SAGA LEGAL

COMMUNIQUE

DECEMBER 2025

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COURTS THIS MONTH

- The Hon'ble Supreme Court, in the case of *P. Manikandan vs. Central Bureau of Investigation and Ors.* (*2024 INSC 1007*), held that while acquitting an accused, the Court cannot order a reinvestigation into the same offence. While assessing an impugned order of the High Court which had directed that a fresh case be registered and a de-novo investigation be started against the accused for offences in which he had already been acquitted, the Bench comprising of Justice C.T. Ravikumar and Justice Sanjay Karol observed *"...any benefit accruing from faulty investigation ought to be given to the accused. The necessary corollary thereof being that simply because the investigation was less than satisfactory, the accused should not be subjected to the same once more… In view of the discussion as aforesaid, this Court is of the view that the right enshrined in Article 20(2) of the appellant stands violated. Since this Court has come to the conclusion as above, there survives no need to examine the applicability of Section 300 of Cr.P.C and other provisions of law where the principle of double jeopardy stands enshrined."*

- The Hon'ble Supreme Court, in the case of *Allahabad University and Others vs. Geetanjali Tiwari & Ors.* (*Civil Appeal Nos. 12411-12415 of 2024*), held that findings of the writ courts should only be based on the case pleaded and the evidence placed on record and shall not make out a third case based on arguments made during the hearing. While criticizing the said approach, the Bench comprising of Justice Dipankar Datta and Justice Prashant Kumar Mishra underscored that writ courts must avoid adjudicating issues absent in the pleadings and opined that *"...findings of the court have to be based on the pleadings and the evidence produced before it by the parties. It is well-nigh impermissible for the writ court to conjecture and surmise and make out a third case, not pleaded by the parties, based on arguments advanced in the course of hearing."*

- The Hon'ble Supreme Court, in the case of *Tarun Dhameja vs. Sunil Dhameja & Anr. (Civil Appeal No. 14005 of 2024)*, ruled that an arbitration clause in an agreement cannot be considered optional or non-existent merely because it requires mutual consent for the appointment of an arbitrator. The Court emphasized that arbitration clauses should be interpreted pragmatically, taking into account the relevant circumstances. The Bench comprising Chief Justice of India Sanjiv Khanna and Justice Sanjay Kumar observed "*...reliance placed on the second portion of the arbitration 3 clause, which states that if any dispute arises, the arbitration shall be optional and the Arbitrator will be appointed by the partners with their mutual consent, is not to be read in isolation but in the context of the earlier portion of the arbitration clause. This means that the arbitration clause can be invoked by an aggrieved party who wants to take recourse to arbitration. To this extent there is mutual agreement. Thereupon, the arbitrator can be appointed by mutual consent of all parties. This does not obliterate or write off the arbitration clause.*"

- The Hon'ble Supreme Court in the case of *Arjun s/o Ratan Gaikwad vs. The State of Maharashtra & Ors.* (*2024 INSC 968*) stated that preventive detention is a harsh measure permissible only when the proposed detainee's actions threaten "public order" rather than mere "law and order". While emphasizing the distinction between the two phrases, the Bench comprising of Justice B.R. Gavai and

Justice K.V. Viswanathan noted that "*...Every breach of peace does not lead to public disorder. When a person can be dealt with in exercise of powers to maintain law and order, unless the acts of the proposed detainee are ones with a tendency of disturbing the public order, resort to preventive detention, which is a harsh measure, would not be permissible."*

- The Hon'ble Supreme Court in the case of *China Development Bank vs. Doha Bank Q.P.S.C. & Ors*. (*Civil Appeal No. 7298 of 2022*) held that the title of a document is not decisive in determining its nature, and the Courts should not rewrite contracts while interpreting them. The Court further clarified that under Section 5(7) of the Insolvency and Bankruptcy Code, 2016, a person to whom a financial debt is owed becomes a financial creditor irrespective of whether there is a default in payment. The Bench comprising Justice A.S. Oka and Justice Pankaj Mithal observed "*Only the title of a document cannot be a decisive factor in deciding the nature of the document or the transactions affected by the document …the name of the document is not a decisive factor. Only because the title of the document contains the word hypothecation, we cannot conclude that guarantee is not a part of (the) document.*"

- The Hon'ble Supreme Court, in the case of *Bijoy Kumar Moni vs. Paresh Manna* (*Criminal Appeal No. 5556 of 2024*) clarified that Section 141 of the Negotiable Instruments Act, 1881 (the "**NI Act**") pertaining to offences by Companies, cannot apply to proprietorships since they do not constitute a separate corporate identity. The Bench comprising of Justice J.B. Pardiwala and Justice R. Madhavan observed "*it is the drawer Company which must be first held to be the principal offender under Section 138 of the NI Act before culpability can be extended through a deeming fiction, to the other Directors or persons in-charge of and responsible to the Company for the conduct of its business. In the absence of the liability of the drawer Company, there would naturally be no requirement to hold the other persons vicariously liable for the offence committed under Section 138 of the NI Act* "*The mere fact that the cheque signed by the accused in his capacity as a "Director" of the Company would in the normal course be honoured by the Bank to which it was presented, does not satisfy the statutory requirement of Section 138 of the (NI) Act*."

