ALBA LAW OFFICES

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HIGHLIGHTS OF THE MONTH

- **Subsequent suit after rejection of earlier plaint must be filed within limitation period**

  [Indian Evangelical Lutheran v. SRI Bala & Co. (Civil Appeal No. 1525/2023)]

  In a recent judgment, the Supreme Court of India addressed the limitations on filing subsequent lawsuits after the rejection of an earlier plaint. The Court emphasized that while Order VII Rule 13 of the Code of Civil Procedure, 1908 ('**CPC**') permits the filing of a fresh suit following the rejection of a previous plaint, such a suit must adhere to the 3-year limitation period stipulated under Article 113 of the Limitation Act, 1963 ('**Limitation Act**').

  The Court unequivocally stated that the provisions of the CPC do not supersede the limitations imposed by the Limitation Act. Consequently, any subsequent suit filed beyond the 3-year period would be barred by limitation and subject to rejection under Order VII Rule 11(d) of the CPC.

  In this case, the Respondent initially filed a suit in 1993, which was subsequently rejected in 1998. The respondent then filed a second suit in 2007, exceeding the 3-year limitation period as prescribed under Article 113 of the Limitation Act. The Court held that the second suit was time-barred and allowed the application to reject it.

  Read Here

- **Objections to the place of suing must be raised at the earliest possible opportunity**

  [Punjab National Bank v. Atin Arora & Anr. (SLP (C) No. 15347 of 2020)]

  The Supreme Court of India recently highlighted the significance of raising timely jurisdictional challenges in legal proceedings. In this case, the Hon'ble Court addressed the issue of a company's delayed objection to the jurisdiction of the

	National Company Law Tribunal ('**NCLT**'). The company had initially participated in insolvency proceedings before the NCLT but later sought to challenge the NCLT's jurisdiction citing a change in its registered address. The Court emphasized that the objections under Section 21 of the Code of Civil Procedure, 1908 ('**CPC**') must be raised at the earliest possible opportunity. Allowing such objections to be raised at a later stage would disrupt course of legal proceedings. In this specific case, the Court ruled that the company's delay in raising the jurisdictional challenge, coupled with its active participation in the proceedings before the NCLT, rendered the objection inadmissible. Furthermore, the Court criticized the High Court for exceeding its powers under Article 227 of the Constitution. The High Court's intervention in the NCLT's proceedings was deemed inappropriate, as Article 227 of the Constitution is intended to be used only in exceptional circumstances to correct grave jurisdictional errors or prevent gross injustice. Read Here
○	**Supreme Court dismissed the appeal to limit the scope of corporate insolvency resolution process** *[Harpal Singh Chawla v. Vivek Khanna & Ors. (Civil Appeal No. 14708/2024)]* The Supreme Court recently dismissed an appeal seeking to limit the scope of the Corporate Insolvency Resolution Process ('**CIRP**') initiated against '*Spaze Towers Pvt. Ltd.*' The appellant, a suspended director of the company, argued that the CIRP should be restricted solely to the '*Spaze Arrow project'*, as the insolvency petition was primarily filed by allottees of that specific project. However, the Supreme Court upheld the decision of the National Company Law Appellate Tribunal ('**NCLAT**'), which rejected the appellant's argument. The NCLAT observed that numerous creditors from other projects had filed legitimate claims against the company. Restricting the CIRP to a single project would have unfairly excluded these creditors and potentially jeopardized their ability to recover their dues.

	The NCLAT further emphasized that the purpose of the Insolvency and Bankruptcy Code, 2016 is to ensure a fair and equitable resolution for all creditors of a distressed company. Limiting the scope of the CIRP would undermine this fundamental principle. Read Here
○	**Supreme Court reiterates that directors of a company cannot be held vicariously liable for criminal acts automatically** *[Sanjay Dutt & Ors. v. The State of Haryana & Anr. (Criminal Appeal No. 11/2025)]* The Supreme Court of India has ruled that directors of a company cannot be automatically held vicariously liable for the company's criminal acts. In a recent judgment, the Court emphasized that the directors of a company can only be held liable if: • The company itself is liable for the wrongful act. • There is specific evidence establishing the director's personal involvement in the conduct that directly links them to the company's liability. • Such liability is supported by a specific provision in the relevant statute. The Court clarified that mere authorization of an act at the company's behest or the exercise of supervisory roles within the company is insufficient to establish personal liability for directors. There must be some evidence indicating that the director's personal involvement in the illegal activity. Read here
○	**Immovable property can be transferred by way of a registered instrument only** *[Sanjay Sharma v. Kotak Mahindra Bank Ltd. & Ors. (SLP (C) No. 330/2017)]* The Supreme Court of India has unequivocally reaffirmed the importance of registering a sale deed for the valid transfer of immovable property. In the recent judgment, the Court emphasized that mere possession and payment of

