expert talk

ALERT

LITIGATION FINANCE IN INDIA

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LAWYERS OF TOMORROW

HISTORY AND LAW OF LITIGATION FINANCE IN INDIA

1. While the British ruled India for a couple of centuries, the common law torts and crimes of maintenance and champerty were never in force as special laws in India.[1] These principles, which had Christian roots, were found to be inconsistent with the Hindu and Mohammedan law prevalent at that time in India. Consequently, a fair agreement to supply funds to carry on a suit in consideration for a share in the litigation proceeds has never been considered void, illegal or against public policy in India. This was confirmed by the Privy Council in 1876,[2] and since then has been repeated by Indian courts in various judgments,[3] including by the Supreme Court of India in 2018.[4]

2. That said, if an Indian court finds that a funding agreement is extortionate, unconscionable or inequitable, it may refuse to give effect to it underSection23 of the Contract Act, 1872, on the ground that it is against public policy.[5] However, even in cases where the courts have found the bargain under the litigation finance agreement ("LFA") unconscionable and refused to specifically enforce those contracts, courts have as an alternate remedy granted the financer refund of the funded costs,[6] sometimes even with interest.[7]

3. The position is slightly different in the State of Madhya Pradesh in India. The Madhya Pradesh Indian Contract (Amendment) Act, 1938 ("MP Amendment"),[8] empowers court to regulate champerty agreements, by inserting the following two sections to the Indian Contract Act, 1872:

> *"19-B. Definitions of Maintainer and Champertous agreement.-*
>
> *(a) 'Maintainer' means a person who gives assistance or encouragement to one of the parties to a suit or proceeding and who has neither an interest in such suit or proceeding nor any other motive recognised by law as justifying his interference.*
>
> *(b) 'Champertous agreement' means an agreement whereby the nominal plaintiff agrees with the maintainer to share with or give to him a part of whatever is gained as the result of the suit maintained.*
>
> *19-C. Power to set aside champertous agreement. – A champertous agreement may be set aside upon such terms and conditions as the court may deem fit to impose."*

4. With the re-organisation of Madhya Pradesh, certain territories of the former state where ceded to Maharashtra. This is known as the Vidarbha and comprises of the Nagpur and Amaravati regions. After the reorganisation of the Indian states, the applicability of the MP Amendment to the Vidarbha was repealed by

Maharashtra in 1963.[9] But the MP Amendment continues to apply to present date State of Madhya Pradesh. Arguably, it may also apply to the State of Chhattisgarh (which was part of Madhya Pradesh until 2000).

5. However, courts have clarified that section 19-C of the MP Amendment does not render a champertous agreement void, but merely gives to the courts the power to set aside a champertous agreement on such terms and conditions as it may deem fit to impose.[10] Courts have cautioned that this power should be exercised judicially on sound principles, such as examining if the agreement is extortionate, or unconscionable or inequitable.[11] Thus, while the applicable law may be different in Madhya Pradesh, the net-effect is the same.

6. When compared with other colonies of the erstwhile British Empire, like Australia, Singapore, Hong Kong, Canada and USA, there is a stark difference. Courts/ legislatures in these jurisdictions have allowed litigation finance by fully[12] or partially[13] repealing the torts of champerty and maintenance, or distinguishing a litigation finance contract from a contract for champerty.[14] Unlike that, and much like in jurisdictions such as Germany, Austria, Netherlands or Switzerland, litigation finance has never been prohibited in India.

7. Consequently, both Indian jurisprudence and legislation have interpreted various forms of LFAs and rights thereunder, and provide for consequences of entering into an LFA.