- The Hon'ble Supreme Court, in the case of *Jaggo vs. Union of India (2024 INSC 1034)*, held that the employment status and corresponding rights of a worker should be determined by the nature of the work performed, rather than the label assigned to the worker. The Court was adjudicating on issue regularization of part-time workers, taking into account the long and uninterrupted nature of their service. The Bench comprising Justice Vikram Nath and Justice Prasanna Varale observed "*...the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment … Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.*"

- The Hon'ble Supreme Court, in the case of *Celir LLP vs. Sumati Prasad Bafna & Ors.*

(*2024 INSC 978*), held that mere conduct of parties aimed at frustrating Court proceedings or circumventing its decisions, even in the absence of an explicit prohibitory order, constitutes contempt. The Court further stated that any attempts to sidestep the Court's jurisdiction or manipulate the course of litigation through dishonest or obstructive conduct maligning or distorting the Court's directions would inevitably amount to contempt. The Bench comprising of Justice J.B. Pardiwala and Justice R. Madhavan observed that "*Such justice, undermine the respect and authority of the judiciary, and threaten the rule of law. actions interfere with the administration of … When judicial orders are openly flouted or court proceedings are disrespected, it sends a signal that the rule of law is ineffective, leading to a loss of trust in the system. Judicial decisions must remain unimpaired, free from external pressures, manipulation, or circumvention. Acts that attempt to mislead the court, obstruct its functioning or frustrate its decisions distort the process of justice and would amount to contempt.*"

High Courts:

- The High Court of Kerala, in the case of *Sadhoo Beedi Enterprises vs. The Controlling Authority* (*WP(C) No. 36274 of 2024*), held that gratuity paid to employees serves as retirement or terminal benefit ensuring immediate financial support and therefore cannot be paid in installments. The Single-Judge Bench comprising of Justice Murali Purushothaman observed that "...*while pension is payable periodically, gratuity is paid only once on termination of employment. The law does not provide for payment of gratuity in installments as the purpose of gratuity is to serve as a retirement or terminal benefit ensuring immediate financial support to the employee or their dependents, as the case may be. It provides financial protection during the autumn years of a retired employee's life. … Financial distress of the employer is not at all an excuse for denying or delaying payment of gratuity, which provides socio-economic security to the employee. Gratuity is to be paid in lump sum, that too, within 30 days from the date it becomes payable*."

- The Calcutta High Court, in the case of *Vikas Parolia vs. Bhartiya Steel & Engineering* (*C.O. 422 of 2023*), stated that if an order under Order XXI Rule 97 of the Code of Civil Procedure, 1908 ("**CPC**") is preceded by an adjudication, it must be considered a deem decree which would be non-revisable. The Single-Judge Bench comprising Justice Bibhas Ranjan De observed that "*a decision on the sole issue of maintainability can indeed be considered a form of adjudication. It serves as a critical threshold that can determine whether a case proceeds to a full hearing on its merits. However, the nature of this adjudication may vary as it can be treated as a standalone issue or intertwined with the merits of the case. … if an order under Order 21 Rule 97 of the CPC is preceded by an adjudication then it must be considered a deem decree which is not revisable. As a result, the only remedy left to the petitioners is to file an appeal in terms of the provision of Order XXI Rule 103 of the CPC treating the order impugned as decree*."

- The High Court of Calcutta, in the case of *Samir Ghosh vs. Pratap Ghosh* (*C.O. 910 of 2020*), held that amendment applications under Order VI Rule 17 of the Code of Civil Procedure, 1908 ("**CPC**") cannot be rejected solely because it was filed after a substantial period, if a fact comes to the knowledge of the opposite party after the filing of the principal written objection, it

can still be included under Order VI Rule 17 of the CPC, provided that the amendment is relevant and does not introduce any new pleas. The Single Bench comprising Justice Bibhas Ranjan De observed "*even though the disputed amendment application was filed after a substantial period of time, still it cannot be the sole parameter upon which an application under Order 6 Rule 17 can be rejected when those facts are necessary to be taken into account to come to a just conclusion and proper adjudication of the disputed question of facts in connection with the instant case.*"

