



# LEGAL *'KISSE'* OF LAST WEEK

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**SEPTEMBER 25 – OCTOBER 1**

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*Advocates & Solicitors*

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## INSOLVENCY BANKRUPTCY CODE, 2016

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### 1. Adjudicating Authority can lift the veil of the corporate entity after assigning reasons for doing so : NCLAT

**Case detail:** *Fusebase Eltoro Pvt Ltd. & Ors. Vs. Shalu Khanna judgement dated 27.09.2022.*

**Link to judgment:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDI2OTk0NzY1MjM4ODM2OTYzMzJiZTdiNjQwZDkucGRm](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDI2OTk0NzY1MjM4ODM2OTYzMzJiZTdiNjQwZDkucGRm)

### 2. NCALT reiterate that petition filed after 24.3.2020 has to fulfill the threshold of INR 1 crore.

**Case detail:** *Netfinity Solutions Vs. Karvy Digikonnnect Limited Company Appeal (AT) (Insol.) No. 1067 of 2022 judgement dated 27.09.2022*

**Link to judgment:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDI3NjU2NjU1MjM4ODM2OTYzMzJkODU2N2E5MmIucGRm](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDI3NjU2NjU1MjM4ODM2OTYzMzJkODU2N2E5MmIucGRm)

### 3. Only liquidator can brought scheme of arrangement with creditors post initiation of Liquidation : NCLAT

**Moratorium under Section 14 of Code would apply on pending Scheme of Arrangement as well: NCLAT**

**Case detail:** *Mr. Sanjay Chaturvedi Vs. Shamken Cotsyn Limited & Ors. Company Appeal (AT) (Insol.) No. 333 of 2022 judgement dated 29.09.2022.*

**Link to judgment:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDM2Njc5NzE2MzY1MTQzNzYzMzQzOGNkZDFmMmIucGRm](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDktMjcvY291cnRzLzEvZGFpbHkvMTY2NDM2Njc5NzE2MzY1MTQzNzYzMzQzOGNkZDFmMmIucGRm)



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**4. Not fixing date of inspection, in auction process, is a material irregularity and would vitiate entire process of liquidation : NCLAT**

*Case detail: Raj Singhania Vs. Chinar Steel Segment Centre Pvt Ltd. & Ors. Company Appeal (AT) (Insol.) No. 465 of 2022 judgement dated 30.09.2022*

**Link to judgment:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjltMDktMzAvY291cnRzLzEvZGFpbHkvMTY2NDYwMjU3NjE3MzA5OTM5MDI2MzM3ZDFkMGEyZjhjLnBkZg==](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjltMDktMzAvY291cnRzLzEvZGFpbHkvMTY2NDYwMjU3NjE3MzA5OTM5MDI2MzM3ZDFkMGEyZjhjLnBkZg==)

**5. Guarantor can file claim before Liquidator qua payment made by him on behalf of CD/borrower, but not as a secured creditor: NCLAT**

*Case detail: RKV Jayaprakash Vs. SBI & Anr. Company Appeal (AT) (Insol.) No. 362 of 2022 judgement dated 30.09.2022*

**Link to judgment:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjltMDktMzAvY291cnRzLzEvZGFpbHkvMTY2NDU2Mjc4MDU3NzY3MDM0NjYzMzcZjVjMDUyMTUucGRm](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjltMDktMzAvY291cnRzLzEvZGFpbHkvMTY2NDU2Mjc4MDU3NzY3MDM0NjYzMzcZjVjMDUyMTUucGRm)



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## ARBITRATION AND CONCILATION ACT

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### 1. Non-Delivery of signed copy cannot save limitation: Chhattisgarh High Court

**Case Title:** *Union of India Vs. Bhola Prasad Agrawal & Anr. Arbitration Appeal No.15 of 2022 judgement dated 21.09.2022*

**In detail:**

[https://highcourt.cg.gov.in/hcbjspjudgement/judgements\\_web/ARB%20A15\\_22\(21.09.22\).pdf](https://highcourt.cg.gov.in/hcbjspjudgement/judgements_web/ARB%20A15_22(21.09.22).pdf)

### 2. Court exercising jurisdiction under Section 34 and 37 cannot modify arbitral award by awarding interest: Delhi High Court

**Case Title:** *Canara Bank v. the state trading corporation of India ltd. & Anr. FAO (OS) COMM. 17/2022 judgement dated 23.09.2022*

**In Detail:** [http://164.100.69.66/jupload/dhc/SMP/judgement/23-09-2022/SMP23092022FAC172022\\_201749.pdf](http://164.100.69.66/jupload/dhc/SMP/judgement/23-09-2022/SMP23092022FAC172022_201749.pdf).

### 3. Section 34 of Arbitration Act: Application can't be rejected by merely citing insufficient grounds, court must assign reasons: MP High Court.

**Case Title:** *The State of Madhya Pradesh V. M/s SMEC International Pvt. Ltd. Arbitration Appeal No.47 OF 2022*

**In Detail:**

[https://mphc.gov.in/upload/jabalpur/MPHCJB/2022/AA/46/AA\\_46\\_2022\\_FinalOrder\\_15-Sep-2022.pdf](https://mphc.gov.in/upload/jabalpur/MPHCJB/2022/AA/46/AA_46_2022_FinalOrder_15-Sep-2022.pdf)

### 4. Powers of court under Section 9 of Arbitration Act wider than powers under CPC for grant of interim relief: Supreme Court

**In detail:**

[https://main.sci.gov.in/supremecourt/2021/4449/4449\\_2021\\_5\\_1502\\_38169\\_Judgement\\_14-Sep-2022.pdf](https://main.sci.gov.in/supremecourt/2021/4449/4449_2021_5_1502_38169_Judgement_14-Sep-2022.pdf)



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### SPECIFIC PERFORMANCE ACT

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**1. Permanent Injunction cannot be sought on the basis of an unregistered Agreement to Sell: Supreme Court**

**Case Details:** Balram Singh vs Kelo Devi (*Citation:* 2022 LiveLaw (SC) 800 | CA 6733 OF 2022 | 23 September 2022)

**In Detail:** <https://www.livelaw.in/top-stories/supreme-courtpermanent-injunction-unregistered-agreement-to-sell-balram-singh-vs-kelo-devi-2022-livelaw-sc-800-210335>

**2. Time limited specified in agreement can't be ignored while allowing Specific Performance: Supreme Court**

**Case Details:** Kolli Satyanarana (D) v. Valuripali Kesava Rao Chowdary (D) | 2022 LiveLaw (SC) 807 | CA 1013 of 2014 | 27 September 2022

**In Detail:** <https://www.livelaw.in/top-stories/supreme-court-specific-performance-time-limit-agreement-kolli-satyanarayana-d-vs-valuripalli-kesava-rao-chowdary-d-2022-livelaw-sc-807-210698>

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### PMLA & BENAMI TRANSACTIONS

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**1. No PMLA proceedings after quashing of FIR against accused**

**Case Details:** Vijay Madanlal Choudhary & Ors vs. Union of India & Ors., 2022 SCC Online SC 929, State of Punjab v. Davinder pal Singh Bhullar & Ors., (2011) 14 SCC 770 .

**In Detail:** <https://www.livelaw.in/news-updates/pmla-proceedings-after-quashing-fir-against-accused-delhi-high-court-set-aside-proceedings-against-ihfl-employees-210423>

