



**LEGAL *'KISSE'*
OF LAST WEEK**

NOVEMBER 13 – NOVEMBER 19

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Legal 'Kisse' of Last Week

INSOLVENCY AND BANKRUPTCY CODE, 2016

- **SRA (Successful Resolution Applicant) is not accountable or liable to invocation of Bank Guarantee prior to “Transfer Date”:** NCLAT.
 - **Citation:** *Bank of Maharashtra Vs Manjeet Cotton Private Limited & Anr.//Company Appeal (AT) (Insolvency) No. 581 of 2022// NCLAT // 14.11.2022.*

- **Section 7 Application is maintainable in respect of the interest which became due and payable, without asking for the principal amount which has not yet become due and payable:** NCLAT.
 - **Citation:** *Base Realtors Private Limited Vs Grand Realcon Private Limited //Company Appeal (AT) (Ins.) No. 882 of 2022// NCLAT // 15.11.2022.*

- **Admission of Section 7 application is not obligatory merely on proof of debt and default, when execution proceedings to realize debt is already initiated:** NCLAT.
 - **Citation:** *Shaikh Mohammed Tariq Vs Aegis Forging Ltd. //Company Appeal (AT) (Ins) No. 1342 of 2022// NCLAT // 15.11.2022.*

- **Approval under Section 28(1) of the Code from COC has to be specifically taken and cannot assume on the basis omission or commission:** NCLAT.
 - **Citation:** *Manoj Kumar Umashankar Saraf //Company Appeal (AT) (ins.) No. 472 of 2022// NCLAT // 15.11.2022.*



Legal 'Kisse' of Last Week

ARBITRATION AND CONCILIATION

- **Non-signatories to Arbitration agreement, who are directly related to one of the signatories and ultimate beneficiary of the entire transaction, can be made party to Arbitration: Delhi High Court.**
 - **Citation:** *Shri Satinder Kumar Gupta v. Divine Infracon Private Limited & Ors.* || ARB.P. 324/2022 || Delhi High Court || 2-22/DHC/004845.
 - **Link to Citation:**
http://164.100.69.66/jupload/dhc/592/judgement/15-11-2022/59215112022AA3242022_160846.pdf

- **Arbitration can only commence between persons who are party to invocation notice under Section 21, and it cannot be stretch to family members of such parties: Delhi High Court.**
 - **Citation:** *Anil Goel v. Satish Goel* || ARB.P. 683/2015 || Delhi High Court || 2022/DHC/004826.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PRJ/judgement/15-11-2022/PRJ15112022AA6832015_195204.pdf

- **Section 21 notice has to be served on all parties to Arbitration Agreement, in case of failure Section 11 is not maintainable: Delhi High Court.**
 - **Citation:** *Rahul Jain & ors. v. Atul Jain & ors.* || Arb.P.539/2017 || Delhi High Court ||2022/DHC/004898.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PRJ/judgement/17-11-2022/PRJ17112022AA5392017_191705.pdf

- **Arbitration Proceedings initiated without serving notice under Section 21 to all parties to the Arbitration Agreement is unsustainable under law: Delhi High Court.**
 - **Citation:** *Rahul Jain & Ors. (Supra)*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PRJ/judgement/17-11-2022/PRJ17112022AA5392017_191705.pdf



Legal 'Kisse' of Last Week

- **Disclosure by arbitrator under Section 12 (1) is pre condition for Challenge by a party under Section 13(2): Madras High Court.**
 - **Citation:** *MALCO Energy Limited v. Senior Divisional Engineer & ors.* // Arb.O.P. (Comm.Div.) No. 484 of 2022 // Madras High Court.
 - **Link to Citation:**
<https://www.mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/1001595>