- The High Court of Delhi, in the case of *ADO India Pvt. Ltd. vs. ATS Housing Pvt. Ltd. (ARB. P. 1432 of 2022*), clarified that any errors occurring in an order passed by the Court in arbitration proceedings can be corrected under Section 152 and Section 153 of the Code of Civil Procedure, 1908 ("**CPC**") provided that it does not cause prejudice to the other party. The Single-Judge Bench comprising Justice Chandra Dhari Singh observed that "*the objective behind promulgation of Sections 152 and 153 of the CPC is to ensure that the Court can rectify its own mistakes, either arithmetic or clerical, in order to give meaning to the order, thereby, keeping the interest of justice and the parties in consideration. However, if the Courts are disabled of this power conferred by the said provisions, then for every arithmetic or clerical mistake, the parties will have to undergo the tedious procedure before the Courts for resolution of the dispute...*"

- The High Court of Karnataka, in the case of *Sri. Thangavelu R vs. Shri. Santhosh J.* (*Civil Revision Petition No. 265 of 2022 (IO)*), held that a reference application under Section 8 of the Arbitration and Conciliation Act, 1996 ("**A&C Act**") must be filed within 120 days from the date of service of summons to the defendant. The Court further held that once the 120-day limitation period expires, such a reference cannot be construed as having been made at the earliest, as it is subject to the limitation under Order VIII, Rule 1 of the Civil Procedure Code, 1908 ("**CPC**"). The Single Bench comprising Justice Hemant Chandangoudar observed "*In view of the legal principles established with reference to the unamended and amended Section 8 of the Act 1996, application under Section 8 of the Act should have been filed within an outer limit of not later than 120 days as stipulated under amended Order 8 Rule 1 of CPC from the date of service of summons, which provides for filing of written statement.*"

- The High Court of Kerala, in the case of *George P.O. vs. State of Kerala & Anr. (CRL.MC NO. 5970 of 2021)* stated that the non-obstante clause under Section 19 of the Protection of Children from Sexual Offences Act, 2012 ("**POCSO Act**") does not conflict with the provisions of Section 197 of the Criminal Procedure Code ("**Cr.PC**") or Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNSS**"), and that its application does not override or exclude the relevance of these sections. The Court further clarified that Section 19 of the POCSO Act imposes an obligation on every individual to report the commission of an offence, and this duty to report is not dependent on the person's official status or capacity. A Single-Judge Bench of Justice K. Babu observed, *"Applying the lex posteriori rule, it is manifest that the parliament has consciously did not include the offence under Section 19 read with Section 21 of the POCSO Act as an exception to Section 197 of the Cr.PC or under Section 218 of the BNSS. … The resultant conclusion is*

that the non-obstante clause in Section 19 of the POCSO Act is not inconsistent with the subject matter of Section 197 of the Cr.PC or Section 218 of the BNSS and does not exclude the applicability of Section 197 of the Cr.PC or Section 218 of the BNSS."

- The High Court of Andhra Pradesh in the case of *Ganasala Krishna vs.The Presiding Officer 2 Others and Others (Writ Petition No: 28120 of 2008)* clarified that the High Court does not act as an appellate authority and has a restricted role in intervening with a Labour Court's award in disciplinary proceedings as such interference is not allowed under Article 226 of the Constitution of India, a position that has been upheld in various judicial rulings. While referring to the judgements of Apex Court in *Union of India & ors vs. P. Gunasekaran* and *State of A.P vs. S. Sree Rama Rao*, the Single-Judge Bench of Justice Maheswara Rao Kuncheam observed that *"...the above legal position makes it clear that, in disciplinary proceedings, the High Court does not act as an appellate authority and has a limited scope of interference in the Labour Court's award, particularly with respect to factual aspects."*

- The High Court of Telangana, in the case of *Mandava Holdings Pvt. Ltd. vs. PTC India Financial Services* (*Writ Petition No. 20620 of 2024*) held that sole financial creditors cannot entertain requests by corporate debtors for one-time settlements under the RBI framework for compromise settlements and technical write-offs once the corporate insolvency resolution proceedings ("**CIRP**") have commenced. The Single Bench comprising Justice Moushumi Bhattacharya observed "*Under the IBC, once an entity is admitted in CIRP, the proceeding before the NCLT is transformed from a single or two party proceeding into one in rem i.e., a collective proceeding with public ramifications. This means that if any entity wants to withdraw the CIRP, it would have to obtain the approval of the entire CoC in accordance with law. The option of negotiating with only one creditor is not contemplated under the law. In essence, any decision concerning the creditors must be in the form of a collective decision once an entity has subjected itself to the CIRP mechanism. Therefore, the position of law is this. The High Court conferring jurisdiction on a single creditor to consider the settlement proposal of the petitioner cannot be permitted once the insolvent entity has entered the portals of the CIRP."*

