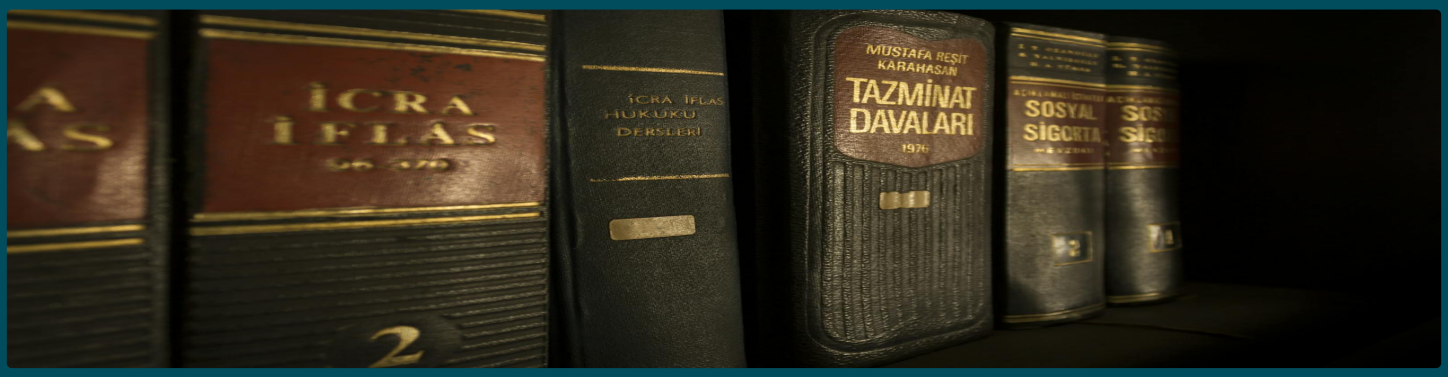
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Can Courts Nullify Arbitration During Insolvency?: A Ruling at the Crossroads of Arbitration and Insolvency

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In a significant judgment, the Supreme Court of India in *Ankhim Holdings Pvt. Ltd. & Anr. v. Zaveri Construction Pvt. Ltd.*[1] clarified an important procedural question that sits at the intersection of arbitration law and insolvency proceedings: **Can a court, while appointing a substitute arbitrator, invalidate arbitral proceedings conducted during an IBC moratorium?**

The Supreme Court's answer was unequivocal: **No.**

The ruling strengthens India's pro-arbitration framework, reinforces the principle of minimal judicial interference, and provides crucial certainty for businesses and homebuyers affected by insolvency-linked disputes.

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The Background: A Redevelopment Project and Corporate Insolvency

The dispute arose from a Mumbai redevelopment project undertaken through a partnership arrangement between Ankhim Holdings Pvt. Ltd. and Zaveri Construction Pvt. Ltd a partnership firm named M/s Anmol Alliance to develop and construct an SRA project of Andheri Shiv Shakti CHS Limited admeasuring 4514 square metres along with 203 tenements standing thereon situated at CTS No. 195(pt) and 825(pt), Ambivali Village at Indira Nagar, Jay Prakash Road, Andheri (West), Mumbai.

When disputes emerged, arbitration was invoked and a former Chief Justice was appointed as sole arbitrator by the Bombay High Court[2]. Meanwhile, Zaveri Construction was admitted into Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016 (IBC), triggering a moratorium under Section 14.

Despite the moratorium:

- The arbitral tribunal continued hearings.
- Applications under Sections 16 (jurisdictional objection) and 17 (interim measures) of the Arbitration and Conciliation Act, 1996 were decided.
- Certain flats in the redevelopment project were permitted to be sold under arbitral orders.
- Third-party interests, including homebuyers, came into play.

Subsequently, liquidation proceedings were initiated against the company. The arbitrator later terminated proceedings, prompting the appellants to approach the Bombay High Court under Section 15(2) of the Arbitration Act for appointment of a substitute arbitrator.

The High Court appointed a substitute arbitrator but went a step further. It declared that arbitral proceedings conducted during the moratorium period were a "nullity".

That declaration became the focal point before the Supreme Court.

The Central Legal Question

The case boiled down to this:

Does a High Court, while exercising powers under Section 15(2) (substitution of arbitrator), have jurisdiction to invalidate earlier arbitral proceedings on the ground that they occurred during an IBC moratorium?

The Supreme Court held that it does not.