	consideration, without the legally mandated registration, are insufficient to establish ownership. This principle is based on Section 54 of the Transfer of Property Act, 1882 ('**TPA**'), which stipulates that the transfer of immovable property can only be legally effected through a registered instrument. The Court underscored the significance of the word "only" in this provision, emphasizing that for immovable property valued at or above one hundred rupees, registration is mandatory to effect a valid sale. The instant case involved a dispute over property ownership following an auction sale under the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. The respondent no. 2, Raj Kumar Vij, sought to establish ownership based on an unregistered agreement to sell and a General Power of Attorney. The Court categorically rejected this claim, emphasizing that under Section 54 of the TPA, unregistered documents cannot serve as valid proof of ownership. Read here
○	**Mentioning wrong section in application is not always fatal: Delhi High Court** *[Rajeev Shukla v. Gopal Krishna Shukla (Neut. Cit. No. 2025:DHC:12)]* The Delhi High Court recently observed that minor technicalities, such as citing the wrong section of law in an application, should not be allowed to obstruct the pursuit of justice. The Court asserted that the core substance of an application should be given paramount importance over its form. The Court held that an incorrect section citation would not be considered fatal to a case provided it does not mislead the Court or cause prejudice to the opposing party. In this case, the Trial Court dismissed an application for condonation of delay solely due to the incorrect citation of Section 151 Code of Civil Procedure, 1908 instead of the relevant provision under the Limitation Act, 1963. The High Court considered this dismissal erroneous and observed that the Trial Court should have prioritized the merits of the application and the reasons for the delay over the technicality of the incorrect section citation. Read here

- **The Delhi High Court reiterates that an appeal not maintainable under Section 37 of the Arbitration and Conciliation Act, 1996 (Arbitration Act), will also not be maintainable under Section 13 of the Commercial Courts Act, 2015 (CCA)**

  [Synergies Casting Ltd. v. National Research Development Corporation & Anr., (FAO(OS)(COMM) 1/2025)]

  The present case came to be when the appellant, Synergies Casting Limited, preferred an appeal against the order of the Single Judge of the Delhi High Court regarding execution of the arbitral award. The primary question before the High Court was the maintainability of the present appeal. The appellant had submitted that although appeal under Section 37 of the Arbitration Act was not maintainable, Section 13 CCA legitimizes the same.

  - Section 37 of the Arbitration Act lays down the specific grounds where appeals can be preferred, including when the Court allows or refuses to set aside the arbitral award under Section 34 of the Arbitration Act.
  - Section 13 CCA, on the other hand, refers to appeals from the judgement or order of a Commercial Court.

  The High Court did not agree with the appellant's abovementioned submission since the order of the Single Judge neither sets aside nor refuses to set aside the arbitral award, and therefore, not fulfilling the criteria set under Section 37 of the Arbitration Act. Elaborating further, the High Court said:

  1. No appeal is maintainable in arbitration matters unless the scope for the same has been expressly provided for under Section 37 of the Arbitration Act,
  2. While Section 13 CCA may prima facie appear to be legitimizing appeals against orders as the one challenged in the present case, the said provision specifically mentions Section 37 of the Arbitration Act and insinuates precedence of Section 37 over the otherwise general provision contained under Section 13, and

