

MARCH 2022

Legal Conundrum- Inclusion of Interest in Determination of Pecuniary Jurisdiction

BY ANSHUMAN GUPTA, SUKANYA LAL & SPARSH GOEL

INTRODUCTION

Interest may be understood as the compensation which is fixed by an agreement or is allowed by law for the use or detention of money, especially, the amount owed to a lender in return for the use of the borrowed money.[1] The Supreme Court of India ("**Supreme Court**") has also on multiple occasions opined that "*a person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages*".[2] The Supreme Court while quoting the above judgment has further observed in another case that interest is "*a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable*".[3] Thus, when the Supreme Court has classified a claim for interest as a '*compensation allowed by law or fixed by parties*', then should courts/tribunal refrain from combining interest with other claims in determining the pecuniary jurisdiction?

To this effect, it needs to be noted that jurisdiction is a key question to be determined by the court, as it limits the authority of a court to adjudicate a legal dispute. A defect of jurisdiction, especially pecuniary strikes at the very authority of the court to pass the decree and cannot be cured even by the consent of the parties.[4] In this article, we seek to consolidate the general law on inclusion of interest in the principal debt/sum to determine the pecuniary jurisdiction of a court/tribunal. We will further deal with the recent judgment of the National Company Law Tribunal, Delhi Bench ("**NCLT**") in *CBRE South Asia Pvt. Ltd. v. M/s. United Concepts and Solutions Pvt. Ltd.* [5] ("**CBRE Decision**") wherein the Tribunal has held that interest cannot be clubbed with the principal amount in an operational debt to reach the pecuniary jurisdiction of NCLT as given under Section 4 [6] of the Insolvency and Bankruptcy Code, 2016 ("**IBC**").

ABOUT THE FIRM

AKS Partners (formerly known as A.K. Singh & Co) is a law firm based in New Delhi (India) that provides a comprehensive range of legal services and solutions to domestic and international clients. The Firm offers a unique blend of the local knowledge to apply the regulatory, economic, political and cultural context to legal issues and develop case strategies.

We regularly handle technically challenging and complex multi-jurisdictional matters. Our team is spearheaded by one of the highly recognised lawyers with extensive experience in international dispute resolution and strong government and diplomatic backgrounds. This experience gives us the deepest understanding of the key decision points that are critical in navigating complex & complicated matters and managing government regulations.

STATUTORY LAW ON "PECUNIARY JURISDICTION" "INTEREST"

The jurisdiction of a court can be determined with reference to the subject-matter, pecuniary value and the territorial/local limits. With respect to the pecuniary jurisdiction, Section 6 of the Code of Civil Procedure 1908 ("**CPC**") provides that a Court can only adjudicate those disputes where the value of the subject-matter, does not exceed the pecuniary limits of its ordinary jurisdiction. Section 15 of the CPC further provides that a dispute shall be instituted in the court of the lowest grade competent to try it. Thus, to file a dispute before a court/tribunal, the minimum threshold of its pecuniary jurisdiction needs to be met, else questions on maintainability can be raised.

It was noticed that so as to cross the pecuniary threshold of a court/tribunal, litigants frequently swelled up their cost/interest claim. Therefore, the courts have been reluctant in including the claim of interest with other claims, while analyzing the pecuniary jurisdiction. Pertinently, Section 6 and 12 of the Commercial Courts Act, 2015 ("**Commercial Courts Act**") provide that the jurisdiction of the commercial court shall be determined on the basis of specified value of the subject matter of dispute ("**Specified Value**") and for

determining the Specified Value, "the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application", shall be taken into consideration.

Furthermore, Section 3 of the Interest Act, 1978, gives express power to the courts in allowing interest in respect of any proceedings for recovery of debt or damages. Section 34 of the CPC provides discretion to the court to grant *pendente lite* interest. Thus, when the statutes provide express power to the courts to provide interest in case of delay in payments, then by necessary implication, it should be clubbed with other claims in reaching the pecuniary threshold of a court/tribunal.

JUDICIAL PRECEDENTS

The question that whether the interest being claimed on the value of housing unit/property by way of compensation, is to be taken into account for determining the pecuniary jurisdiction was discussed in a consumer dispute before the National Commission Disputes Redressal Commission ("**NCDRC**") [7]. The NCDRC held that the amount of interest which is paid as compensation must necessarily be taken into account for determining the pecuniary jurisdiction.

In the case of *Punjab National Bank, Dasuya v. Chajju Ram & Ors.*, [8] the Supreme Court held that in determining the correct forum to execute the decree against a bank, the amount involved in execution proceedings will include the principal amount including interest ordered from the date of filing of the suit till the recovery of money.