Why the Supreme Court Intervened

1. Section 15 Is About Substitution, Not Supervision

Section 15 of the Arbitration Act deals with termination of an arbitrator's mandate and appointment of a substitute. The Court emphasized that:

- Section 15(2) merely enables appointment of a replacement.
- Section 15(3) allows rehearing at the tribunal's discretion.
- Section 15(4) protects prior orders from being invalidated solely because of a change in the tribunal's composition.

The legislative intent, the Court observed, is continuity not disruption.

By declaring prior proceedings void, the High Court effectively exceeded the limited jurisdiction granted under Section 15.

2. The Arbitration Act Is a Self-Contained Code

Relying on the Constitution Bench decision in *Interplay Between Arbitration Agreements & Stamp Act* (2024), the Court reiterated that the Arbitration Act is a **self-contained and exhaustive code**.

Where the Act prescribes:

- specific appellate remedies (such as Section 37), or
- limits judicial interference,

courts cannot invent alternate procedural routes.

The High Court had effectively:

- Interfered with a rejected Section 16 jurisdictional challenge (which is not appealable at that stage),
- Disturbed Section 17 interim orders outside the statutory appeal mechanism,
- Nullified procedural orders without jurisdiction.

Such actions, the Supreme Court held, were impermissible.

3. Continuity in Arbitration Is Paramount

The Court reaffirmed settled law that when an arbitrator is substituted, the proceedings ordinarily continue from the stage at which they were left.

Restarting arbitration de novo:

- Defeats efficiency,
- Prolongs commercial disputes,
- Increases costs,
- Undermines investor confidence.

The objective of arbitration speedy and final dispute resolution would be compromised if courts invalidate entire phases of proceedings during substitution.

Protecting Third-Party Rights: The Article 142 Intervention

An important practical dimension of the case involved third-party homebuyers.

Certain flats had been permitted to be sold pursuant to arbitral orders. Declaring those proceedings void would have jeopardized transactions and unsettled innocent third parties.

Recognizing the broader economic consequences, the Supreme Court invoked Article 142 of the Constitution and declared those transactions legally valid.

This intervention h a critical highlights judicial balancing act:

- Respecting statutory limits,
- Preserving commercial certainty,

- Protecting innocent stakeholders.

Why This Judgment Matters Beyond the Legal Community

This ruling has implications that extend well beyond the legal fraternity. It reassures businesses that insolvency proceedings will not automatically disrupt ongoing arbitrations unless expressly mandated by statute, thereby preserving commercial continuity. For investors, it strengthens confidence in the predictability and stability of India's dispute resolution framework. Homebuyers and other third parties gain protection from the risk of transactions being retrospectively invalidated on procedural grounds. At an institutional level, the judgment also reinforces judicial discipline by clearly delineating the limits of court intervention in arbitral matters.

Arbitration vs. Insolvency: A Delicate Balance

The interaction between the IBC moratorium and arbitration proceedings has long been contentious.

This judgment does not dilute the moratorium under Section 14 of the IBC. Instead, it clarifies that:

- The question of whether proceedings violate a moratorium must be examined within proper procedural channels.
- It cannot be retroactively adjudicated in substitution proceedings under Section 15.

The ruling therefore respects both statutory regimes insolvency and arbitration without allowing one to procedurally override the other through judicial expansion.

The Larger Message: Judicial Discipline in Arbitration Matters

Perhaps the most important takeaway is institutional. The Supreme Court reaffirmed: *Courts must operate strictly within the boundaries laid down by the Arbitration Act.*

In an era where India is positioning itself as a global arbitration hub, such judicial discipline is crucial. Predictability and minimal interference are foundational to investor confidence.

Conclusion

The decision is a strong reaffirmation of India's commitment to arbitral autonomy, statutory discipline, commercial certainty, and the protection of third-party interests. By setting aside the High Court's declaration that prior arbitral proceedings were a nullity, the Supreme Court has reinforced the structural integrity of India's arbitration framework while carefully harmonising it with the objectives of insolvency law.

As arbitration and insolvency increasingly intersect in complex commercial disputes, this ruling provides much-needed clarity on jurisdictional boundaries and procedural continuity. It is poised to be a guiding precedent, shaping the contours of judicial intervention in arbitration for years to come.

For more details, write to us at: contact@indialaw.in

1. 2026 INSC 137 [CIVIL APPEAL NO. 779/2026 (Arising out of SLP (C) No. 11667/2024)] ??

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