8. Some highlights of Indian jurisprudence on LFAs is as under:

(a) Champertous bargains are held to be neither void nor illegal in India. Courts may probe into them and regard them as enforceable or otherwise, on the same principles that govern any other ordinary bargain. Unless any agreement is shown to have been entered into for any improper object or to encourage litigation which, on face of it, was unrighteous, or unless the agreement was in any way, unconscionable or extortionate, it will be held to be enforceable.[15]

(b) The quantum of the financier's share in the litigation proceeds has always been a matter of vital importance in judging the fairness or otherwise of a financing agreement.[16] However, courts have recognised that uncertainties of litigation are proverbial; and if the financier bears the risk of losing his money, he can well be allowed some chance of exceptional advantage. In other words, while judging the fairness or otherwise of a champertous agreement, one has to have regard not merely to the value of the property claimed but to the commercial value of the claim.[17]

(c) The commercial value of the claim has to be estimated by the parties in

advance of the result by weighing the probabilities in a manner which has not operated unfairly against the litigant. This includes assessing which of the claims of the litigant are "highly probable to succeed" and which have a "little chance of success". The courts have found it reasonable to regard this as confirming the parties' shrewd estimate of the chances of the litigant succeeding in the litigation.[18] That said, courts have invalidated agreements where the funder misled the claimant about the expected expenses[19] or failed to prove that it had incurred any expenses.[20]

(d) Courts have interpreted a waterfall clause under a non-recourse funding agreement, where the funder was to receive his investment plus returns from the litigation proceeds, as an equitable assignment of the litigation proceeds to the funder. Moreover, courts have also confirmed that there is no difference in this position if the litigation proceeds come into existence by the virtue of a decree or a compromise,[21] or if the litigation proceeds obtained from a compromise comprised of moveable or immovables other than the suit property.[22]

(e) Courts have interpreted the funder's interest in the litigation proceeds as a contingent interest, subject to the litigation, for full supply of funds required to carry out the litigation.[23]

(f) Courts have recognised the funders ability to have an option in the LFA to choose been a portion of the litigation proceeds or an uplift on the funded costs, after the outcome of the litigation.[24]

(g) Courts have also accepted an uplift in the total return due to the funder, depending on the length of the litigation and the funder's participation; for instance, where the funder got higher return if there was an appeal and it contributed to the costs of the appeal.[25]

(h) Courts have held that even in cases where the funder has supreme control and manages the entire litigation, the defendant has no privity to initiate a separate claim to recover unrecovered costs from the funder. However, the courts have recognised the ability of the defendant to claim costs against the funder in the main proceedings.[26]

(i) Courts have also recognised the ability of the funder to make allowance to the litigant for their support during the pendency of the litigation.[27]

(j) However, while it is lawful for a plaintiff in a pending suit to assign the benefit which he may obtain under the decree to be passed in the suit, courts have clarified that there cannot be an assignment of a suit which has been filed for the purpose of recovering damages either in contract or in tort. This is because a "mere right to sue" or a "right of action for recovering damages" is

not assignable under Indian law.[28] All that the deed of assignment can confer upon the assignee is the right to the fruits of the litigation. But this by itself does not give the assignee the right to interfere in proceedings in the action.[29]

(k) Courts have also refused to enforce funding agreements where a lawyer funded its client's dispute,[30] or where the funder had influence over the deciding authority.[31]

9. Most significantly, Indian law (as confirmed by the Privy Council) recognises the ability of the litigation financer to significantly control and manage the litigation. This includes:

(a) requiring the funder's consent before settling the case;[32]

(b) financier looking after the litigation by engaging lawyers, securing the records, paying the lawyers, and doing everything that a litigant would do otherwise;[33]

(c) financer managing the litigation under an irrevocable power of attorney and having "supreme control" or "virtual control" of the proceedings, including the power to receive the litigation proceeds and distributing to the litigant his share; and the litigant only occasionally seeing the pleaders.[34]

This is opposite of what is usually the case in jurisdictions like the UK, where the funder is expected not to be control the litigation.

10. In an LFA governed by Indian law, therefore, the funder has a unique ability to be in the driver's seat; permitting similar models of funding like those prevalent in Germany and the Netherlands.