Similarly, the Supreme Court in a case [9] has held that the *pendente lite* interest comes within the expression "value of the subject-matter in dispute in appeal" if the litigant has expressly disputed the correctness of the decree with respect to the costs or *pendente lite* interest.

POSITION OF LAW UNDER IBC

The Central Government owing to the rigors of the lockdown during the Covid-19 pandemic increased the threshold for initiating insolvency proceedings under IBC to Rs. 1 crore from Rs. 1 lakh. This prompted several persons/entities seeking to file an insolvency application to include the amount of interest due to the principal debt in order to cross the revised threshold. Thus arose the question of "whether operational/financial debt can include the amount of interest that an operational/financial creditor seeks to claim under IBC?"

The NCLT Delhi has recently in the *CBRE* Decision has ruled that as the definition of "Operational Debt" under Section 5 (21) of IBC merely refers to a claim in respect of the provision of goods or services including employment, and does not include within it the component of interest, therefore, in an application under Section 9 of IBC "Interest amount cannot be clubbed with the Principal amount of debt to arrive at the minimum threshold of Rs.1 Crore for complying with the provision of Section 4 of IBC". NCLT has further clarified that interest can be claimed as financial debt as under Section 5 (8) of IBC the term 'Financial Debt' means a debt along with interest if any.

The *CBRE* Decision is in transgression of the settled position of law as the National Company Law Appellate Tribunal ("**NCLAT**") in *Krishna Enterprises v. Gammon India Ltd*[10] ("**Krishna Enterprises**") has held that if the agreement permits payment of interest to the operational or financial creditor, then debt will include interest.

The judgment of NCLAT in *Krishna Enterprises* so far continues to be authoritative w.r.t. the aforesaid proposition and has been followed by a host of judgments delivered by various regional benches of the NCLT.

In *SS Polymers v. Kanodia Technoplast Limited*,[11] NCLT New Delhi after recognizing the position laid down in *Krishna Enterprises* reiterated that "If in terms of the agreement, interest is payable to the operational or financial creditor, then the debt will include interest". The NCLT further went on to observe that in the absence of an agreement stating the interest to be charged, the applicant is not left remediless and can claim such interest amount before a court of competent jurisdiction, but cannot initiate CIRP to claim such interest.

However, in *Deepa Sati v. Karan Motors Pvt. Ltd*[12] the NCLT New Delhi has held that if there is no agreed rate of interest, then only the principal amount can be treated as operational debt.

CONCLUSION

By the *CBRE* Decision, NCLT Delhi has placed the Financial Creditor on a higher pedestal. Further, it has disrupted the settled position that "Operational Debt" could include interest if the agreement executed between parties expressly provided so. Though, it is frequently argued that interest signifies "time value of money" and no such attribute is attached to an "Operational Debt" under Section 5 (21) of IBC, still it is wrong to suggest that interest accumulated due to delay in payments for goods and services, will not be treated as "Operational Debt".

An appeal has been filed in the NCLAT against the *CBRE* Decision and clarification from NCLAT is awaited regarding interest being deemed a part of "Operational Debt", if the parties had agreed to impose it for late payments. If the same is permitted then the NCLAT will have to further clarify regarding clubbing interest with the principal amount in determining the pecuniary jurisdiction.

REFERENCES

- [1] Definition as given in Black's Law Dictionary.
- [2] Secy. Irrigation Deptt., Govt. of Orissa v. G.C. Roy [(1992) 1 SCC 508]
- [3] Central Bank of India v. Ravindra and Ors. [(2002) 1 SCC 367]
- [4] Kiran Singh v Chaman Paswan [AIR 1954 SC 340]
- [5] (IB)-797(ND)2021, Decided on 19.01.2022
- [6] For initiating IBC proceedings minimum amount for the default is one crore rupees.
- [7] Ambrish Kumar Shukla and Others v. Ferrous Infrastructure Pvt. Ltd. Seth Farms [2016 SCC OnLine NCDRC 1117]
- [8] 2000 (6) SCC 655
- [9] State Of Maharashtra vs Mishri Lal Tarachand Lodha [AIR 1964 SC 457]
- [10] Company Appeal (AT) (Insolvency) Nos. 144, 145, 146, 147, and 148 of 2018, Decided on 27.07.2018
- [11] Company Petition No. IB-121/ND/2019, Decided on 20.09.2019
- [12] Company Petition No. IB-705/ND/2019, Decided on 18.02.2020

