

Dispute Resolution & ADR

Newsletter

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Rejection of belated applications for addition or amendment of arbitration pleadings are not interim awards capable of challenge

Cinda Engineering and Construction Pvt Ltd v. CY Engineering India Pvt Ltd

Delhi High Court | OMP (Comm) No. 67 of 2025

The Delhi High Court has reaffirmed that orders passed by an arbitral tribunal in exercise of its procedural and case-management powers, such as those concerning amendment of pleadings, production of documents, admissibility of evidence, and procedural timelines, do not become ‘interim awards’ merely because they affect the manner in which a party presents its case. Such orders that do not conclusively determine any substantive rights on the issues/claims in the arbitration are not amenable to challenge under Section 34 of the Arbitration and Conciliation Act, 1996 (**Act**).

The judgment reinforces the principle of minimal judicial intervention during arbitral proceedings and provides useful guidance on distinguishing an interim award from a procedural order. It clarifies that only decisions finally determining a substantive issue or claim can be challenged under Section 34, whereas procedural rulings must ordinarily await the final award. The ruling is particularly relevant for corporates involved in large infrastructure and commercial arbitrations, where parties often seek to introduce fresh documents or modify pleadings as proceedings evolve, as it highlights the importance of presenting a complete case at the earliest stage of the arbitration. Belated attempts to supplement pleadings or evidence may not only be rejected by the tribunal but may also be immune from immediate judicial challenge.

SUMMARY OF FACTS

Disputes arose between the parties under contracts executed in 2020 and 2021, leading to arbitration before a sole arbitrator.

The parties completed pleadings, and the petitioner's witness concluded evidence and cross-examination.

After closure of its evidence, the petitioner filed applications seeking permission to place additional documents on record as well as to amend its pleadings.

The arbitral tribunal rejected both requests on the ground that the applications were filed at a highly belated stage and without adequate justification.

The petitioner challenged the order before the Delhi High Court, contending that rejection of the applications effectively foreclosed substantial parts of its pleadings and therefore constituted an interim award, capable of being challenged under Section 34 of the Act.

DECISION OF THE COURT

The Delhi High Court dismissed the petition as not maintainable, observing that not every order passed during arbitration qualifies as an interim award. An interim award must conclusively determine a substantive issue or claim and render the tribunal functus officio on that issue (having completely resolved an issue, it no longer has the authority to reopen, change, or reconsider the matter).

Orders concerning amendment of pleadings, production of documents, admissibility of evidence, and procedural timelines are ordinarily case-management decisions, and not interim orders within the meaning of Sections 2(1)(c) and 31(6) of the Act, amenable to challenge under Section 34. Rejection of the petitioner's applications merely regulated the conduct of the arbitration and did not decide the claims/issues on merits, which continued to remain pending before the arbitral tribunal.

The Court further observed that entertaining challenges to such procedural orders would result in continuous judicial intervention and undermine the legislative objective of expeditious and efficient arbitration.



Decree-holder cannot be compelled to accept compensation in place of mandatory injunction

Rajat Kumar v. SD Adarsh Jain Kanya Maha Vidyalaya Sadhaura

Supreme Court of India | 2026 SCC OnLine SC 1161

The Supreme Court has reaffirmed that Courts cannot substitute the grant of a mandatory injunction with monetary compensation, unless such relief has been specifically claimed or consented to by the decree-holder. The ruling makes it clear that one form of relief cannot be granted in place of another merely because it appears more equitable or convenient. By preserving the nature of the original decree, the decision strengthens certainty in civil litigation and protects a successful litigant's right to obtain the remedy that was sought and granted. It also reinforces the importance of pleadings in civil proceedings, ensuring that Courts remain bound by the relief claimed and cannot reshape the dispute by granting remedies that fundamentally alter the rights and obligations determined through the litigation.

SUMMARY OF FACTS

Om Parkash filed 2 suits against the defendants for a mandatory injunction seeking the removal of certain encroachments which obstructed air, light, and water on the common open space.

