



CIVIL

Breaking the Mold: Can Courts Now Rewrite Arbitral Awards?

AUTHOR Saliha M. Ismail

PUBLISHED 3 June 2025

In *Gayatri Balasamy v. ISG Novasoft Technologies Ltd*^[1], the Supreme Court's Constitution Bench addressed whether Indian courts have the power to modify arbitral awards under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996. By a 4:1 majority, the Court held that although not expressly stated, limited judicial modification is permissible in specific circumstances. This includes corrections of clerical errors, severable portions, post-award interest, and exceptional cases under Article 142. Departing from the earlier decision in *NHAI v. Hakeem*^[2], the judgment raises concerns about judicial overreach and its impact on the finality and autonomy of arbitration.

Table of contents

- [Background of the Case](#)
- [Arbitration Proceedings and Award](#)
- [Rival Contentions](#)
- [Legal Provisions and Judgments Relied Upon](#)
- [Analysis of the Court's Approach](#)
- [Judicial Overreach in Section 34 Interpretation](#)
- [Dissenting View: Respecting the Limits of Arbitration Law](#)
- [Conclusion](#)

Background of the Case

The case of *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.* arose from conflicting judicial opinions on whether Indian courts have the power to modify arbitral awards under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996. Some benches allowed courts to modify awards, while others ruled against such authority. The Supreme Court formed a Constitution Bench to resolve the critical question: Can courts modify arbitral awards or only set them aside?

Arbitration Proceedings and Award

The Arbitration Act, modeled on the UNCITRAL Model Law, emphasizes limited court intervention. Section 34 allows courts to set aside arbitral awards only on specific grounds such as fraud, public policy violations, or patent illegality, or to remit the award for correction by the tribunal. Importantly, the Act does not explicitly empower courts to modify awards themselves.

However, in *Balasamy*, the Supreme Court permitted judicial modifications in limited cases, including:

- Severing invalid portions from valid parts of the award
- Correcting clerical, typographical, or computational errors evident on the record
- Modifying post-award interest in certain situations
- Exercising powers under Article 142 of the Constitution to ensure “complete justice”

Rival Contentions

Supporters argue that limited judicial modifications promote judicial economy, prevent unnecessary delays, and reduce prolonged litigation, ultimately delivering justice efficiently.

Opponents maintain that such powers conflict with the clear legislative intent of the Arbitration Act. They emphasize that courts lack statutory authority to alter awards and warn that judicial overreach undermines arbitration's core principles (party autonomy, finality, and efficiency) while inviting further litigation and uncertainty.

Legal Provisions and Judgments Relied Upon

Section 34 of the Arbitration Act restricts court intervention to setting aside awards on specified grounds or remitting awards for correction. Similarly, the UNCITRAL Model Law excludes court modifications of awards.

The *Balasamy* ruling departs from this by endorsing judicial modifications under narrow circumstances and constitutional powers under Article 142 to achieve “complete justice.” This expansive interpretation has raised concerns about the integrity and indivisibility of arbitral awards.

The Role and Relevance of Article 142 and Section 151 in Judicial Modification of Arbitral Awards

Article 142 of the Constitution empowers the Supreme Court to pass any order necessary to do complete justice in any case before it. In *Gayatri Balasamy*, the majority invoked this broad constitutional power to justify limited judicial modifications of arbitral awards (such as severing invalid portions, correcting clerical or computational errors, adjusting post-award interest, and ensuring complete justice) even though such powers are not explicitly granted under the Arbitration Act.

This approach seeks to avoid injustice and procedural delays. However, it also raises concerns about expanding judicial authority beyond the statute's text, potentially blurring the separation of powers and affecting arbitration's finality and party autonomy.

Additionally, Section 151 of the Civil Procedure Code, which preserves the inherent powers of courts to act in the interest of justice, is sometimes considered in parallel. However, both Article 142 and Section 151 must be exercised with caution to avoid undermining the legislative framework governing arbitration. A careful balance between these broader powers and the statute's intent is essential to uphold both justice and the efficiency of arbitration.

Analysis of the Court's Approach

The majority in *Balasamy* took an expansive view of Section 34, arguably exceeding the statute's text and legislative intent. While aiming to avoid delays and costs, allowing courts to modify awards risks tactical litigation, weakens tribunal authority, and erodes arbitration's finality.

Arbitral awards are generally unified instruments with interconnected findings on jurisdiction, liability, and damages. Severing or selectively modifying awards compromises their coherence and invites procedural complications. Interference with post-award interest, usually within the tribunal's discretion, further undermines arbitral authority.

Judicial Overreach in Section 34 Interpretation

India's Arbitration Act prioritizes minimal judicial intervention to maintain arbitration's autonomy and efficiency. Section 34 strictly limits courts to setting aside awards on specific grounds or remitting them for correction. However, Indian courts have increasingly expanded this scope to permit modifications beyond the statute's language, undermining the Act's core principle of limited judicial interference and finality.

Dissenting View: Respecting the Limits of Arbitration Law

Justice K.V. Viswanathan's dissent in *Balasamy* underscores that Article 142's broad powers to ensure "complete justice" cannot override clear statutory provisions. The Arbitration Act limits courts to setting aside awards on specific grounds but does **not** allow modification.

Justice Viswanathan warns that using Article 142 to modify awards breaches the separation of powers and risks prolonged litigation. His view stresses judicial restraint and respect for legislative boundaries to maintain arbitration's finality and autonomy.

Conclusion

The *Balasamy* decision introduces a nuanced approach to judicial intervention in arbitration, allowing courts to make limited modifications to arbitral awards. These include severing invalid portions from valid ones, correcting clerical or typographical errors, modifying post-award interest in certain cases, and invoking Article 142 to ensure complete justice.

While this marks a departure from a strictly non-interventionist stance, it reflects an effort to strike a balance between the finality of arbitral awards and the need for judicial oversight in exceptional circumstances. If applied cautiously, this development could enhance the efficiency and fairness of arbitral proceedings without undermining the autonomy of the process. For more details, write to us at: contact@indialaw.in

[1] *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.*, (2025) INSC 605

[2] *The Project Director, National Highways Authority of India vs. M. Hakeem*, (2021) INSC 3471

Related Practice Areas

Arbitration