NEWS AND UPDATES

MARCH 2022

ARBITRATION

THE ARBITRAL FEE HAS TO BE DETERMINED ON THE BASIS OF AGGREGATE AMOUNT OF CLAIM AND COUNTER-CLAIM

The Delhi High Court ("DHC"), in the case of *J.J.Patel v. NHAI*, stated that Section 31(8) and Section 31A of the Arbitration and Conciliation Act, 1996 ('the Act') would have no application where the fees of the arbitral tribunal has been fixed by agreement between the parties or by the Court in terms of 4th Schedule to the Act. The term "sum in dispute" provided in the 4th Schedule to the Act has to be interpreted so as to include the aggregate value of the claims as well as counter claims. The DHC stated that unlike a civil suit, where a counter-claim could be in respect of a totally different transaction; in arbitral proceedings, the counter claim has to be in relation to the arbitration agreement. Therefore, in the context of arbitration proceedings it may not be correct to say that counter claim would be an "independent" cause of action since it stems from the same subject matter/transaction.

MERE USE OF WORD 'ARBITRATION' IN HEADING CLAUSE OF AGREEMENT DOES NOT INFER EXISTENCE OF ARBITRATION AGREEMENT BETWEEN THE PARTIES

The DHC in *Foomill Pvt Ltd. vs Affle (India) Ltd.* has held that the mere use of word 'Arbitration' in the heading in the Clause of Agreement would not lead to the inference that there exists an agreement between such parties seeking resolution of disputes through arbitration. The Court referred to the observations of DHC in *Avant Garde Clean Room & Engg. Solutions Pvt. Ltd. Vs. Ind Swift Limited* where it was held that merely using the word arbitration in the heading of the dispute resolution clause will not make it a valid arbitration clause while the main body of the clause provides for jurisdiction of courts.

RECENT UPDATE

Our Managing Partner, Mr. Sonal Kumar Singh along with Mr. Anshuman Gupta (Principal Associate) and Ms. Sukanya Lal (Senior Associate) have published an article on Mondaq titled as "*Can Additional Grounds Of Appeal Be Raised In An Appeal Filed Under Section 37 Of The Arbitration And Conciliation Act, 1996?*". Please [click here](#) to read.

CORPORATE**REVISION TO OPERATIONAL CIRCULAR FOR ISSUE AND LISTING OF NON-CONVERTIBLE SECURITIES, SECURITISED DEBT INSTRUMENTS, SECURITY RECEIPTS, MUNICIPAL DEBT SECURITIES AND COMMERCIAL PAPER**

The SEBI vide Circular No. SEBI/HO/DDHS/P/CIR/2022/0028 dated March 08, 2022 made amendments revising the UPI Limits as mentioned in the Operational Circular no. SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021. Chapters I and II of the Operational Circular, provide the procedures pertaining to issue and listing of Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper. The amendments increased the limit for investment through UPI mechanism to Rs. 5 lakh, in order to bring about uniformity in the requirements and for ease of investment for investors. The provisions of this circular would be applicable to public issues of debt securities which open on or after May 1, 2022

EXTENSION REGARDING THE INTEREST EQUALIZATION SCHEME ON PRE AND POST SHIPMENT RUPEE EXPORT CREDIT

The RBI vide Notification No. RBI/2021-22/180, dated March 08, 2022 made modifications to the Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit ('Scheme'). As per the modifications:

- 'Telecom Instruments' sector having six HS lines would be out of the purview of the Scheme, except for MSME manufacturer exporters.
- Revised interest equalisation rates under the Scheme would now be 3% for MSME manufacturer exporters exporting under any HS lines, and 2% for manufacturer exporters and merchant exporters exporting under 410 HS lines.
- Banks, while issuing approval to the exporter, would have to necessarily furnish the prevailing interest rate, the provided subvention interest subvention as well as the net rate being charged to each exporter.
- Beneficiaries availing the benefit under any Production Linked Incentive (PLI) scheme of the government will not be covered under the present Scheme.
- With effect from April 1, 2022, banks would reduce the interest rate charged to the eligible exporters upfront as per the guidelines and submit the claims in original within 15 days from the end of the respective month, with bank's seal, and signed by authorised person, in the prescribed format.

RBI ISSUES MASTER DIRECTIONS WITH REGULATORY FRAMEWORK FOR MICRO-FINANCE LOANS

The RBI on March 14, 2022 vide notification no. RBI/DOR/2021-22/89 issued a Master Directions regarding Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022. These directions would be applicable to "Regulated Entities" (RE) which would include all Commercial Banks (excluding Paytm Banks); all Primary (Urban) Co-operative Banks/ State Co-operative Banks/ District Central Co-operative Banks and all Non-Banking Financial Companies (including Microfinance Institutions and Housing Finance Companies). A micro-finance loan is defined as a collateral-free loan given to a household having an annual income of up to Rs.3,00,000. The directions also elaborate on the 'assessment of household income'. The framework provides that the interest rates and other charges/ fees on microfinance loans shall be subjected to supervisory scrutiny by the Reserve Bank. Additionally, the directions also elaborated upon qualifying assets criteria, exemption for 'not-for-profit' companies engaged in micro-finance activities as well as net-owned fund (NOF) requirement. The Master Direction would be effective from April 01, 2022.

