

UPDATE

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Decoding Section 29A of Arbitration & Conciliation Act, 1996: Supreme Court resolves conflict on jurisdiction for extension of arbitral mandate.

A. *Introduction*

The trajectory of arbitration reform in India has been marked by a sustained effort to reconcile two competing imperatives: the need for expedition and the necessity of judicial oversight. The introduction of Section 29A into the Arbitration and Conciliation Act, 1996 (“**Act**”), through the 2015 amendment, was conceived as a response to endemic delays in arbitral proceedings. The provision imposed a strict timeline for rendering of arbitral awards and subjected any extension of time to judicial scrutiny. While this innovation reflected a legislative commitment to efficiency, it simultaneously introduced a layer of court supervision that sits uneasily with the principle of party autonomy. Within this framework, a significant interpretive difficulty emerged regarding the identity of the “Court” competent to extend the mandate of the arbitral tribunal.

The continuing problem is not merely semantic but structural. It concerns the distribution of judicial authority between courts exercising jurisdiction under Section 11 and those falling within the definition contained in Section 2(1)(e) of the Act. Section 29A of the Act was introduced to ensure time-bound completion of arbitral proceedings by empowering courts to extend the mandate of the arbitral tribunal and, where necessary, substitute arbitrators. However, the provision does not independently define the term “Court.” Section 2(1)(e) defines “Court” as the Principal Civil Court of original jurisdiction in a district, or the High Court exercising original civil jurisdiction, depending on the nature of the arbitration. The interpretative conflict arises because Section 11 vests the power to appoint arbitrators exclusively in the Supreme Court or the High Courts, thereby raising the question whether the same court must also exercise powers under Section 29A of the Act.

In this context, the Hon’ble Supreme Court, in its judgment delivered on 29 January 2026 in *Jagdeep Chowgule v. Sheela Chowgule & Ors*¹, (“**Jagdeep Chowgule**”) has addressed this issue and, in doing so, clarified the ambiguity and reshaped the jurisdictional contours of Indian arbitration law.

B. *Factual Matrix*

The dispute emanated from a Memorandum of Family Settlement dated 11 January 2021, executed among members of the Chowgule family, which sought to resolve internal disputes and provided for arbitration as the mechanism for resolving any future disagreements.

¹ SLP (C) No. 10944-10945 of 2025 and reported in 2025 SCC OnLine SC 124

However, differences resurfaced, leading to invocation of the arbitration clause on 18 May 2021. An arbitral tribunal was accordingly constituted, and proceedings commenced.

As is often the case in high-stakes family and commercial disputes, the arbitral proceedings did not progress within the statutory timeline contemplated under Section 29A of the Act. Section 29A mandates that an arbitral award be rendered within twelve months from the date the tribunal enters upon reference, extendable by a further six months with the consent of the parties. Beyond this period, continuation of the mandate requires judicial intervention. In the present case, delays occurred in the conduct of proceedings, and before the award could not be rendered, and complications arose within the tribunal itself.

A critical development was the resignation of the presiding arbitrator, which disrupted the continuity of the arbitral process. This necessitated recourse to Section 11 of the Act, and an application was filed before the Hon'ble High Court of Bombay for appointment of a substitute arbitrator. The Hon'ble High Court, exercising its jurisdiction under Section 11, allowed the application on 31 October 2023 and appointed a new arbitrator, thereby reconstituting the tribunal.

Parallel to this development, and crucial to the controversy at hand, an application under Section 29A(4) had already been filed before the Ld. Commercial Court at Vasco, ("**Ld. Commercial Court**") on 5 August 2023, seeking extension of time for completion of the arbitral proceedings. This application was filed in anticipation of the expiry of the statutory period and was aimed at preserving the mandate of the tribunal. Following the Hon'ble High Court's appointment of the new arbitrator, the Ld. Commercial Court proceeded to adjudicate the Section 29A application and, by order dated 2 January 2024, granted an extension of time for making the arbitral award.