11. That said, as noted at [8(j)] the litigant may not be able to completely assign the claim for damages by itself. However, the aforesaid limitation to assignment is not applicable when the subject matter of assignment is debt or receivables. In those cases, a financer has the ability to seek the transfer of the debt or receivable either by securitisation or factoring. This includes transfer of the incidental right to make claims to recover the debt or receivables. These products are highly regulated in India by various regulators such as the Reserve Bank of India ("RBI") and Security and Exchange Control Board of India ("SEBI"), and are regarded as financial products under Indian law. There are a few domestic asset reconstruction companies and factors which are mainly involved in this business.

12. This is not the case for LFAs under which there is no subrogation to the funder, and the funder is only assigned a return from the expected litigation proceeds. There are neither any regulators currently regulating such transactions, nor are

litigation finance contracts regarded as financial products under any India legislation.

13. With regards to the consequences of entering into an LFA, amendments by states like Maharashtra,[35] Madras (present day Tamil Nadu),[36] Madhya Pradesh[37] and Odisha[38] to the Civil Procedure Code, 1908 ("CPC"), make express provisions recognising and providing rules in relation to litigation finance.

14. For example, Order 25 of the CPC, as amended for the State of Maharashtra, states that in cases where a third party is financing a plaintiff for some returns, "*the Court may order such person to be made a plaintiff to the suit, if he consents*" and, within a time to be fixed by it, "*either of its own motion or on the application of any defendant order such person to ... give security for the payment of all costs incurred and likely to be incurred by any defendant*".

15. Thus, funded cases before courts in metros like Mumbai and Chennai have an established legislative framework which accepts litigation finance and provides consequence of the same in relation to making funder a party to the litigation and for obtaining security for costs from the funder.

16. While India is a step-ahead of the world in historically being receptive towards litigation finance, it is devoid of any express regulation governing it. This is also the case with several countries that have expressly legalised litigation finance contracts in recent years; almost none of those countries, with the exception of Australia, regulate it as a transaction. As a result, most discussion on the nature of the litigation finance tries to fit it into one or more existing moulds of transactions. There is no sui generis mould for litigation finance.

PRESENT MARKET

17. Despite this rich jurisprudential history of litigation finance in India, this sector has been largely unorganised and undeveloped. Historically, this form of finance has been obtained from private money lenders or high net-worth individuals; and is availed by impecunious litigants in property and succession disputes. There are several reasons for this, including:

(a) **First,** the sluggish pace in which Indian court or arbitrators deal with disputes. Also, there is gross lack of will or incentive for the bar and bench to alter the course of action. The Indian bench has been infamous for delivering decisions which don't fail to surprise you, or simply not delivering a decision when it does not have any room for surprises. The bar has followed suit adopting a volume-based business model, rather than one which is quality and efficiency driven. This attitude has been carried to the arbitration room

as well.

(b) **Second**, to further aggravate the situation, there are just too many levels of appeals. The basic centralised practices and procedures to resolve commercial dispute efficiently, like those prevalent in Singapore, Hong Kong or UK, are simply absent in India. This makes Indian commercial litigations and arbitrations, time consuming and costly. Moreover, there is neither any culture of awarding costs to the winning party, nor are there any prevalent procedures for taxation of costs.

(c) **Third**, Indian clients were seldom involved in international disputes in global dispute resolution centres.

(d) **Fourth**, international arbitrators were seldom involved in international arbitrations seated in India. Moreover, India had a dearth of practitioners and decision-makers specialised in arbitrations and litigations.

18. Some of this, however, is fast changing.

(a) **Improvement of speed and procedure**: Beginning in 2015, India has seen rapid reforms to its commercial litigation, arbitration and insolvency regimes. Certain noteworthy developments include:

(i) Introduction of a summary judgment regime in the Indian civil procedure, similar to the ones you see in Singapore, UK or DIFC.

(ii) Limiting the ability to appeal in commercial disputes.

(iii) Promoting time bound arbitration, requiring tribunal to deliver decisions within 12 months from close of pleadings.

(iv) Removing the regime for automatic stay of award upon challenge for annulment, shifting the burden on the award-debtor to seek a stay of execution. Such stay orders usually require some form of security commensurate to the value of the award.

(v) Consolidation of various procedure for insolvency, liquidation and bankruptcy into one consolidated Insolvency and Bankruptcy Code, 2016 ("IBC").