NOTIFICATIONS / AMENDMENTS INSIGHTS

- The Securities and Exchange Board of India ("**SEBI**"), vide circular no. SEBI / HO / AFD / AFD-POD-1 / P / CIR / 2024 / 175 dated 13th December 2024, has introduced key reforms for Alternative Investment Funds ("**AIFs**") to enhance transparency, fairness, and governance. The circular amended the Securities and Exchange Board of India (AIFs) Regulations, 2012. These reforms redefine investor rights and fund structures by allowing exceptions to pro-rata rights for excused or defaulting investors and adjustments in carried interest allocations. Additionally, the circular formalizes the offering of differential rights, enabling AIFs to grant additional terms and privileges to certain investors without affecting others in the same class. These changes aim to strike a balance between safeguarding investors' interests and providing flexibility to fund managers, ultimately fostering a more equitable and competitive alternative investment landscape in India.

- The Securities and Exchange Board of India ("**SEBI**"), vide circular no. SEBI / HO / AFD / AFD-POD-3 / P/CIR/2024/176 dated 17th December 2024, has introduced measures to address regulatory arbitrage related to Offshore Derivative Instruments ("**ODIs**") and Foreign Portfolio Investors ("**FPIs**") with segregated portfolios. Under the new measures, an FPI can issue ODIs only through a dedicated FPI registration, which must exclude proprietary investments. Furthermore, FPIs are now prohibited from issuing ODIs with derivatives as the underlying reference. They are also restricted from using derivatives to hedge ODIs on Indian stock exchanges. Instead, the underlying assets of ODIs must be securities (excluding derivatives), and these securities must be fully hedged on a one-to-one basis for the entire duration of the ODI.

- The Securities and Exchange Board of India ("**SEBI"**), vide circular no. SEBI / LAD-NRO / GN / 2024 / 215 dated 4th December, 2024, has notified the SEBI (Prohibition of Insider Trading) (Third Amendment) Regulations, 2024. These regulations introduce several key changes, including a modification to the definition of "connected person", now the term "immediate relative" has been replaced with "relative" in the context of connected persons. Additionally, a new definition of "relative" has been introduced, which expands its scope to include the spouse of a sibling and the spouse of a child. The amendment also introduces two important additions under the "deemed to be connected person" category: (1) a firm, along with its partners and employees, is considered connected if one of its partners is a connected person, and (2) any individual who shares a household or residence with a connected person is also deemed to be connected.

- The Securities and Exchange Board of India ("**SEBI"**), vide notification SEBI / LAD-NRO / GN / 2024 / 218 dated December 12, 2024 has amended SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The amendments introduced revised provisions for Related Party Transactions ("**RPTs**"). As per the changes, deposits accepted by banks, such as current and savings account deposits, will not be considered RPTs if they are in compliance with directions issued by the RBI or any other relevant central bank. Additionally, the retail purchases made by directors or employees of a listed entity or its subsidiary, which do not establish a business relationship and are under terms uniformly applicable to all employees and directors, will also be excluded from the definition of RPTs.

DEALS THIS MONTH

- Adani Defence Systems and Technologies Limited, a subsidiary of Adani Enterprises focused on aerospace and defence, has announced the acquisition of an 85.8% stake in Air Works India (Engineering) Private Limited. Air Works is a leading player with over seven decades of experience in civil and defence aircraft maintenance. The deal, valued at approximately 400 crores, is set to enhance Adani's capabilities in both the Indian and global aerospace markets, particularly in response to the growing demand for maintenance, repair, and overhaul services.

- NODWIN Gaming, an Indian esports and gaming company, has announced the acquisition of digital esports media firm AFK Gaming. Following the acquisition, AFK Gaming will become a step-down subsidiary of NODWIN, enhancing its esports and gaming-related marketing activities. The total deal is valued at approximately INR 7.58 crore, with INR 4.59 crore paid in cash and INR 2.99 crore exchanged through a swap of NODWIN's equity shares. This acquisition aims to strengthen NODWIN's capabilities in producing and distributing esports content and expanding its PR services.

- Honda Motor Co. and Nissan Motor Co., two of Japan's leading automakers, have announced plans to move forward with merger talks to create a joint holding company, positioning the combined entity as the world's third-largest automaker by sales. The merger, expected to conclude by August 2026, aims to streamline operations and address increasing competition, particularly from EV-focused companies. The rationale behind this merger is to foster innovation, enable resource sharing, and accelerate the development of next-generation technologies.

- The Competition Commission of India ("**CCI**") has approved an INR 7,000 crore deal in which UltraTech Cement will acquire a majority stake in India Cements Limited. As part of the deal, UltraTech will purchase 32.72% of India Cements from its promoters and their associates, with an additional 26% being acquired through a public open offer. This merger aims to strengthen UltraTech Cement's position in the market, particularly in the highly competitive southern states of India.

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