It was this order of the Ld. Commercial Court that became the focal point of the jurisdictional dispute. One of the respondents challenged the Ld. Commercial Court's order by filing a writ petition before the High Court of Bombay on 8 January 2024. The principal contention was that the Ld. Commercial Court lacked jurisdiction to entertain the Section 29A application, in view of the fact that the arbitrator had been appointed by the High Court under Section 11. It was argued that the authority to extend the mandate of such an arbitrator, or to exercise ancillary powers including substitution, must vest exclusively in the High Court.

The Hon'ble Single Judge of the High Court of Bombay, confronted with conflicting judicial precedents on the point, referred the matter to the Hon'ble Division Bench for authoritative determination². The two questions referred to the Hon'ble Division Bench were, in essence, whether an application under Section 29A(4) would lie before the High Court or the Principal Civil Court of original jurisdiction in cases of domestic arbitration- (i) where the arbitral tribunal had been constituted by the High Court under Section 11(6), and (ii) where it had been constituted by agreement and consent of the parties under Section 11(2).

The Hon'ble Division Bench, in its decision dated 7 August 2024³, adopted a bifurcated approach. It held that where the arbitral tribunal is constituted by the High Court under Section 11(6) of the Act, an application under Section 29A(4) would lie before the High Court. Conversely, where the tribunal is constituted by agreement of parties under Section 11(2), the application would lie before the Principal Civil Court of original jurisdiction. This distinction, premised on the source of appointment, effectively created two parallel jurisdictional tracks.

² Order dated April 15, 2024, in Writ Petition No. 88 of 2024 and reported in 2024 SCC OnLine Bom 1069

³ Order dated August 7, 2024, in WP No. 88 of 2024

Following the Hon'ble Division Bench's decision, the Hon'ble Single Judge proceeded to allow the writ petition by an order dated 21 August 2024⁴, setting aside the Ld. Commercial Court's order extending time, and granted liberty to the parties to approach the Hon'ble High Court for appropriate reliefs under Section 29A. Aggrieved by this outcome, the appellant approached the Hon'ble Supreme Court, contending that the Ld. Commercial Court was the appropriate forum under the statutory scheme and that the Hon'ble High Court of Bombay had erred in importing a distinction not contemplated by the Act.

C. *Position Prior to Jagdeep Chowgule Judgment*

The question as to which court exercises jurisdiction under Section 29A of the Act to extend the mandate of an arbitral tribunal had, for several years, generated a sharp divergence of judicial opinion across the High Courts. Two competing interpretative streams had emerged, each resting on a distinct reading of the statutory framework.

The first stream, represented by decisions in *Mormugao Port Trust v. Ganesh Benzoplast Ltd.*⁵, *M/s A'Xykn Capital Services Private Ltd. v. State of UP*⁶ and *Dr. VV Subbarao v. Dr. Appa Rao Mukkamala & Ors.*⁷, took the position that the expression "Court" in Section 29A must bear the meaning assigned to it under Section 2(1)(e) of the Act, that is, irrespective of whether the arbitral tribunal was constituted by the Hon'ble Supreme Court or the Hon'ble High Courts under Section 11(6) or by consent of the parties under Section 11(2) of the Act. According to this view, once an arbitrator has been appointed through the judicial process, the appointing court becomes *functus officio* and all subsequent applications seeking extension of mandate under Section 29A, must be instituted before the Court as defined in Section 2(1)(e). These decisions further clarified that where the legislature intended to delineate jurisdictions, they had expressly excluded Civil Court jurisdiction in specific provisions such as Sections 47 and 57, and that no such exclusion existed in respect of Section 29A.