	3. The Arbitration Act is a 'self-contained' Code and therefore, weight must be given to the legislative intent which has conspicuously laid down the scope and applicability.
○	**The Supreme Court decides upon the scope of Section 4 of the Limitation Act, 1963 on Sections 34 and 37 of the Arbitration and Conciliation Act, 1996 (Arbitration Act)** *[My Preferred Transformation & Hospitality Pvt. Ltd. & Anr. v. M/s Faridabad Implements Pvt. Ltd., (Civil Appeal No. 336 of 2025)]* In the present case, the appeal came to be when the appellant failed to challenge the arbitral award within the window of three months, as given under Section 34(3) of the Arbitration Act. Further, even after the 30-day condonable period under the Proviso to Section 34(3), the appellant failed to enforce its rights under the said provision since the said condonation period expired on a court holiday. The appellant then filed the application after re-opening of court but the same was barred by limitation. The appellant, consequently, argued that Under Section 4 of the Limitation Act, which allows for institution of appeal on the day of the court's re-opening, their appeal under Section 34 is maintainable. The Supreme Court decided that the appellant's argument was untenable and stated the following – 1. That Section 4 of the Limitation Act is applicable only to the extent where the three-month period expires on a court holiday, however, the same cannot be applied when the 30-day *period of condonation* under Section 34(3) of the Arbitration Act has expired. 2. That the bare reading of Section 34 of the Arbitration Act expressly states an application to set aside an arbitral award under Section 34 must be made within three-months and only at the court's discretion, can a further period of 30 days be awarded subject to sufficient cause being shown. However, no further condonation period or extension is allowed.

	3. That where there is an exclusion of applicability of the Limitation Act, the same shall be construed as an intended exclusion and not be interpreted otherwise, since such an act will render the efficacy of the Arbitration Act fruitless. Read Here
○	**The Delhi High Court addresses the scope of value addition by a brand name to a trade mark as a result of conjunctive use** *[Gensol Electric Vehicles Pvt. Ltd. v. Mahindra Last Mile Mobility Limited, (CS(COMM) 849/2024)]* The Delhi Court, while determining whether the logos 'EZIO' and 'Mahindra ZEO' are identical or nor, opined that the brand name 'Mahindra' has amassed such tremendous levels of goodwill and reputation that its use alongside a trade mark is sufficient to confer a distinctive and distinguishable value to the concerned trade mark. The dispute came to be when the plaintiff, Gensol, approached the High Court to permanently injunct the defendant, Mahindra, from using the logo of 'Mahindra ZEO' which it claimed was nearly identical to Gensol's 'EZIO' logo. In the matter, the High Court agreed that while the previous version of the defendant's mark, 'eZEO' was indeed nearly identical to Gensol's 'EZIO' logo, the revised 'Mahindra ZEO' logo could not be adjudged as identical or similar due to the brand value 'Mahindra' confers. It also played into the High Court's consideration that unlike the defendant who had already begun use of the 'Mahindra ZEO' logo on its vehicles, Gensol was yet to commence any use and that mere registration of the trade mark does not automatically confer any goodwill or reputation unless substantial use can be shown.
○	**The Delhi High Court is set to hear the legal dispute surrounding 'Schezwan Chutney' between Tata Group owned Capital Foods and Dabur** *[Capital Foods Private Limited v. Dabur India Limited, (CS(COMM) 10/2025)]*

	Tata-owned Capital Foods (plaintiff) has sued Dabur (respondent) for its use of the trade mark 'Schezwan Chutney' (registered in plaintiff's name), which it claimed will mislead consumers since the plaintiff has incurred heavy expenditure to promote its Ching's Schezwan Chutney to the extent that the trade mark has become well-known in sole association with the plaintiff's business. The plaintiff also stated that the use of trade mark by the respondent is indeed bound to mislead the consumers given that the respondent has styled the packaging in such a manner where 'Schezwan Chutney' is highlighted in bold while the respondent's name is kept inconspicuous. Dabur, on the other hand, claimed that the trade mark is a generic, common and descriptive term, and went on to file a cancellation petition against the trade mark on grounds that the same cannot be owned by any single company. Now, the Delhi High Court is set to decide on the question of distinctiveness of the trade mark 'Schezwan Chutney', which has come to be widely used in the food and beverages industry.
○	**The Supreme Court criticizes the Enforcement Directorate (ED) for its clandestine interpretation of Section 45 of the Prevention of Money Laundering, Act, 2002 (PMLA)** *[Shashi Bala @ Shashi Bala v. Directorate of Enforcement, (Criminal Appeal No. 212 of 2025)]* The Supreme Court criticised the ED for arguing that the strict bail conditions under Section 45(1)(ii) of the PMLA will apply to the appellant, being a woman, when it is expressly stated in the Proviso to Section 45(1) that the same is likely to be relaxed when the accused in question is a woman or under the age of sixteen or an infirm. Given that the appellant is a woman, the Supreme Court noted that Section 439 of the Code of Criminal Procedure, 1973 or Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 will be applicable, wherein the provisions speak of the High

