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ARBITRATION AND CONCILIATION

Single Judge Designated as Commercial Court Cannot Be Treated as Lacking Jurisdiction Merely for Non-Transfer Under Section 15 of Commercial Courts Act: Supreme Court

Shri Balaji Industrial Engineering Ltd. v. Steel Authority of India Ltd. (IISCO Steel Plant) | Civil Appeal No. 6873 of 2026 | Supreme Court of India | April 22, 2026 The Supreme Court has held that a judgment passed by a Single Judge who was designated as a Commercial Court cannot be treated as a […]

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The Supreme Court has held that a judgment passed by a Single Judge who was designated as a Commercial Court cannot be treated as a nullity or as one passed without jurisdiction merely because the petition under Section 34 of the Arbitration and Conciliation Act, 1996 was not formally transferred to the Commercial Division under Section 15 of the Commercial Courts Act, 2015. The Bench of Justice P.S. Narasimha and Justice Alok Aradhe set aside the order of the Division Bench of the Calcutta High Court, which had set aside the Single Judge's order solely on the ground of lack of jurisdiction, and remitted the matter to the Commercial Appellate Division for a fresh hearing on merits.

Table of contents

- Background
- Submissions Before the Supreme Court
- The Supreme Court's Analysis

Background

In January 2005, Steel Authority of India Limited issued a tender for the sale of approximately 60,000 metric tonnes of Run-of-Mine Iron Ore on specified commercial terms. A dispute arose regarding the termination of the contract and alleged breach, which was referred to arbitration. The Arbitral Tribunal, by an award dated June 19, 2013, held that SAIL had wrongfully terminated the contract and had failed to deliver the contracted Iron Ore to the appellant. The Tribunal directed SAIL to refund the security amount, reimburse amounts paid, and compensate the appellant for the additional cost of procuring Iron Ore from the market, along with interest.

SAIL filed a petition under Section 34 of the Act before the Single Judge of the Calcutta High Court challenging the award. During the pendency of this petition, the Commercial Courts Act, 2015 came into force with effect from October 23, 2015. SAIL did not raise any objection or file any application seeking transfer of the petition to the Commercial Division. Both parties participated in the proceedings without demur and invited a decision on merits.

The learned Single Judge dismissed the petition on August 8, 2023, finding that SAIL had failed to deliver the contracted Iron Ore despite having received payment and that the Arbitral Tribunal's findings were based on the evidence on record. No grounds for interference under Section 34 were found to be made out.

SAIL then appealed under Section 37 of the Act. The Division Bench, by the impugned order dated February 2, 2026, set aside the Single Judge's order on the sole ground that the petition under Section 34 ought to have been transferred to the Commercial Division under Section 15 of the 2015 Act, and that the judgment had been passed by a non-Commercial Division. The Division Bench directed the petition to be transmitted to the Commercial Division for renumbering and fresh hearing, without examining the merits.

Submissions Before the Supreme Court

The appellant argued that the Single Judge was in fact designated as a Commercial Court, which was evident from the cause list, and therefore the order passed by him could not be treated as one without jurisdiction. It was further contended that any distinction between the Commercial Division and the non-Commercial Division was at best an internal administrative roster allocation and did not go to the inherent jurisdiction of the Court. Non-transfer under Section 15 of the 2015 Act was characterised as a procedural or administrative irregularity that could not render a judgment on merits void.

SAIL, on the other hand, maintained that the Single Judge who decided the petition had not been assigned the relevant roster by the Chief Justice and had therefore acted without jurisdiction, and that the Division Bench had rightly set aside the order.

The Supreme Court's Analysis

The Court acknowledged the settled legal position that any adjudication by a Bench in a matter not assigned to it by the Chief Justice would be without jurisdiction and a nullity, as reiterated by the Supreme Court in Garden Reach Shipbuilders and Engineers Ltd. v. GRSE Ltd. Workmens Union. However, the Court found that this principle had no application to the facts at hand.

The cause list on record clearly showed that the Single Judge who decided the Section 34 petition was designated as a Commercial Court. The Court also took note of Section 15(5) of the 2015 Act, which expressly provides that where a pending matter is not transferred under sub-sections (1), (2) or (3), the Commercial Appellate Division may, on the application of any party, withdraw and transfer the matter. This provision places a burden on the parties to seek transfer. In the present case, SAIL had not filed any such application before the Single Judge and had participated in the proceedings and pressed for a decision on merits.

Given that the Single Judge was designated as a Commercial Court and the respondent had not sought transfer despite having the opportunity to do so, the Court held that the judgment could not be treated as either a nullity or as one passed without jurisdiction. The Division Bench was therefore not justified in setting aside the judgment without examining the merits of the appeal under Section 37.

Order

The Supreme Court quashed the impugned order of the Division Bench and remitted the matter to the Commercial Appellate Division of the Calcutta High Court to hear and decide the appeal under Section 37 on merits afresh. All contentions of the parties were kept open.

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