The reliefs were allowed by the Trial Court and the first Appellate Court, against which the defendants approached the Punjab and Haryana High Court.

The High Court substituted the relief of mandatory injunction to remove the encroachments with monetary compensation of INR 17,000 along with interest at 12% per annum. It observed that upon such payment, the wall would be treated as common between the parties.

Meanwhile, as Om Prakash passed away, his legal heirs approached the Supreme Court of India against the High Court's order.

DECISION OF THE COURT

The Supreme Court held that in the absence of any prayer for compensation or damages in the original suit, Om Prakash/his legal heirs could not have been compelled to accept compensation in substitution of the relief of mandatory injunction against encroachment without any prayer by them in this regard.

The Court set aside the High Court's order observing that Om Prakash/his legal heirs had not consented to the relief of compensation/damages.

A High Court cannot do 'equitable justice' by inventing a new remedy unsupported by the pleadings, the decree, or the consent of the parties; such a course amounts to jurisdictional error and causes miscarriage of justice.

Employer justified in withholding relieving letter where resignation is in breach of service bond

Bharat Aviation Pvt Ltd v. Rahul Sudhindra Soni

Bombay High Court | Writ Petition No. 334 of 2026

The Bombay High Court recently upheld the enforceability of service bonds, observing that a trained employee who leaves in breach of a valid training agreement cannot, as a matter of right, demand a relieving letter or experience certificate merely to secure another job. The ruling emphasises that employers may insist on compliance with reasonable and proportionate bond terms, including notice period, and agreed liquidated damages *in lieu* of tenure fulfilment, before issuing exit documents.

The decision reinforces the importance of clear drafting, proportionate damages, and well-defined service obligations in service and training bond arrangements. Employers may be well advised to ensure that bond conditions align with judicially accepted standards of reasonableness. Where an employee complies with all contractual conditions, Courts may require the employer to accept the resignation and issue the necessary certificates.

SUMMARY OF FACTS

Bharat Aviation sponsored Rahul Sudhindra Soni's specialised training as an Aircraft Maintenance Engineer. In November 2022, Soni signed an appointment letter and training bond agreeing to serve 3 years post-training, with the option to resign earlier by giving 60 days' notice and payment of INR 10 lakh as liquidated damages.

In April 2024, Soni tendered his resignation by email without serving the 60-day notice period or paying the bond amount. He also stopped attending duties from April 12, 2024. As such, Bharat Aviation did not accept the resignation and declined to issue a relieving letter or experience certificate.

Soni then filed a complaint alleging unfair labour practice under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, seeking a relieving letter and unpaid dues. The Industrial Court granted interim relief directing the company to issue the relieving letter, which was challenged by Bharat Aviation before the Bombay High Court.

DECISION OF THE COURT

The Bombay High Court held that service and training bonds imposing a minimum tenure after employer-funded training are enforceable when reasonable. An employer is not obliged to issue a relieving letter where the resignation has not been validly accepted because of breach of the bond.

The Court relied on *Vijaya Bank v. Narnaware*,¹ to reiterate that a pre-employment or training bond requiring minimum service, supported by a reasonable liquidated damages clause, is not a prohibited restraint of trade under Section 27 of the Indian Contract Act, 1872, and is not opposed to public policy.

It also referred to *Amrit Pal Singh v. Pawan Hans*,² where a pilot who had served the required notice and offered to pay INR 10 lakh was held entitled to be relieved. In that case, the employer could not refuse resignation once the bond conditions had been fulfilled. By contrast, Soni neither served the required notice nor paid the stipulated amount.

The Court treated a relieving letter as a consequential act that follows only after a valid resignation is accepted. Since Soni's resignation was in breach of the bond, it remained unaccepted, and he could not insist that the employer facilitate future employment by issuing exit credentials.

