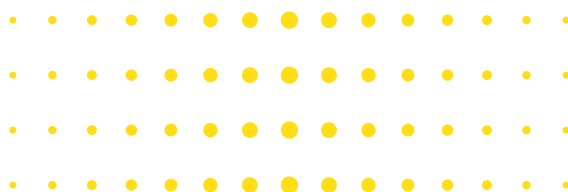
1.1 Civil _____

2.1 Arbitration _____

3.1 Criminal _____

4.1 Case Summary _____

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INDEX



Recent Judgements

CIVIL

Arun Muthuvel vs Union of India & Others (Writ Petition (Civil) No. 756 of 2022 & connected matters)



In the instant case, the Supreme Court ruled that the age-restriction for 'intending couples' under Section 4(iii)(c)(i) of the Surrogacy (Regulation) Act, 2021 ("**the Act**"), does not have retrospective operation and, consequently, does not apply to couples who had commenced the surrogacy procedure prior to the Act's commencement on January 25, 2022. The Court held that the right of a couple, medically incapable of conceiving naturally, to pursue surrogacy is an exercise of their reproductive autonomy, which is a fundamental right under Article 21 of the Constitution.

The petitions were filed by several couples who had started surrogacy procedures, including the creation and freezing of their embryos, before the Act came into force. Their procedures were stalled due to various reasons, including the COVID-19 pandemic. With the enforcement of the Act, which limits the eligibility age for females to 50 years and for males to 55 years, they were barred from continuing the process. The petitioners argued that the Act could not be applied retrospectively to take away their "vested right" to parenthood through surrogacy. They contended that the age cap infringed their right to reproductive autonomy under Article 21 and cited precedents like *CIT vs. Vatika Township (P) Ltd.* to argue against retrospective legislation affecting vested rights. The Union of India defended the age limits as a rational policy to protect the child's welfare and argued that surrogacy is a statutory right, not a fundamental one.

It further submitted that the Act's transitional provision (Section 53) was intentionally limited to existing surrogate mothers, indicating no legislative intent to protect intending couples who had not yet reached the implantation stage.

The Supreme Court, siding with the petitioners, held that a right had vested in the couples when they commenced the surrogacy process at a time when no age restrictions existed. The Court clarified that for the purpose of non-retrospective application, the 'commencement' of the procedure is the stage where the intending couple has completed the extraction and fertilization of gametes and has frozen the embryo. This stage, the Court noted, marks the "crystallization" of the process and a clear manifestation of their intent. The Court found no manifest intention in the Act to apply the age limits retrospectively and observed that doing so would unfairly frustrate a constitutional right. It distinguished the State's concerns about parenting ability by noting that no such age bars exist for natural conception or adoption under personal laws.

While clarifying that it was not ruling on the constitutionality of the age limits themselves, the Court held that the age restriction under Section 4(iii)(c)(I) would not apply if an intending couple had commenced the procedure to the stage of freezing embryos prior to January 25, 2022. The Court thus allowed the petitions and exempted the couples from the age-limit certification, provided they satisfy the other conditions under the Act.



K. S. Shivappa vs Smt. K. Neelamma (Civil Appeal No. 11342 OF 2013)

In the instant case, the Supreme Court ruled on the manner in which a minor, upon attaining majority, can repudiate a sale of their immovable property made by a natural guardian without the court's permission. The Court held that it is not mandatory for the minor to file a suit to set aside such a voidable sale; the transaction can be repudiated by unequivocal conduct, such as selling the property to another person within the prescribed limitation period

The dispute concerned a plot of land (Plot No. 57) purchased in the name of three minor sons. Their father, acting as their natural guardian, sold the plot to one Krishnoji Rao in 1971 without obtaining the prior permission of the court as required under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 ("**the Act**"). Krishnoji Rao subsequently sold the plot to the respondent, Smt. K. Neelamma ("**Respondent**"). The surviving minor sons, upon attaining majority, sold the same plot to the appellant, K.S. Shivappa ("**Appellant**"). The Respondent filed a suit for declaration of title, which was dismissed by the Trial Court but decreed by the First Appellate Court and the High Court. The higher courts held that since the minors had not filed a suit to cancel the original sale deed executed by their guardian, the sale had attained finality.

The Appellant argued that the subsequent sale by the minors to him constituted a valid repudiation of the voidable transaction by conduct. The Respondent contended that a formal suit for cancellation was necessary to invalidate the earlier sale. The Supreme Court, allowing the appeal, analyzed Section 8(3) of the Act, which makes a sale in contravention of Section 8(2) "voidable at the instance of the minor." The Court held that the Act does not prescribe the specific manner of avoidance. Relying on its earlier decisions in *Madhegowda vs Ankegowda* (2002) 1 SCC 178 and *G. Annamalai Pillai vs District Revenue Officer* (1993) 2 SCC 402, the Court affirmed that a voidable transaction can be repudiated either by filing a suit or by an unequivocal act. The act of the minors selling the property to the appellant upon attaining majority was a clear repudiation of the earlier voidable sale. The Court clarified that the effect of such avoidance is that the original transaction becomes *void ab initio*.

