



INDO LEGAL SERVICES
ADVOCATES & SOLICITORS

..... *Redefining Legal Assistance*

LEGAL '*KISSE*' OF LAST WEEK

33rd Edition



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📍 Mayur Vihar Phase 1

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INSOLVENCY & BANKRUPTCY CODE, 2016

- ✚ **Liquidator has to take reserve price on the basis of average of two valuation reports received in the CIRP process: NCLAT New Delhi.**
 - ◆ **Citation:** *Amit Ahirrao Vs. Anagha Anasingharaju & Anr.* || *Company Appeal (AT) (Ins.) No. 842 of 2022* || *NCLAT New Delhi* || 16.05.2023 || *Para 16.*

- ✚ **Non-mention of specific liberty to revive in the order is inconsequential if settlement terms contemplates revival in event of default: NCLAT New Delhi.**
 - ◆ **Citation:** *IDBI Trausteeship Services Limited Vs. Nirmal Lifestyle Limited* || *Company Appeal (AT) (Ins.) No. 117 of 2023* || *NCLAT New Delhi* || 15.05.2023 || *Para 19.*

- ✚ **Avoidance application shall continue post approval of Resolution Plan for the benefit of the Creditors: NCLAT New Delhi.**
 - ◆ **Citation:** *Kapil Wadhawan Vs. Piramal Capital & Housing Finance Ltd.* || *Company Appeal (AT) (Ins.) No. 437 of 2023* || *NCLAT New Delhi* || 15.05.2023 || *Para 26-27.*

- ✚ **If no resolution plan was submitted even after the issuance of Form -G twice, Resolution Applicant at this belated stage cannot come forward and submit his plan if the Liquidation order has been passed: NCLAT New Delhi.**
 - ◆ **Citation:** *Atul Paper Pvt. Limited Vs. Rakesh Kumar & Ors.* || *Company Appeal (AT) (Ins.) No. 595 & 596 of 2023* || *NCLAT New Delhi* || 19.05.2023 || *Para 9.*

- ✚ **No order shall be passed without giving prior notice to the other party: NCLAT New Delhi.**
 - ◆ **Citation:** *H S Oberoi Buildtech Pvt. Ltd. Vs. Inderjit Singh & Anr.* || *Company Appeal (AT) (Ins.) No. 958 of 2022* || *NCLAT New Delhi* || 18.05.2023 || *Para 9 & 10.*

- ✚ **Section 9 proceedings are summary in nature and AA cannot looked into oral evidence: NCLAT New Delhi.**
 - ◆ **Citation:** *Amatya Business Consulting Pvt. Ltd. Vs. Health Biotech Ltd.* || *Company Appeal (AT) (Ins.) No. 474 of 2023* || *NCLAT New Delhi* || 15.05.2023 || *Para 10*



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- ✚ **Landowners in joint development agreements having a clause of sharing of profit, cannot claim to be 'Operational Creditors': NCLT New Delhi.**
 - ◆ **Citation:** *Mrs Ajit Kaur Gill Vs. Rajeha Developers Limited* || CA No. 1420(PB) of 2020 in Company Petition (IB)/409(PB)/2019 || NCLT New Delhi || 12.05.2023 || Para 24-26.

- ✚ **Notice under Section 8 is to be issued by an "Operational Creditor" individually and petition under Section 9 has to be filed by Operational Creditor individually and not jointly: NCLT Cuttack.**
 - ◆ **Citation:** *Srimanta Kumar Tripathy and Anusuya Tripathy Vs. S.S. Mining and Infra Private Limited* || CP (IB) No. 38/CB/2022 || NCLT Cuttack || 15.05.2023 || Para 30.

- ✚ **Adjudicating Authority is not a forum for adjudication of fraud: NCLT Cuttack.**
 - ◆ **Citation:** *Srimanta Kumar Tripathy and Anusuya Tripathy (Supra)* || Para 26.

ARBITRATION AND CONCILIATION ACT, 1996

- ✚ **Consent of both the parties is not required for seeking extension under Section 29A(4) and 29A(5) of the Act: Delhi High Court**
 - ◆ **Citation:** *Wadia Techno-Engineering Services Ltd Vs. Director General of Married Accommodation Project & Anr* || Neutral Citation No. 2023: DHC: 3457 || 16.05.2023 || Para 22.

- ✚ **That inordinate, and unexplained delay in rendering the award makes it amenable to challenge under Section 34(2) (b) (ii), being in conflict with the public policy: Delhi High Court.**
 - ◆ **Citation:** *Department of Transport, GNCTD Vs. Star Bus Services Pvt Ltd.* || Neutral Citation No: 2023: DHC: 3410 || Delhi High Court || 16.05.2023 || Para 115.

- ✚ **Once an arbitrator becomes ineligible, then under Section 14(1)(a) he becomes de jure unable to perform his functions: Delhi High Court.**



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◆ **Citation:** *Maj Pankaj Rai vs. NIIT Ltd* || Neutral Citation No: 2023: DHC: 3394 || Delhi High Court || 16.05.2023 || Para 32.

✚ **To satisfy this Court that the mandate of the learned Arbitrator is liable to be terminated, the test of the provisions under Section 12, 14 and 15 of the Act is to be met: Delhi High Court.**

◆ **Citation:** *Maj Pankaj Rai (Supra)* || Para 34.

COMMERCIAL COURTS ACT, 2015

✚ **A party cannot place the additional documents on record as a matter of right, the same shall be subject to the leave granted by the Court: Delhi High Court**

◆ **Citation:** *CEC-CICI JV & Ors Vs. Oriental Insurance Co. Ltd* || Neutral Citation No. 2023: DHC: 3340 || Delhi High Court || 15.05.2023 || Para 77.

✚ **In terms of Section 49 of the Registration Act 1908, Party would not be entitled to enforce any clause of the unregistered document: Delhi High Court**

◆ **Citation:** *Baliram Singh Vs. Radiant Cash Management Services Pvt Ltd* || Neutral Citation No: 2023: DHC: 3413-DB || Delhi High Court || 15.05.2023 || Para 14.

COMPANIES ACT, 2013

✚ **Once Petitioner Company, during the pendency of oppression & mismanagement proceedings, is struck off from register of ROC, same cannot maintain said petition: NCLAT New Delhi**

◆ **Citation:** *Panthera Developers Pvt Ltd Vs. Sankalp Buildwell Pvt Ltd & Ors* || Company Appeal (AT) No. 55 of 2023 || NCLT New Delhi || 15.05.2023 || Para 12 & 13.

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