¹ Supreme Court of India, Civil Appeal No.11708 of 2016

² Bombay High Court, Writ Petition No. 2329 of 2006

Housing societies having a commercial stake in a redevelopment project can be treated as ‘promoters’ under RERA

Shri Sai Vishram Co-operative Housing Society Ltd v. Ninad Padmakar Paralkar

Bombay High Court | Writ Petition No. 2221 of 2025



The Bombay High Court has clarified that a housing society may be classified as a ‘promoter’ under the Real Estate (Regulation and Development) Act, 2016 (**RERA**) where it derives substantial commercial benefits from a redevelopment project. The decision reinforces that promoter liability under RERA is determined by the commercial substance of a redevelopment arrangement rather than the labels adopted by the parties.

A housing society that is involved in the financial aspects, whether through profit-sharing, area-sharing, or other economic entitlements, may be treated as a promoter and held jointly responsible for statutory obligations owed to homebuyers. The ruling significantly expands the risk profile of redevelopment transactions by signalling that entities benefiting from the project cannot insulate themselves from liability through contractual structuring alone but must ensure clear allocation of commercial rights.

SUMMARY OF FACTS

The dispute arose from a redevelopment project in Thane where the original developer failed to complete construction and was subsequently replaced by a new developer.

Under the revised redevelopment arrangement, the housing society (**Society**) was entitled to a 50% share of the constructed area along with a corpus fund of INR 3 crore.

When the project stalled and homebuyers did not receive possession, several allottees approached the Maharashtra Real Estate Regulatory Authority (**MahaRERA**) seeking refunds with interest. The Society argued that it had no contractual relationship with the affected purchasers, who had originally booked flats with the erstwhile developer, and therefore could not be held liable for their claims.

The MahaRERA and the Maharashtra Real Estate Appellate Tribunal allowed the allottees’ complaints, against which the Society approached the Bombay High Court.

DECISION OF THE COURT

The Court held that while a housing society does not become a promoter merely by facilitating redevelopment for the benefit of its existing members, a different position arises where it acquires a direct commercial stake in the project such as a share in the developed area, revenue, or other commercial benefits from third-party sales. In such cases, it ceases to be a passive landowner and may fall within RERA’s definition of a promoter.

The Court looked beyond the contractual labels and examined the substance of the commercial arrangement. The Society had not only played an active role in facilitating the redevelopment but also stood to derive substantial commercial benefits through area-sharing and monetary consideration, thereby distinguishing it from a landowner merely permitting redevelopment.

Given this direct economic interest, the Society was to be treated as a promoter under RERA and held jointly and severally liable with the developer for obligations owed to homebuyers.

MSME arbitral institutions can render final awards rather than merely a report for approval by the MSMED Council

Dewan and Sons v. Harsh International

Delhi High Court | OMP (Comm) No. 237 of 2026

The Delhi High Court has rejected the argument that in an arbitration under the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act), the arbitral tribunal merely submits a report for approval by the Micro and Small Enterprises Facilitation Council (Council), clarifying that where a dispute is referred to arbitration by the Council under Section 18(3), the arbitral tribunal is fully competent to render the final arbitral award.

This ruling provides greater certainty for businesses engaging in MSME arbitrations by dispelling doubts regarding the validity and enforceability of awards rendered by institutional tribunals. From a practical perspective, parties should focus their efforts on presenting a complete factual and evidentiary record before the arbitral tribunal itself, rather than expecting jurisdictional or procedural objections to provide a viable basis for setting aside an adverse award.

The judgment also reinforces the increasingly narrow scope of judicial review under Section 34 of the Arbitration and Conciliation Act, 1996 (Arbitration Act), underscoring that commercial parties should treat arbitration as the primary and final forum for determination of disputes.

SUMMARY OF FACTS

Harsh International (Harsh) supplied stainless steel utensils to Dewan and Sons (Dewan) under various purchase orders.