(b) **Growth of international disputes market**: In 1990, India opened its markets to foreign investment. Between 1996 to 2000, there were further reforms to the international arbitration and foreign investment regimes. Since then, with growing liberalisation and commercialisation, Indian has seen tremendous growth in the international dispute market.

(i) For both ICC and SIAC, India is at the top of the overall number of parties

worldwide filing new arbitrations in a given year. In 2019, between these two institutions, this totalled to 632 India users (147 before ICC and a staggering 485 before SIAC). In fact, in 2020, Indian users constituted more than 50% of the total foreign users of SIAC.

(ii) India and Indian investors (or Indian-origin investors), have been fairly active in the investment arbitration space. At present, there are around 38 reported cases involving India or Indian parties.

(iii) These numbers are only a fraction of the total available market, as they do not account for cases which are by "India-controlled" foreign companies. Indian businesses have rapidly globalised. There are several businesses across different sectors which are Indian-owned foreign businesses. These includes banking, construction-engineering, oil and gas, shipping and trade. These businesses are active participants of the international disputes market.

(iv) India has also seen growth of home-grown international arbitration institution like the Mumbai Centre for International Arbitration ("MCIA") and the Delhi International Arbitration Centre ("DIAC"). These centres are supported and promoted by the state and central government. Maharashtra, for example, has mandated that disputes in all contracts entered by government entities above 5 crores (roughly US$ 650,000) would be resolved before MCIA.

(v) This has led to growth of international arbitrators with India experience, specialised arbitration practitioners and decision makers, and service providers in the international disputes market.

(vi) Indian parties are also actively involved in international litigations before courts across the world, such as Singapore, Hong Kong, UK, UAE, USA and Australia. This including banking & finance, insurance, trade and regulatory disputes.

(c) **Mass action claims developing in India**: In recent years, the Indian market has been hit with a number of frauds and scams, especially in the banking sector, that have eroded the investments and deposits of thousands of people. The scams in Punjab and Maharashtra Co-operative Bank as well as Laxmi Vilas Bank are notable examples.[39] In 2019-20 alone the total reported losses owing to bank fraud was at US$ 25 billion. This, does not account for damages (including interest).

(d) These incidents are potential mass claims waiting to be filed, collectively worth billions of dollars. Globally, third-party funders have assisted small

claimants in situations like these by funding mass claims, and this is possible in India as well:

(i) Indian law is very similar to a representative action (in Singapore/HK/ DIFC/Australia) or a mass tort claim as they refer to it in US. The best differentiator (compared to Singapore) is that India has an opt-out mechanism (like in DIFC). This means one does not need permission from each plaintiff to represent the mass/class. In mass tort claims can grant permission to 1, to sue on behalf of the rest. If a person doesn't want this, he needs to come before the court and opt-out. In class actions, once you satisfy the numerical requirement of forming a class, an action can be commenced without any court permission.

(ii) Of course, unlike Singapore, Australia and Hong Kong torts of champerty and maintenance were never adopted in India, and courts expressly permit litigation finance in jurisprudence from 1857 till 2018. This is a game changer.

(iii) So far as the frustrating length of the procedure is concerned, cross-border strikes can also help gain speedy resolution. Of course if the banks settles sooner than later, time taken in Indian courts may never be the concern. Moreover, while Indian courts are slow, a case like this (with necessary public pressure) could be completed in 8 to 10 years (right-up to the supreme court). If we get everything right- 5 years.

(iv) Also, India has same the procedure as Singapore, UK or DIFC for summary judgment. If that is possible on any part or whole of the claim, the time can be reduced to 1 to 2 years. With basic failures to follow prudential norms, which specify the minimum threshold of prudence, one might be simply be able to obtain a summary judgment under the new commercial courts procedure as this would be an obvious case of negligence.