As an additional ground, the Court noted that the Respondent had failed to enter the witness box to prove her case, and her power-of-attorney holder's testimony on facts within her personal knowledge was inadmissible. The Court set aside the High Court's judgment, restoring the Trial Court's order and holding that the sale to the Appellant was valid as the minors had effectively repudiated the earlier voidable transaction by their conduct.

ARBITRATION



Lancor Holdings Limited v. Prem Kumar Menon & WHITE & BRIEF Others 2025 SCC Online SC 2319 Supreme Court of India

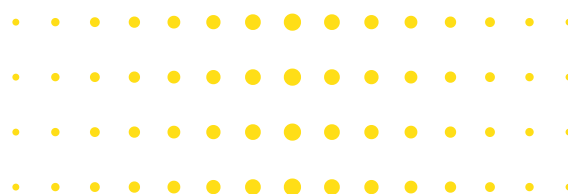
ADVOCATES AND SOLICITORS

Date of Judgement – 31st October 2025

In this decision, the Supreme Court addressed two important issues under the Arbitration and Conciliation Act, 1996: first, the effect of undue and unexplained delay in the pronouncement of an arbitral award on its validity; and second, whether an award i) that fails to conclusively settle the disputes between the parties, ii) is in conflict with “most basic notions of justice” can be set aside for being perverse, patently illegal, and opposed to the public policy of India.

The appeals arose from a long-standing dispute between Lancor Holdings Limited, a real estate developer, and the respondents, the landowners of a property in Chennai. The parties had executed a Joint Development Agreement (JDA) for constructing a multi-storey complex named “Menon Eternity”, with a stipulated sharing of the built-up area and refundable deposits. Differences arose over completion of construction, return of deposits, and the validity of certain sale and lease deeds executed by the developer using a photocopy of a power of attorney held in escrow. Arbitration was invoked in 2009, and though the proceedings concluded in 2012, the award was pronounced only on 16 March 2016—after a delay of nearly three years and eight months—without any explanation. The award, which largely favoured the landowners, was challenged under Section 34 of the Act but upheld by the Madras High Court.

Before the Supreme Court, the appellant contended that such an inordinate and unexplained delay vitiated the award, as it undermined fairness, recollection of evidence, and the very purpose of speedy dispute resolution. It was also argued that the award was unworkable, as it failed to provide a final and equitable resolution, thereby compelling further litigation. The respondents countered that delay alone was not a statutory ground for setting aside an award under Section 34 and that the arbitrator’s conclusions on facts should not be disturbed.



The Supreme Court undertook a detailed analysis of precedent, including *Harji Engineering Works Pvt. Ltd. v. BHEL, BWL Ltd. v. Union of India*, and *GL Litmus Events Pvt. Ltd. v. DDA*, reaffirming that justice delayed is justice denied, even in arbitral proceedings. The Court observed that while delay by itself may not be a ground to annul an award, an excessive and unexplained delay which causes prejudice and erodes confidence in the fairness of the process can render the award patently illegal and contrary to public policy. The Bench emphasized that arbitrators perform a quasi-judicial function and owe a moral and legal duty to act with diligence and promptness. Excessive delay, it held, not only impairs human recollection but also invites speculation about impartiality and fairness.

Applying these principles, the Court found that the arbitrator's three-year delay, coupled with the lack of a satisfactory explanation and the incomplete resolution of disputes, rendered the award defective. It held that such conduct violated Sections 34(2)(b)(ii) and 34(2A) of the Act. The Court further clarified that it is not mandatory to first invoke Section 14(2) before challenging a delayed award under Section 34, as both provisions operate independently. Further, in view of the pointless Award passed by the Arbitrator with a delay of 4 years and as the parties were left with no option but to litigate once again, the Court deemed it a fit case for invoking Article 142 of the Constitution of India to settle the disputes between the parties.

Allowing the appeals, the Supreme Court set aside the arbitral award, holding that an unexplained and unreasonable delay which compromises fairness and results in an unworkable outcome strikes at the foundation of public policy. The judgment reinforces that arbitration, intended to provide an expeditious and just alternative to litigation, must not degenerate into a process of uncertainty or delay. Arbitrators, therefore, must deliver reasoned awards within a reasonable time so as to uphold both the spirit and credibility of the arbitral system.