Alleging non-payment of invoices, Harsh invoked the jurisdiction of the Delhi MSME Council under Section 18 of the MSMED Act.

Upon failure of conciliation, the Council referred the dispute to the Delhi International Arbitration Centre (DIAC) for arbitration. The arbitrator allowed Harsh's claims and directed payment of the outstanding dues along with statutory interest.

Dewan challenged the award under Section 34 of the Arbitration Act, arguing that under the Delhi Micro and Small Enterprises Facilitation Council Rules, 2007, only the Council could pronounce the final award and the arbitral institution could merely submit a report.

Dewan further contended that the supplier was not entitled to invoke the MSMED Act mechanism as it obtained MSME registration after the underlying transactions.

They also alleged that the arbitral tribunal ignored material evidence showing that the goods supplied were defective and had been rejected by the ultimate buyer, Walmart Inc, USA.

DECISION OF THE COURT

The Delhi High Court upheld the arbitral award, observing that Section 18(3) of the MSMED Act permits the Council either to conduct the arbitration itself or to refer the dispute to an arbitral institution.

Once such a reference is made, the arbitration proceeds under the Arbitration Act and the arbitral tribunal is competent to render the final award. The Court rejected the argument that the tribunal could only submit a report to the Council for approval, as such an interpretation would defeat the statutory scheme permitting institutional arbitration under the MSMED Act.

On merits, the Court found that the arbitral tribunal had examined the documentary and oral evidence in detail, and its findings – the goods had been accepted, sold onward, and that no contemporaneous complaint regarding defects had been established – constituted a plausible view of the evidence. As no patent illegality, perversity, or jurisdictional defect was established, the award did not warrant interference.



Perversity is a facet of patent illegality, not a ground for challenging an international commercial arbitral award

ONGC v. Sapura Fabrication SDN BHD

Bombay High Court | Commercial Arbitration Petition No. 720 of 2024

The Bombay High Court has reaffirmed that the scope of judicial review over awards arising from international commercial arbitration remains deliberately narrow and does not extend to challenges based on patent illegality. The decision clarifies that parties cannot circumvent this legislative restriction by repackaging allegations of perversity as violations of the ‘public policy of India’ to invite a broader review on merits. By refusing to reassess the arbitral tribunal's appreciation of evidence, the decision reinforces India's pro-arbitration framework and the principle of minimal judicial intervention in international commercial disputes. It also provides greater certainty to foreign investors and commercial parties that arbitral awards will not ordinarily be reopened on factual or evidentiary grounds, thereby enhancing the finality and enforceability of international arbitral awards seated in India.

SUMMARY OF FACTS

Following the completion of contract for the redevelopment of Phase III of the Mumbai High South Field awarded by Oil and Natural Gas Corporation Ltd (ONGC) to Sapura Fabrication SDN BHD (Sapura), Sapura raised 6 claims for extra work and change orders.

ONGC partially allowed 2 claims, while rejecting the remaining 4 claims, leading to Sapura invoking arbitration under the contract. A unanimous award was rendered partly allowing Sapura's claims.

ONGC challenged this award before the Bombay High Court under Section 34 of the Arbitration and Conciliation Act, 1996 (Act) on the ground of violation of the public policy of India under 34(2)(b)(ii) of the Act, arguing that the award was perverse because the arbitral tribunal had ignored key correspondence and meeting minutes when allowing the claims.

DECISION OF THE COURT

The Bombay High Court dismissed ONGC's Section 34 petition and upheld the arbitral award in favour of Sapura.

The Court clarified that allegations of perversity are a facet of patent illegality and cannot be strategically repackaged or re-characterised as a challenge against the ‘public policy of India’ under Section 34(2)(b)(ii) of the Act to secure a wider judicial review.

As the dispute arose from an international commercial arbitration, the ground of patent illegality under Section 34(2A) of the Act was strictly unavailable.

Further, in an international commercial arbitration, a Court cannot revisit or reassess the evidence under Section 34 of the Act.

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