	Court's or Session's Court special powers regarding bail. The Apex Court ultimately granted bail to the appellant while also accounting for the fact that there is no scope of speedy conclusion of the trial since even the number of witnesses to be examined is in higher numbers. Read Here
○	**Registration alone does not validate a Will; Execution must be proven under the Indian Evidence Act of 1872: Supreme Court** *[Leela & Ors. v. Muruganantham & Ors (Civil Appeal No. 7578 of 2023)]* The Supreme Court, in a recent ruling held that mere registration of a will does not ensure its validity unless it meets the requirements of Section 63 of the Indian Succession Act and Section 68 of the Indian Evidence Act of 1872. The case involved a dispute over an unregistered will, which the appellant claimed was executed by her husband (testator of the will) in her and her children's favour, granting them rights over his properties. The respondents, consisting of the husband's family from a previous marriage, challenged the will, citing suspicious circumstances. The Court underscored the importance of compliance with Section 63 of the Indian Succession Act, which mandates proper execution of unprivileged wills, including the attestation by two witnesses. Furthermore, Section 68 of the Indian Evidence Act requires at least one of the attesting witnesses testify to validity of the will's execution. It was observed that there were significant discrepancies, which included conflicting accounts regarding the testator's health, the appellant's involvement in preparing the will, and the absence of any testimony from the scribe or attesting witnesses, which questioned the validity of a genuine will. Both the Trial Court and High Court dismissed the appellant's claims, finding the will to be ingenuine. The Supreme Court upheld these findings, concluding that the appellants failed to prove the testator had executed the will with full knowledge, and observed that it did not comply with the legal requirements. Read Here

○	**Supreme Court upholds DRT cannot restore possession to individuals without prior ownership** *[Central Bank of India & Anr. v. Smt. Prabha Jain & Ors. (CIVIL APPEAL NO.1876 OF 2016)]* The Supreme Court has clarified that the Debt Recovery Tribunal (DRT) lacks jurisdiction under the SARFAESI Act, 2002, to restore possession of secured assets to individuals who did not have prior ownership over the assets. The case arose when Respondent No. 1 sought possession of a secured asset from the Civil Court, despite not previously holding ownership rights. The Civil Court dismissed the Respondent's plea, stating that the DRT was the proper forum under Section 17(3) of the SARFAESI Act. However, the High Court ruled in favor of the Respondent, stating that only Civil Courts could adjudicate such claims. The Supreme Court upheld the High Court's decision, emphasizing that Section 17(3) of the SARFAESI Act empowers the DRT to restore possession only to those individuals who were in possession of the asset at the time it was taken over by the secured creditor. Claims by third parties or non-possessors fall outside the DRT's scope and must be pursued in civil courts. Additionally, the Court clarified that Section 34 of the SARFAESI Act does not prevent civil courts from deciding disputes involving ownership, title, or possession, as these matters are beyond the DRT's purview. Read here
○	**Supreme Court holds unregistered firm partners cannot sue for recovery, Dissolution is the remedy** *[Sunkari Tirumala Rao & Ors. v. Penki Aruna (Special Leave to Appeal(C) No. 30442/2019)]* The Supreme Court has reaffirmed that partners of an unregistered firm cannot file a suit to enforce contractual rights against each other, as prohibited under Section 69(1) of the Indian Partnership Act, 1932. It clarified that the appropriate legal remedies available in such cases are the dissolution of the firm and rendition of accounts, which are expressly exempted from this restriction under Section 69(3).

	The appeal arose from an Andhra Pradesh High Court decision affirming the trial court's dismissal of a recovery suit filed by the Appellants (partners of an unregistered firm) against the Respondent (another partner). The Appellants sought to recover money without addressing the dissolution or accounts of the firm. The Supreme Court emphasized that Section 69(1) imposes a strict bar on suits by partners of an unregistered firm to enforce contractual rights, unless the suit pertains to the dissolution of the firm or the rendition of accounts. The Court also noted that under **Section 69(2)**, an unregistered firm cannot file a suit against third parties to enforce contractual rights. The Court dismissed the appeal and emphasized that the bar under Section 69(1) is strict and applies irrespective of whether the firm has commenced business. The Appellants were directed to seek dissolution and accounts as their proper legal remedy. Read here
○	**Procedural orders determining substantive rights can be challenged as interim award** *[Aptec Advanced Protective Technologies AG v. Union of India (FAO (OS) (COMM.) 227/2024]* The Delhi High Court ruled that orders passed by an arbitrator during arbitration proceedings, which finally determine substantive rights of the parties, constitute an interim arbitral award and can be challenged under Section 34 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act"**). In this case, the Appellant entered into a contract with the Respondent to supply boots. Disputes arose between the parties regarding payment and alleged defects. During arbitration proceedings, the Appellant's applications for document discovery were dismissed. While dismissing the applications of the Appellant, the arbitrator had also decided an issue regarding the compatibility of certain components. The Appellant challenged arbitrator's order as an interim award. The Single Judge of the Hon'ble Delhi High Court dismissed the challenge under Section 34 of the Arbitration Act, deeming it to be a procedural order and not an award.