(v) Once that is done, Indian court decrees have reciprocal enforcement arrangements for enforcement with Malaysia, Hong Kong, New Zealand, Singapore, United Arab Emirates and United Kingdom. The possibility of enforcing against Indian banks in these jurisdictions is unlimited

(e) **Conducive insolvency regime**: Recent amendments to the Liquidation Process Regulations under the Insolvency and Bankruptcy Code have brought in changes that potentially open further doors to litigation funding in India:

(i) Illiquid assets, such as disputed assets, contingent receivables, and

disputed receivables, pose challenges in liquidation, as liquidators do not have the funds to realise these assets. Now, by the aforementioned amendment, illiquid assets may be assigned or transferred for a consideration to a third party eligible to submit a resolution plan by the official liquidator, in consultation with the stakeholders' consultation committee. Third-party funders could play a key role here as they specialising in realizing disputed assets.[40]

(ii) The amendment also makes it further clear that creditors may assign their debts, either financial or operational, to third parties during the liquidation process. Such legal assignees then become creditors in their own right. Thus, litigation funders that are legally assigned financial or operational debts during liquidation of a corporate debtor may now claim their share from the waterfall mechanism under Section 53 of the IBC.[41]

(f) **Global enforcement and debt recovery**: Lastly, any award or decree obtained against Indian defendants can be enforced with ease due to several factors:

(i) Increasingly, the defendants involved in several high-value claims are the State or state-owned entities, such as the recent award in favour of Vodafone.[42] Not only do such entities have large assets in India, they also often have foreign assets and accounts in foreign banks, making it easier to enforce against such entities abroad.

(ii) With opening further access for Indian players in the foreign bond market, several large corporates, state-owned enterprises have unknowingly exposed themselves, the underwriters and payment agents to cross-border enforcement actions.

(iii) The Indian Civil Procedure Code provides the mechanism of a "garnishee order". This enables claimants to recover the sums awarded to them by requesting courts to direct any person owing a debt to the defendant to instead pay the amount to claimant.

(iv) India is a party to the New York Convention on enforcement of arbitral awards. On the other hand, as mentioned before, India has reciprocal enforcement arrangements for court decrees with UK, Singapore, UAE, New Zealand, Malaysia and Hong Kong.

19. Correspondingly, the Indian market has been a busy participant in the growing international litigation finance industry. There are several examples of Indian parties funded in arbitration and litigations outside India. There are also reported examples where foreign parties were funded for claims against Indian parties. At least two international funders are looking to establish presence in India, and many other are focusing on India from Singapore and other jurisdictions.

20. International funders are also looking to invest in India-seated arbitrations and executions. The usual focus is the infrastructure industry which has seen significant claims and awards against Indian state-owned enterprises/ state agencies. These are a mix of domestic or international arbitrations, or related proceedings.

21. There are also a few domestic players which have mushroomed in the recent past. There have been a couple of reported deals in the market. The structure of these deals is closer to a debt or equity investment rather than classic litigation finance. Some smaller players are attempting crowdfunding and online funding of local litigations and arbitrations. There are also a few purported brokers. However, these players have an insignificant market share or lack any real litigation finance experience. Thus, the local market remains largely unorganised with no significant player.

22. So far as ATE is concerned, there are no known local insurance players offering this product. One reason for this could be that in India there is no culture of granting costs; correspondingly there is no real risk of requiring to post security for costs or facing an adverse cost order. However, this is changing and arbitrations are now adopting cost follows the consequence system. That is still not the case for courts.

23. Foreign insurers are only permitted to participate in the Indian market through re-insurers. However, there is a general reluctance in underwriting risk for cases governed by Indian law or seated in India. We have found it difficult to secure ATE for clients with arbitrations seated in India and governed by Indian law, even if they were subject to foreign institutional rules.

INDIAN ASSOCIATION FOR LITIGATION FINANCE

24. Recognizing the ripe conditions in the Indian market as well as the support for it in Indian law, third-party funders and service providers like law firms, practitioners and arbitral institutions have come together to form the "Indian Association for Litigation Finance" ("IALF"). The IALF aims to be an association with a vision and mission to create self-regulations for, and promote knowledge-development of, litigation finance in India.