The second and more expansive stream took a markedly different approach. The Hon'ble High Courts of Gujarat, Delhi, Bombay, Calcutta, and Allahabad, in several decisions including *Nilesh Ramanbhai Patel v. Bhanubhai Ramanbhai Patel*⁸, *Cabra Instalaciones Y. Servicios v. Maharashtra State Electricity Distribution Co. Ltd.*⁹, *DDA v. Tara Chand Sumit Construction Co.*¹⁰, have held that where the arbitral tribunal had been constituted by the High Court under Section 11(6), an application under Section 29A could not lie before a Civil Court. The primary issue in these decisions was the perceived jurisdictional anomaly that would arise if a Civil Court, lower in the judicial hierarchy to the High Court, were empowered to extend or substitute the mandate of an arbitrator appointed by the High Court. It was reasoned that the exclusive power of appointment under Section 11, being vested in the Hon'ble High Court or the Hon'ble Supreme Court, the ancillary powers of extension or substitution must correspondingly vest in the same authority. To arrive at this conclusion, these decisions invoked the qualifying phrase "*in this Part, unless the context otherwise requires*" in Section 2(1) of the Act, reading "Court" in Section 29A for the purpose of extension of the mandate of the arbitral tribunal contextually to mean the appointing court rather than the court as defined in Section 2(1)(e).

This bifurcation of judicial opinion created considerable uncertainty for practitioners and parties alike. The Division Bench of the High Court of Bombay at Goa, in the proceedings that

⁴ Order dated August 21, 2024, in WP No. 88 of 2024 and reported in 2024 SC OnLine Bom 4567

⁵ 2020 SCC OnLine Bom 11821

⁶ 2023 SCC OnLine All 2991

⁷ (2024) 1 HCC (AP) 94

⁸ 2018 SCC OnLine Guj 5017

⁹ 2019 SCC OnLine Bom 1437

¹⁰ 2019 SCC OnLine Del 2501

gave rise to the present appeal, itself adopted a variant of the second approach, holding that the forum for a Section 29A application depended on whether the tribunal had been constituted by the High Court under Section 11(6) or by the parties themselves under Section 11(2). It was against this backdrop of such doctrinal confusion that the Supreme Court was called upon to authoritatively settle the question.

D. *The Jagdeep Chowgule Judgment: The Apex Court's Analysis*

Reframing the Question:

At the outset, the Hon'ble Supreme Court made a significant observation regarding the manner in which the questions had been framed before the Division Bench. The Apex Court noted that there was, in fact, no need to bifurcate the question into two, i.e., one for tribunals constituted by the High Court under Section 11(6) and another for tribunals constituted by agreement of parties under Section 11(2). The Apex Court observed that this perceived duality in the appointment process was itself the source of divergent judicial opinions, and that by asking the wrong questions, the Division Bench had arrived at incorrect conclusions. The reframed question, as the Apex Court succinctly articulated it, was simply that if an arbitral tribunal, whether appointed by the High Court or by the parties, does not complete proceedings within the required or extended time limit, can an application to extend time under Section 29A be filed before the Hon'ble High Court or the Ld. Civil Court?

Nature and Scope of Jurisdiction under Section 11 of the Act:

A foundational aspect of the Apex Court's reasoning concerns the nature of the jurisdiction exercised under Section 11 of the Act. The Apex Court reiterated that the power of appointment conferred on the Chief Justices of High Courts and of the Hon'ble Supreme Court under Section 11 was deliberately vested in the highest judicial authority in the State and the country, not with a view to conferring supervisory control over the arbitral process, but to add credibility to the constitution of the arbitral tribunal. The Apex Court relied on its earlier decision passed in *SBP and Co. v. Patel Engineering Ltd.*¹¹, where the co-ordinate Bench had explained this purpose with clarity.

Critically, the Apex Court held that the jurisdiction under Section 11 stands exhausted upon the constitution of the arbitral tribunal. Once the appointment is made, the referring court becomes *functus officio* and retains no residual supervisory or controlling power over the arbitral proceedings. The Court expressly cautioned against conflating appointment with supervision, observing that to read Section 11 as conferring an enduring supervisory role upon the appointing court would be contrary to both the statutory scheme and the consistent line of precedent on the subject. This clarification directly undermines the premise that the High Court, having appointed the arbitrator, must also control subsequent procedural aspects such as extension of time.