ARBITRATION



Tefcil Breweries Ltd. vs Alfa Laval India Pvt. Ltd. **2025 SCC OnLine Del 6366 High Court of Delhi**

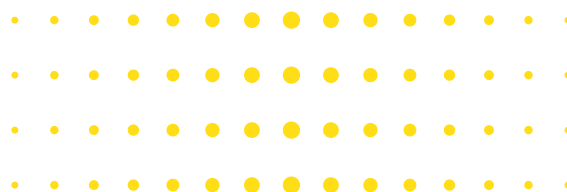
WHITE & BRIEF
ADVOCATES AND SOLICITORS

Date of Judgement - 8th October 2025

In this case, the High Court of Delhi ruled on a crucial issue concerning the limitation period for challenging an arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996 ("1996 Act"). The Court held that when an application for correction or an additional award is filed under Section 33 of the 1996 Act, the limitation period for filing a challenge begins from the date the application is "disposed of" by the arbitral tribunal, not from the date a subsequently corrected award is physically received by the party. The Court clarified that a minor typographical correction, made at the request of one party and communicated to both, does not constitute a suo moto correction that would reset the limitation period.

The dispute arose from an agreement dated 17.03.2005 between Tefcil Breweries Ltd. ("**Appellant**") and Alfa Laval India Pvt. Ltd. ("**Respondent**") for the setup of a brewery plant. Following disputes, the matter was referred to a Sole Arbitrator, who passed an award on 17.10.2017. The Respondent filed an application under Section 33 of the 1996 Act seeking corrections and an additional award. The Arbitrator disposed of this application and passed an additional award on 18.05.2018. On 23.05.2018, the Respondent's counsel emailed the Arbitrator to point out a typographical error in the additional award, which was immediately corrected and communicated to the counsels of both parties via email on the same day. The Appellant received the signed hard copy of the corrected additional award on 21.08.2018 and subsequently filed a petition under Section 34 to challenge the awards on 13.11.2018. The Ld. Single Judge dismissed the petition as being barred by limitation, leading to the present appeal.

Before the Division Bench, the Appellant argued that the correction made on 23.05.2018 was a suo moto correction by the Arbitrator. Citing *USS Alliance v. State of Uttar Pradesh*, the Appellant contended that in cases of suo moto corrections, the limitation period commences only upon receipt of the signed corrected award (21.08.2018), making their petition timely.



It was further argued that service of the corrected award on the counsel did not constitute valid service on the party as required under Section 31(5) of the 1996 Act. The Respondent countered that the limitation period unequivocally starts from the date the Section 33 application is “disposed of,” which was 18.05.2018. Relying on *Ved Parkash Mithal & Son v. UOI and Prakash Atlanta JV v. National Highways Authority of India*, the Respondent argued that the statutory language of Section 34(3) is clear and does not depend on the receipt of the corrected award. It was also submitted that the correction was not *suo moto* but was made at the Respondent’s request and was immediately communicated to the Appellant’s counsel.

The High Court, dismissing the appeal, affirmed the *Ld. Single Judge’s* decision. It first determined that the correction was not *suo moto*, as it was initiated by the Respondent’s counsel and the communication was shared with the Appellant’s counsel. The Court deemed the Appellant’s argument on this point to be “hyper-technical.” The core of the Court’s reasoning rested on the plain language of Section 34(3) of the 1996 Act and established judicial precedent. It relied heavily on the Supreme Court’s decisions in *Ved Prakash Mithal & Sons* and the more recent *Geojit Financial Services Ltd. v. Sandeep Gurav*, which conclusively settled that the trigger for limitation is the date of disposal of the Section 33 application, irrespective of whether the award is modified or not. The Court held that the application was disposed of on 18.05.2018, and the subsequent minor correction did not alter this starting date. To hold otherwise, the Court reasoned would defeat the legislative intent of ensuring certainty and expediency in arbitral proceedings.

Accordingly, the High Court found no reason to interfere with the impugned judgment, holding that the petition under Section 34 was filed beyond the prescribed limitation period and was rightly dismissed. The appeal was dismissed.

Supreme Court Clarifies 'Wetland' Definition and Upholds Public Trust Doctrine

Supreme Court Clarifies 'Wetland' Definition and Upholds Public Trust Doctrine

The Supreme Court, in **Swacch Association, Nagpur v. State of Maharashtra (2025 SCC Online SC 2144)**, addressed the legal status of man-made waterbodies and permissible development, providing a critical clarification on the scope of environmental restrictions while upholding the fundamental **Public Trust Doctrine**. The challenge concerned permanent constructions and recreational activities, such as a Musical Fountain and Viewer's Gallery, around Nagpur's Futala Lake. The central legal question was whether this man-made lake qualified as a '**wetland**' under the Wetlands (Conservation & Management) Rules, 2017.