25. The foundation of the IALF has been spearheaded by Mr. Prateek Bagaria (Founder, Singularity Legal LLP). Singularity is an Asia and Africa focused international dispute resolution firm, established in August 2017. In its 3 years of operation, Singularity has handled claims of over US$ 2 billion in cross-border disputes across various sectors. Singularity has extensive experience in third-party funding, and has worked both with litigants to obtain third-party funding, as well as with funders themselves, to diligence their claims and investments.[43]

26. Sophisticated, global players such as Omni Bridgeway, Phoenix Advisors, Profile Investment and Marsh are involved with the IALF.

(a) Omni Bridgeway is one of the largest funders globally, formed by the merger of Omni and erstwhile IMF Bentham. IMF was pivotal to the development of the litigation funding market in Australia, including single-handedly developing the class-action market therein. The fund services Europe, US, Middle East, Asia and Australia, and is listed on the Australian stock exchange.[44]

(b) Phoenix Advisors is a UAE based litigation funder that practices in both mature and emerging markets. Phoenix also offers dispute resolution and advisory services to clients seeking to navigate multijurisdictional issues and global opportunities.[47]

(c) Marsh has a renowned UK-based litigation risk solutions team comprised of solicitors, brokers and insurance professionals. Marsh is connected to all prominent litigation funders across the globe, and has assisted parties in obtaining litigation finance and insurance across Europe, Asia-Pacific and North America.[48]

(d) Profile Investment is a renowned funder having offices in London, Paris and Singapore – the three key seats of international disputes. Its founders have more than 15 years of experience in litigation funding, and the fund itself has over € 100 billion under management.[49]

27. The service providers involved are Singularity Legal, PSL,[50] ICC,[51] FTI Consulting[52] and Grant Thornton.[53]

28. Today, the IALF is in its formative days. In the coming years, it aspires to have as its members: third- party funders, law firms, practitioners and arbitral institutions, who will abide by IALF's Rules of Membership, Codes of Conduct and Guidelines. IALF further aspires to act as a forum for hearing complaints against member funds. In this manner, the members of the IALF will set themselves up as progressive, knowledgeable and ethical service-providers whom clients can readily engage.

29. Prior to transitioning in a more formal structure, the initial formation of the

IALF will be spearheaded by a Working Group. The Working Group will draw up the initial governance instruments to implement self-regulation in the market, including the following:

(a) Articles of Association of the IALF

(b) Rules for membership of IALF

(c) Codes of Conduct for litigation funders and lawyers respectively

(d) Guidelines pertaining to litigation finance for arbitral institutions and courts

(e) Procedure for hearing complaints against member funds of IALF

30. The Working Group is a body of experienced jurists and thought leaders in the field of dispute resolution and litigation finance, and includes:

(a) Justice Mr. AK Sikri (Judge, Singapore International Commercial Court)

(b) Mr. Tom Glasgow (Chief Investment Officer-Asia, Omni Bridgeway)

(c) Mr. Dilip Massand (CEO, Phoenix Advisors Ltd)

(d) Ms. Sindhu Sivakumar (Senior Investment Manager, Innsworth Capital)

(e) Mr. Alain Grec (Director and Head of Quantum Analysis, Profile Investment)

(f) Mr. Sanjay Desai (Senior Vice President, Head of Litigation Insurance & Litigation Funding, Marsh JLT Specialty Marsh Limited)

(g) Mr. Prateek Bagaria (Partner, Singularity Legal)

(h) Mr. Sharan Jagtiani (Senior Advocate, Bombay High Court)

(i) Ms. Pallavi Bakhru (Partner, Grant Thornton India LLP)

(j) Mr. Montek Mayal (Senior Managing Director, FTI Consulting)

(k) Mr. Abhinav Bhushan (Director, South Asia ICC)

(l) Mr. Shashank Garg (Director -Indian Arbitration Forum, Co-Chair of SCL-YLG,[54] Member – Arbitration Committee – Delhi International Arbitration Centre)

(m) Mr. Sameer Jain (Managing Partner, PSL Chambers)

31. The Working Group will officially commence its work in a virtual signing and launch ceremony on 7 January 2021 at 1 - 3 PM IST. The ceremony will also be followed by a panel discussion on litigation finance in India between the members of the Working Group. The event is curated by Expert Talk,[55] and hosted by FTI Consulting.

