


# LEGAL '*KISSE*' OF LAST WEEK

## 43rd Edition



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## INSOLVENCY BANKRUPTCY CODE, 2016

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- ✦ **Distribution to the creditors in accordance with provisions of Section 30(2) is in the discretion of the Committee of Creditors: NCLAT New Delhi.**
  - ◆ **Citation:** *Simbhaoli Sugars Ltd. Vs. Pramod Kumar Sharma* // *Company Appeal (AT) (Ins.) No. 776 of 2023* // *NCLAT New Delhi* // 28.07.2023 // *Para 8.*
  
- ✦ **A claim of financial creditors must be reflected in its balance sheet and as well as Corporate Debtor Balance Sheet: NCLAT New Delhi.**
  - ◆ **Citation:** *Dynamix Growth Avenues Pvt. Ltd. Vs. Partha Sarathy Sarkar & Anr.* // *Company Appeal (AT) (Ins.) No. 578 of 2023* // *NCLAT New Delhi* // 28.07.2023 // *Para 10 & 16.*
  
- ✦ **Money advanced by the Financial Creditor into the personal accounts of the Directors of the Corporate Debtor is no ground to CIRP against Corporate Debtor: NCLAT New Delhi.**
  - ◆ **Citation:** *GP. Capt Atul Jain (Retd.) Vs. Tripathi Hospital Pvt. Ltd. & Ors.* // *Company Appeal (AT) (Ins.) No. 655 of 2020* // *NCLAT New Delhi* // 27.07.2023 // *Para 26.*
  
- ✦ **If Corporate Guarantee requires invocation of the guarantee deed, default on the guarantor shall be the date when corporate guarantee has been invoked: NCLAT New Delhi.**
  - ◆ **Citation:** *Mudhit Madanlal Gupta Vs. Supreme Constructions and Developers Pvt. Ltd.* // *Company Appeal (AT) (Ins.) No. 920 of 2023* // *NCLAT New Delhi* // 26.07.2023 // *Para 7.*



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## ARBITRATION AND CONCILIATION ACT, 1996

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- ✦ **Section 19 prohibits Arbitral Tribunals from being bound by the CPC or the Indian Evidence Act, 1872. This does not elevate their authority over courts: Delhi High Court.**
  - ◆ **Citation:** *M/s Arupri Logistics Private Limited Vs. Shri Vilas Gupta & Ors.* // ARB.A. 5/2022 // Neutral Citation: 2023:DHC:5058 // Delhi High Court // 24.07.2023 // Para 57 & 58.
  
- ✦ **Arbitral Tribunals can draw sustenance or guidance from the provision of CPC and Indian Evidence Act, 1872: Delhi High Court.**
  - ◆ **Citation:** *M/s Arupri Logistics Private Limited (Supra)* // Para 57 & 58.
  
- ✦ **Decree influenced by fraud or collusion are *non-est* in law: Madras High Court.**
  - ◆ **Citation:** *V.K. John Vs. S. Mukanchand Bothra & HUF* // Appeal No. 443 of 2020 // Madras High Court // 25.07.2023 // Para 24.
  
- ✦ **Arbitrator's representation of "Affiliate Company" without disclosure violates the Sections 12(1), 12(2), and 12(5) of the Act, potentially leading to arbitration award annulment: Calcutta High Court.**
  - ◆ **Citation:** *C and E Limited (Components and Equipments Limited) and Anr. Vs. Gopal Das Bagri and Ors.* // EC 145 of 2020 // Calcutta High Court // 27.07.2023 // Para 73 – 78.

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## COMMERCIAL COURTS ACT, 2015

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- ✦ **Consignor has *local standi* to institute suit against the Shipper until the goods have been passed to Consignee: Delhi High Court**
  - ◆ **Citation:** *Strides Pharma Science Ltd. Vs. Round The Clock Logistics Pvt. Ltd.* // Neutral Citation No: 2023:DHC:5257 // Delhi High Court // 28.07.2023 // Para 35-37.



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- ✦ **No general lien can be exercised under Section 171 of the Indian Contract Act, 1872, in the absence of an express contract creating such a lien: Delhi High Court.**
  - ◆ **Citation:** *Strides Pharma Science Ltd. (Supra) // Para 86.*

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## COMPANIES ACT, 2013

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- ✦ **If the winding up is not at an advanced stage, the High Court may transfer the matter to the NCLT under Section 434(1) of the Companies Act, 1956: Delhi High Court.**
  - ◆ **Citation:** *Citicorp International Ltd. Vs. Shiv-Vani Oil & Exploration Services Ltd. // Neutral Citation No.: 2023:DHC:5206 // Delhi High Court // 25.07.2023 // Para 20 & 21.*

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