The Court ruled that Futala Lake, being a waterbody specifically constructed for irrigation and drinking purposes, is **statutorily excluded from the definition of 'wetland'** under Rule 2(1)(g) of the 2017 Rules. Consequently, the strict *stricto sensu* application of general wetland prohibitions does not apply to it.

Despite this technical exclusion, the ruling sets a crucial precedent for all large-scale infrastructure and recreational developments by **explicitly reiterating the Public Trust Doctrine**. Derived from Articles 48-A and 51-A(g) of the Constitution, this doctrine mandates that all natural resources must be preserved for public good, irrespective of technical statutory exclusions. The Court affirmed that the **construction of a permanent nature must be avoided** to protect the waterbody's ecological balance. However, the judgment validated structures determined to be temporary (like the floating fountain/screen), provided they obtained the necessary **multi-authority permissions** (Municipal Corporation, Heritage Committee, etc.). This underlines the necessity for project executors to secure all relevant **No Objection Certificates (NOCs)**. This judgment serves as a vital reminder that while statutory definitions provide clarity, the overarching constitutional duty to prevent ecological damage requires developers to exercise **extraordinary caution and adhere to the precautionary principle** in all projects adjacent to waterbodies.

Case Summary



WHITE & BRIEF
ADVOCATES AND SOLICITORS

M/s Vimlesh Kumar Contractor Versus State of U.P. and 3 Others dated 17.11.2025 2025 (11) TMI 1084 – ALLAHABAD HIGH COURT

Facts

The petitioner is a proprietorship concern registered under GST and engaged in works contract activities. For FY 2018–19, a Section 73 notice was issued on 31.01.2024, alleging mismatch between:

- Figures in GSTR–3B, and
- Figures appearing in the petitioner’s Form 26AS from the Income Tax Department.

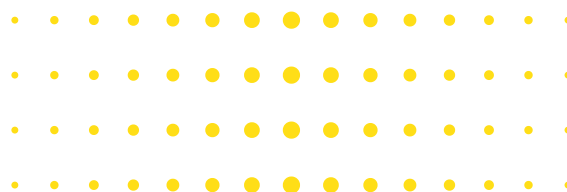
The notice was uploaded only under the tab “additional notices and orders”, due to which the petitioner claims he never came to know of it and thus could not file a reply. An ex parte order dated 28.04.2024 was passed imposing tax, interest, and penalty. The petitioner filed an appeal and delay condonation application, but both were dismissed by the order dated 21.01.2025.

The petitioner argued that:

- The payments reflected in Form 26AS pertain to work done under the VAT regime (A.Y. 2015–16 and 2016–17).
- UP Jal Nigam had already deducted VAT @ 4% and issued a certificate confirming the same.
- No service was rendered in the GST regime; only payments were received late.
- Hence, GST authorities lack jurisdiction.
- UP Jal Nigam (respondent no. 4) confirmed that the payments indeed relate to pre-GST work orders (A.Y. 2015–16 & 2016–17).

Issue:

Whether GST authorities can initiate proceedings under Section 73 to levy GST on payments received post-GST for works completed entirely during the VAT regime? Whether mismatch between GSTR–3B and Form 26AS is sufficient to confer jurisdiction under GST without verifying if the income relates to the pre-GST period?



Held that:

The Court held that merely because consideration was received after 01.07.2017, GST does not become applicable when the actual supply (execution of works) occurred before implementation of GST. Since the supply took place in 2015–16 and 2016–17 under VAT, the GST authorities had no jurisdiction under Section 73 to demand GST, interest, or penalty.

A mismatch does not automatically establish liability under GST. The department must verify the nature and timing of the supply, especially when documentary evidence from the contracting authority suggests otherwise. The department should have consulted the VAT assessing authority or sought records from the Jal Nigam before initiating GST proceedings. Proceeding solely on Form 26AS was held to be arbitrary.

Further, the State could not point to any provision authorizing the levy of GST on receipts pertaining to pre-GST supplies. The Court held that the GST authorities had exceeded their jurisdiction, rendering the Section 73 notice, the ex parte order dated 28.04.2024, and the appellate order dated 21.01.2025 illegal and unsustainable.

All impugned orders were quashed. Any amount deposited by the petitioner must be refunded with interest from date of deposit to date of actual payment within one month.

Way Forward:

For the Taxpayer

- Payments received post-GST for pre-GST works do not attract GST, as the taxable event occurred under the old regime.
- Mismatch between GST returns and Form 26AS cannot automatically justify Section 73 proceedings without jurisdictional foundation.
- Certificates from awarding authorities (like Jal Nigam) affirming VAT-period work are strong evidence.

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