[1] *Passarilal Mannoolal v. Chhuttanbai and Ors.* AIR 1958 MP 417

[2] *Ram Coomar Coondoo v. Chander Canto Mookerjee* (1877) ILR 2 Cal 233 ("Ram Coomar")

[3] See for example, *Executive Officer for Navaneetha Krishnaswami Devasthanam v. Rakmani and Co.* 1955-2-Mad LJ 339; *Unnao Commercial Bank v. Kailash Nath* AIR 1955 All 393

[4] *Bar Council of India v. A.K. Balaji & Ors.* AIR 2018 SC 1382

[5] Hussain Baksh v. Rahmat Hussain (1889) ILR 11 All 128, at [4]; *Harilal Nathalal Talati v. Bhailal Pranlal Shah* AIR 1940 Bom 143, at [7]

[6] *Suganchand v. Balchand* AIR 1957 Raj 89

[7] *Rajah Mohkam Singh v Rajah Rup Singh* ILR 15 All 352, at pp. 137-8

[8] Erstwhile applicable to "Central Provinces and Berar", substituted with "Madhya Pradesh" by M.P. Act 23 of 1958,Section3(4)

[9] Maharashtra Repealing and Amending Act, 1963

[10] *Passarilal Mannoolal v Chhuttanbai and Ors.* AIR 1958 MP 417, at [12]; *Pannalal Gendalal v. Thansing Appaji* AIR 1952 Nag 195, at [12]

[11] *Pannalal Gendalal v. Thansing Appaji* AIR 1952 Nag 195

[12] Singaporean Civil Law (Amendment) Act 2017

[13] Arbitration & Mediation Legislation (Third Party Funding) Amendment Ordinance 2017 (Hong Kong)

[14] *McIntyre Estate v. Ontario (Attorney General)* 23 CPC (5th) 59 (Ont CA)

[15] Ram Coomar

[16] *Nuthaki Venkataswami v. Katta Nagi Reddy (died) & Others* AIR 1962 Andh Pra 457

[17] *Lala Ram Swarup v. Court of Wards* AIR 1940 PC 19, at [10]

[18] *Lala Ram Swarup v. Court of Wards* AIR 1940 PC 19 at [9] and [10]

[19] *Kunwar Ram Lal v. Nil Kanth* [1893] Indian Appeals Law Reports 112, at p. 115

[20] *Gayabai & Ors. v. Shriram & Ors.* 2005 (2) MPLJ 574

[21] *Venkata Subhadrayyamma Jagapati Graru v. Poosapati Venkatapati Raju Garu & Ors.* (1924) 26 Bom LR 786 ("Poosapati"), at pp.73-74

[22] Ibid

[23] Ram Coomar, at [40]

[24] Poosapati at p. 66

[25] *Lala Ram Swarup v. Court of Wards* AIR 1940 PC 19, at [3]

[26] Ram Coomar at [40]

[27] Ram Coomar at [5]

[28] Section 6(e), Transfer of Property Act

[29] *M.T. Rajamanickam Chetty & anr. v T.R. Abdul Halim Sahib* (1941) 1 Mad LJ 22

[30] *In re 'G', a Senior Advocate of the Supreme Court* AIR 1954 SC 557; Bar Council of India v. A.K. Balaji & Ors. AIR 2018 SC 1382

[31] *Rattan Chand Hira Chand v. Askar Nawaz Jung* (1991) 3 SCC 67

[32] Poosapati, at p. 75

[33] *Executive Officer for Navaneetha Krishnaswami Devasthanam v. Rakmani and Co.* (1955) 2 Mad LJ 339, at [19]

[34] Ram Coomar, at [5]-[6]

[35] Maharashtra Government Gazette, dated 15-9-1983, Part 4 Ka, Page 420 (1-10-1983)