	The Appellant then appealed the decision under Section 37 of the Arbitration Act. In appeal, the Division Bench of the Hon'ble Delhi High Court overturned the decision of the single judge by stating that the arbitrator's decision regarding the compatibility of certain components was a substantial and final finding determining a dispute and substantive rights, thus qualifying as an arbitral award subject to challenge. The case was then remanded back to the Single Judge for adjudication on merits. Read here
○	**Constitution bench to answer whether an arbitral award can be modified or not** *[Gayatri Balasamy v. M/s ISG Novasoft Technologies Ltd. (SLP (C) No. 15336-15337/2021)]* The Hon'ble Supreme Court has referred the question of whether courts can modify arbitral awards under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996, to a 5-judge constitution bench. This issue has been marked by conflicting judgments, with some cases denying the power to modify and others have either modified or upheld modified awards. A previous 3-judge bench in this case had framed five questions regarding this power, including whether modification is included in the power to set aside an award and the correctness of previous judgments. The current referral stems from the arguments highlighting the inconsistency in previous rulings as to whether the power to modify an award falls within the scope of the power to set it aside, and whether earlier rulings on the matter were correct. It was also argued before the Hon'ble Court that some judgments suggest that modifications were done under Article 142 of the Constitution of India "for doing complete justice in any cause or matter pending before it", even though this was never explicitly stated. The 5-judge bench will now definitively settle this legal question.
○	**Appointment of arbitrator by the Chief Justice of High Court in an International Commercial Arbitration is not a ground to set aside the award** *[Hala Kamel Zabal vs. Arya Trading Ltd. & Ors. [OMP (COMM) 252/2016]*

	The Hon'ble Delhi High Court upheld an arbitral award passed in an International Commercial Arbitration ("**ICA**") where the award was challenged on the ground that the arbitrator was appointed by the Chief Justice of the High Court. This appointment deviated from Section 11(6) of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act"**), which provides that such appointments in ICAs shall be made by the Supreme Court. The petitioners argued that this flawed appointment invalidated the entire arbitral process and the resulting award. However, the court rejected this contention, emphasizing the crucial principle of timely objection. The court's analysis centered on derogability of Section 11(6) of the Arbitration Act. Relying on the precedents, the Hon'ble High Court observed that while the appointment technically violated Section 11(6) of the Arbitration Act, it was not a non-derogable provision. Meaning thereby, that the parties could waive their right to object to this irregularity if they failed to raise it at the appropriate stage of the proceedings, i.e., during the arbitration proceedings themselves. The petitioner's failure to object during the arbitration effectively constituted such a waiver. Additionally, the court reasoned that the arbitrator's appointment was in accordance with the explicit agreement between the parties, further justifying the decision to uphold the award.
○	**Petition under section 34 of the Arbitration and Conciliation Act, 1996 without a copy of award is a *non-est* filing** *[KGF Cottons Pvt. Ltd. v. Haldiram Snacks Pvt. Ltd. [OMP (COMM.) 426/2023]* Recently, in a case before the Hon'ble Delhi High Court, the petitioner challenged an arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**"). While the initial petition was filed within the limitation period, it was submitted without a copy of the impugned award. The Hon'ble Delhi High Court held that a Section 34 petition filed without the arbitral award is not a valid filing. The court emphasized that perusal of the award is essential for adjudicating its appropriateness and correctness. The court further noted that in this case, admittedly even the vakalatnama was not filed and merely a "stack of papers" were filed to save the limitation period but these documents lacked legal substance.

	As a result, the court determined that the initial filing was a "non-est" filing, meaning it was legally invalid, and consequently, the petition was time-barred. Read here

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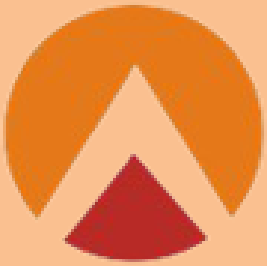

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