Rejection of the Hierarchy Argument:

The Apex Court held that interpretation based on perceptions of the status or hierarchy of courts is fundamentally opposed to the rule of law. The Apex Court emphasized that jurisdiction flows solely from the law of the land, and that the conferment of jurisdiction is possible either by the provisions of the Constitution or from specific legislative provisions and cannot be assumed or expanded on the basis of a court's institutional standing. Reliance was placed on decisions in *A.R. Antulay v. R.S. Nayak*¹² and *State of Jharkhand & Ors. v. Hindustan*

¹¹ (2005) 8 SCC 618

¹² (1988) 2 SCC 602

*Construction Co. Ltd.*¹³, amongst others, which affirmed the principle that a superior court cannot assume jurisdiction on the ground that it is a higher court. The approach of the second stream of decisions, grounded as it was, in considerations of hierarchy and perceived anomaly rather than statutory text, was accordingly disapproved.

The Statutory Definition of “Court” under Section 2(1)(e):

Turning to the core question of statutory interpretation, the Apex Court reaffirmed the well-settled principle that a defined term must ordinarily bear the meaning assigned to it in the interpretation clause, unless the context otherwise requires. The Court drew attention upon the decision passed in *State of West Bengal v. Associated Contractors*¹⁴, where a three-judge bench had held that Section 2(1)(e) contains an exhaustive definition, identifying only the Principal Civil Court of original jurisdiction in a district, or the High Court in exercise of its ordinary original civil jurisdiction, as "Court" for the purposes of Part I of the Act and that no other court falls within that definition. In the absence of any contextual indicia warranting a departure from the statutory definition, the Court concluded that the expression "Court" in Section 29A must be accorded with the meaning assigned to it under Section 2(1)(e) of the Act.

Inapplicability of Section 42 of the Act:

Further, the Apex Court clarified that Section 42, which centralises jurisdiction in one court for all applications arising out of an arbitration agreement, does not apply to proceedings under Section 11, since such proceedings are not instituted before a “Court” as defined in Section 2(1)(e). Consequently, the High Court’s involvement under Section 11 does not confer exclusive jurisdiction on subsequent applications under Section 29A.

E. Decision of the Hon’ble Supreme Court

Applying the aforesaid principles to the facts of the present case, the Hon’ble Supreme Court, in its decision, authoritatively held that the Ld. Commercial Court, being the “Court” of competent jurisdiction within the meaning of Section 2(1)(e) of the Act, was fully competent to entertain and adjudicate the application seeking extension of time under Section 29A(4). The Apex Court underscored that the jurisdiction under Section 29A is statutorily anchored to the definition of “Court” under Section 2(1)(e), and is not dependent upon, nor altered by, the forum that may have exercised powers under Section 11 for appointment of an arbitrator. In that context, the Apex Court held that the earlier intervention of the Hon’ble High Court under Section 11, which was confined solely to the appointment of a substitute arbitrator following the resignation of the presiding arbitrator, did not in any manner divest the Commercial Court of its jurisdiction under Section 29A, nor did it confer any continuing supervisory jurisdiction upon the High Court over all subsequent matters arising in the arbitral proceedings.

The Apex Court also observed that the function discharged by the appointing court under Section 11 is limited and exhausted upon constitution or reconstitution of the arbitral tribunal, and such court does not, merely by making the appointment, become the forum for all later applications connected with the arbitration. The Hon’ble Supreme Court rejected the reasoning that the court exercising Section 11 jurisdiction must necessarily be approached for extension of mandate under Section 29A, holding such interpretation to be contrary to the statutory scheme and destructive of the clear distinction maintained by the Act between appointment jurisdiction and supervisory jurisdiction over arbitral proceedings. It was emphasized that Section 29A constitutes a self-contained provision, and the power to extend

¹³ (2018) 2 SCC 602

¹⁴ (2015) 1 SCC 32

the tribunal's mandate under sub-section (4), as well as the ancillary power to substitute arbitrators under sub-section (6), are vested in the same "court" as defined under Section 2(1)(e). The power of substitution, the Court clarified, is merely consequential and incidental to the principal power of extension and cannot be construed as creating an independent jurisdictional basis in favour of the court that appointed the arbitrator under Section 11.