[36] Madras Government, ROC No. 3019 of 1926

[37] Madhya Pradesh Gazette, dated 16-9-1960

[38] Orissa Government, Notn No. 24-X-7-52, dated 30-3-1954

[39] Mateen Hafeez, 'An Insider blew the lid of Rs. 6500 crore PMC Bank scam', available at https://timesofindia.indiatimes.com/business/india-business/an-insider-blew-the-lid-off-pmc-scam/articleshow/72987358.cms#:~:text=Police%20sources%20said%20since%202017,bank%20for%20its%20group%20companiesBFSI, 'What went wrong with Laxmi Vilas Bank' available at https://bfsi.economictimes.indiatimes.com/news/banking/here-is-all-you-need-to-know-about-what-went-wrong-with-lakshmi-vilas-bank/78404094

[40] Section 3, Insolvency and Bankruptcy Board of India (Liquidation Process) (Fourth Amendment) Regulations, 2020 IBBI/2020-21/GN/REG067.

[41] Section 2, Insolvency and Bankruptcy Board of India (Liquidation Process) (Fourth Amendment) Regulations, 2020 IBBI/2020-21/GN/REG067.

[42] The Hindu, 'Vodafone wins international arbitration against India in ₹14,200-crore tax dispute case' available at <https://www.thehindu.com/business/Industry/vodafone-wins-international-arbitration-against-india-in-14200-crore-tax-dispute-case/article32694875.ece#:~:text=Share%20Article-,The%20British%20telecom%20giant%20moved%20the%20Hague-based%20International%20Court,a%20%242%20billion%20tax%20claim>

[43] https://singularitylegal.com

[44] https://omnibridgeway.com/about/overview

[45] https://en.wikipedia.org/wiki/Elliott_Management_Corporation

[46] https://www.innsworth.com/

[47] https://www.linkedin.com/company/phoenix-advisors-ae/about/

[48] https://www.marsh.com/uk/home.html

[49] https://profileinvestment.com/

[50] https://www.pslchambers.com

[51] https://iccwbo.org/dispute-resolution-services/arbitration/

[52] https://www.fticonsulting-asia.com/?rl=apac

[53] https://www.grantthornton.in/

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About Us

Singularity is an Asia and Africa focused international disputes boutique, established in August 2017. Since then, we have handled over US$ 2 billion in cross-border disputes across jurisdictions and industries.

These disputes were in various parts of the world including Egypt, India, Israel, Indonesia, Kazakhstan, Nigeria, Malaysia, the Philippines, Turkey, UK, UAE, Sierra Leone, Singapore and Somalia.

In the first 1000 days, we are already recognized as market leaders.

- Legal 500- Tier 2 in Asia-Pacific - India for arbitration;
- Benchmark Litigation- Tier 3 in Asia Pacific – India for international arbitration;
- Financial Times - Top 5 in Asia-Pacific for innovation in dispute resolution;
- India Business Law Journal and Asian Legal Business -Rising Law Firm of the Year;
- RSG Consulting – Top 50 law firms in India.

About Expert Talk

The Expert Talk initiative seeks to provide quality continued digital education to professionals, through freely accessible webinars, and a digital library of blogs, alerts, insights and talks, on dispute resolution and litigation finance.

About Our Third Party Funding Practice

We help funders identify the true potential of a claim portfolio, and help litigants raise finance as a strategic tool to transform disputes from cost-centres to revenue-generators. Our key engagements include:

- Representing a leading global litigation funder for its investment in an Indian portfolio concerning 10 mega infrastructure projects.
- Representing a multinational company to raise finance for a portfolio of disputes across their energy, resources, engineering, shipping and dredging divisions in Singapore, UK, UAE and India.
- Representing an energy company to raise finance for a billion dollar dispute against a state-owned entity.
- Representing an Indian company to raise finance for a multi-million dollar dispute.
- Advising a litigation funder on entry strategies into and structures for the Indian market.
- Representing a leading global litigation funder for its investment in a portfolio concerning 2 mega infrastructure projects in Saudi Arabia.

ALERT

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