



# **LEGAL ‘*KISSE*’ OF LAST WEEK**

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**15<sup>TH</sup> EDITION**

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Legal 'Kisse' of Last Week

**ARBITRATION AND CONCILATION ACT, 1996**

- ✚ **Condonation of delay in case of Section 34 Petition has to be explained on a day-to-day basis: Delhi High Court.**
  - ◆ **Citation:** *Oil and Natural Gas Corporation Vs. Joint Venture of M/s Sai Rama Engineering Enterprises & M/s Megha Engineering & Infrastructure Limited* || *FAO (OS) (COMM) 324/ 2019* || *Neutral Citation: 2023/DHC/000135* || *Delhi High Court* || *Para 44.*
  - ◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/VIB/judgement/09-01-2023/VIB09012023FAC3242019\\_184447.pdf](http://164.100.69.66/jupload/dhc/VIB/judgement/09-01-2023/VIB09012023FAC3242019_184447.pdf)
  
- ✚ **Non-filing of affidavit or statement of truth can render application under Section 34 as defective but not *non-est*: Delhi High Court.**
  - ◆ **Citation:** *Oil and Natural Gas Corporation (Supra)* || *Para 35.*
  - ◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/VIB/judgement/09-01-2023/VIB09012023FAC3242019\\_184447.pdf](http://164.100.69.66/jupload/dhc/VIB/judgement/09-01-2023/VIB09012023FAC3242019_184447.pdf)
  
- ✚ **Merely pendency of IBC proceedings against the Petitioner cannot render dispute non-arbitrable: Delhi High Court.**
  - ◆ **Citation:** *Parsoli Motors Works Private Limited Vs. BMW India Private Limited & Anr.* || *ARB.P. 204/2020* || *Neutral Citation: 2023/DHC/000157* || *Delhi High Court* || *Para 47.*
  - ◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/NBK/judgement/10-01-2023/NBK10012023AA2042020\\_160226.pdf](http://164.100.69.66/jupload/dhc/NBK/judgement/10-01-2023/NBK10012023AA2042020_160226.pdf)
  
- ✚ **The order passed in an Application under Section 11, cannot be reviewed since there is no provision of review contained in the Act: Delhi High Court.**
  - ◆ **Citation:** *M/s Diamond Entertainment Technologies Private Limited & Ors. Vs. Religare Finvest Limited* || *Rev. Petition 296/2022 in ARB.P. 62/2022* || *Neutral Citation: 2023/DHC/000156* || *Delhi High Court* || *Para 21 & 23.*
  - ◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/NBK/judgement/10-01-2023/NBK10012023REVIEWPET2962022\\_155534.pdf](http://164.100.69.66/jupload/dhc/NBK/judgement/10-01-2023/NBK10012023REVIEWPET2962022_155534.pdf)
  
- ✚ **The dispute which is not covered under Section 84(1) of the MSCS Act, would not be referred to Arbitration: Bombay High Court.**



## Legal 'Kisse' of Last Week

◆ **Citation:** *Deepti Prakash Ghate Vs. NKGSB Co. Op. Bank Ltd. || Comm. Arbitration Petition (L) No. 6358/2022 || Bombay High Court || Para 18 & 19.*

✚ **Section 34(3) only prescribes limitation with regard to filing an application to challenge the award and not for re-filing: Delhi High Court.**

◆ **Citation:** *India Tourism Development Corporation Vs. M/s Bajaj Electricals Limited || OMP (Comm) 404/2019 || Neutral Citation 2023/DHC/000245 || Delhi High Court || Para 16.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/NBK/judgement/13-01-2023/NBK13012023OMPCOMM4042019\\_170402.pdf](http://164.100.69.66/jupload/dhc/NBK/judgement/13-01-2023/NBK13012023OMPCOMM4042019_170402.pdf)

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## INSOLVENCY BANKRUPTCY CODE, 2016

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✚ **Adjudicating Authority is obligated to give direction for liquidation only when COC's decision is in accordance with IBC: NCLAT New Delhi.**

◆ **Citation:** *Hero Fincorp Limited Vs. M/s Hema Automotive Private Limited || Company Appeal (AT) (Ins.) No. 1540 of 2022 || NCLAT New Delhi || Para 13.*

✚ **COC's decision to go for liquidation is amenable to judicial review: NCLAT New Delhi.**

◆ **Citation:** *Hero Fincorp Limited (Supra) || 14.*

✚ **AA under Rule 11 can pass an order for the removal of the RP if RP had not taken any steps to convene a meeting for the COC for the purpose of Removal of RP: NCLAT New Delhi.**

◆ **Citation:** *Srigopal Choudary Vs. SREI Equipment Finance Ltd. || Company Appeal (AT) (Ins.) No. 1443 of 2022 || NCLAT New Delhi || Para 15.*

✚ **For any payment to the related parties transaction, prior approval of the COC is required: NCLAT New Delhi.**

◆ **Citation:** *Babubhai Shrimali & Ors. Vs. The Committee of Creditors & Anr. || Company Appeal (AT) (Ins.) No. 16 of 2023 || NCLAT New Delhi || Para 5.*



Legal 'Kisse' of Last Week

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## COMMERCIAL COURTS ACT, 2015


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 **Loss or damage should be calculated and awarded on the basis of Reinstatement Value: Supreme Court.**

◆ **Citation:** *M/s Oswal Plastic Industries Vs. Manager, Legal Deptt N.A.I.C.O. Ltd* // Civil Appeal No. 83 of 2023 // Supreme Court // Para 5.2.

◆ **Link to Citation:**

[https://main.sci.gov.in/supremecourt/2019/40836/40836\\_2019\\_4\\_1502\\_40962\\_Judgement\\_13-Jan-2023.pdf](https://main.sci.gov.in/supremecourt/2019/40836/40836_2019_4_1502_40962_Judgement_13-Jan-2023.pdf)

 **If only declaratory relief is sought without any relief / right qua title of shares the plaintiff is not liable to pay court fees based on value of the shares: Delhi High Court.**


◆ **Citation:** *Morgan Securities And Credits Pvt Ltd Vs. Bpl Limited & Ors* // CS (COMM) 498/2022 // Neutral Citation No. 2023/DHC/000231 // Delhi High Court // Para 59.

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/592/judgement/13-01-2023/59213012023SC4982022\\_125829.pdf](http://164.100.69.66/jupload/dhc/592/judgement/13-01-2023/59213012023SC4982022_125829.pdf)

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## COMPANIES ACT, 2013

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 **NCLT is not empowered to decide the issue of cancellation of share certificates and declaration of allotments as void ab-initio: Delhi High Court.**

◆ **Citation:** *Morgan Securities And Credits Pvt Ltd Vs. BPL Limited & Ors* // CS (COMM) 498/2022 // Neutral Citation No. 2023/DHC/000231 // Delhi High Court // Para 59.

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/592/judgement/13-01-2023/59213012023SC4982022\\_125829.pdf](http://164.100.69.66/jupload/dhc/592/judgement/13-01-2023/59213012023SC4982022_125829.pdf)