In this backdrop, the Apex Court held that the Ld. Commercial Court had rightly exercised jurisdiction in extending the time for making the arbitral award and that the interference by the Division Bench, premised on lack of jurisdiction, was legally unsustainable. The Hon'ble Supreme Court accordingly allowed the appeals, set aside the judgment and order dated 7 August 2024 passed by the Division Bench, as also the subsequent order dated 21 August 2024 passed by the Hon'ble Single Judge, and restored the order dated 2 January 2024 of the Ld. Commercial Court, extending the period for rendering the arbitral award. While doing so, the Apex Court also granted liberty to the parties to approach the Ld. Commercial Court for any further extension that may become necessary under Section 29A(5), directing that such application, if made, be considered on its own merits, upon hearing all parties, and appropriate orders be passed in accordance with law. Through this ruling, the Hon'ble Supreme Court conclusively clarified the jurisdictional framework governing Section 29A applications and reinforced that the court competent under Section 2(1)(e), and not the Section 11 appointing court, remains the proper forum for extension and all incidental orders concerning the arbitral mandate.

F. Conclusion

The Hon'ble Supreme Court's decision represents a significant and, in many respects, a landmark pronouncement on the jurisdictional architecture governing Section 29A of the Act. By unequivocally anchoring the expression "Court" in the statutory definition contained in Section 2(1)(e), the Apex Court has resolved a long-standing area of interpretive uncertainty and brought considerable doctrinal clarity to a provision that had generated divergent judicial approaches. In doing so, the judgment reinforces the primacy of the statutory scheme of the Act and restores coherence to the distribution of jurisdictional powers between courts exercising appointment jurisdiction under Section 11 and courts exercising supervisory jurisdiction over arbitral proceedings. From the standpoint of arbitral jurisprudence, the ruling is likely to have enduring significance in ensuring greater uniformity and predictability in applications seeking extension of mandate and allied reliefs under Section 29A.

At the same time, the judgment also brings sharper focus into certain deeper structural tensions embedded within India's arbitration framework. While the Apex Court's emphasis on textual fidelity and statutory discipline is jurisprudentially sound, it also invites reflection on whether a strictly definitional approach may, in some cases, come at the expense of functional coherence and institutional efficiency. By locating supervisory powers under Section 29A exclusively in courts of original jurisdiction, the decision raises practical concerns regarding the institutional capacity of such courts to effectively discharge these responsibilities, particularly in complex, high-value arbitrations where expedition is central to the arbitral process. Questions may also arise regarding consistency in approach across different commercial courts, the possibility of fragmented supervisory practices, and whether routing such powers away from courts already familiar with the constitution of the tribunal may, in certain situations, generate procedural duplication rather than efficiency.

Seen in this light, the judgment is not merely a resolution of a jurisdictional controversy but also a reminder of the broader challenges confronting arbitration reform in India. It underscores that statutory clarification, while necessary, cannot by itself guarantee arbitral efficiency unless accompanied by corresponding institutional strengthening and procedural

rationalisation. The decision therefore invites a more holistic engagement with arbitration reform, one that moves beyond resolving textual ambiguities and addresses the practical realities of judicial infrastructure, case management, and the design of supervisory mechanisms. Ultimately, while Jagdeep Chowgule marks an important step toward doctrinal certainty, simultaneously it exposes the continuing need to reconcile statutory clarity with institutional functionality, without which the aspiration of a truly efficient and arbitration-friendly legal framework may remain only partially fulfilled.

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