SEBI REVISES LIMIT FOR PLACING NUMBER OF ORDERS PER SECOND ("OPS") FROM 100 TO 120 FOR ALGORITHMIC TRADING IN COMMODITY DERIVATIVES

SEBI vide circular dated 17 March 2022 has raised the limit for placing number of OPS to up to 120 by a user from the existing limit of 100 for algorithmic trading in Commodity derivatives. The limit on OPS may be further relaxed by Stock Exchanges based on the increased peak order load observed and corresponding upgrade of infrastructure capacity to ensure that capacity of trading system of Exchange remains at least four times the peak order load. The circular shall be effective from April 01, 2022.

FRAMEWORK FOR GEO-TAGGING OF PAYMENT SYSTEM TOUCH POINTS

RBI vide notification number RBI/2021-22/187 dated March 25, 2022 has notified a framework for capturing geo-tagging information of payment system touch points deployed by banks/ non-bank Payment System Operators (PSOs) as per the Annexure to the framework. RBI is focused on deepening of digital payments and providing inclusive access to all citizens of the country. To ensure this, it is imperative that a robust payment acceptance infrastructure is present. This framework is issued under Section 10 (2) read with Section 18 of Payment and Settlement Systems Act, 2007.

SEBI ISSUES CIRCULAR ON THE INTRODUCTION OF OPTIONS ON COMMODITY INDICES WITH A FRAMEWORK FOR RISK MANAGEMENT

SEBI vide Circular No. SEBI/HO/CDMRD/DNP/CIR/P/2022/34 dated 24 March 2022 came out with a circular to permit recognized stock exchanges having a Commodity Derivative segment to introduce options on commodity indices. The product design and the risk management framework is to be in conformity with the guidelines prescribed in the Annexure to this circular. This Circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of the securities market. The provisions of the circular are to be effective from the date it is notified. Some of the requirements as per the circular is to:

- Make the necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the circular.
- Bring the provisions of this circular to the notice of the stock brokers/members of the stock exchange and also to disseminate the same on their website.
- Communicate with SEBI the status of the implementation of the provisions of this circular.

OTHER UPDATES

LIMITATION PERIOD CANNOT BE EXTENDED ON EQUITABLE GROUNDS

The SC, in the case of *Lingeswaran v. Thirunagalingam*, upheld the order passed by the Madras High Court ("MHC") which set aside the order passed by the Trial Court, condoning the huge delay of 467 days in preferring the application for setting aside the ex-parte decree. The Trial Court had observed that, in the absence of material evidence, it cannot be said that the delay has been explained. Despite making such an observation, the Trial Court condoned the delay, stating that an opportunity of fair trial should be given to both the parties. However, the SC upheld MHC's view that, condoning the delay, despite there being no merits in the application, would give premium to a person who fails to explain the delay and who is guilty of delay and laches.

UNIVERSAL ACCESSIBILITY OF A WEBSITE CANNOT BE A GROUND TO CHALLENGE THE JURISDICTION OF THE COURT

The DHC in the case of *Saisons Trade and Industry Pvt Ltd. v Maithri Aquatech Pvt. Ltd.*, observed that since the website can be accessed by the residents of Delhi, the suit could be filed before the Courts of Delhi as well. The jurisdiction of the court was challenged on the ground that, accessibility of the website throughout the world would not vest each and every court with jurisdiction.

The DHC, relied on S.20(c) of the Code of Civil Procedure ("CPC") which provides for jurisdiction inhering in the Court where the cause of action, wholly or in part, arises. The accessibility of the website in Delhi, in addition to the fact that, the advertisers/sellers of the products were located in Delhi for carrying on business, substantiate DHC's decision. Therefore, the DHC had jurisdiction over the present suit.

A PARTY CANNOT CLAIM RESTITUTION WHEN IT IS EQUALLY OR MORE RESPONSIBLE FOR THE ILLEGALITY OF A CONTRACT

The SC in the case of *Loop Telecom v. Union of India*, observed that while determining the applicability of Section-65 of the Indian Contract Act ("ICA"), the court must determine the illegality which caused the contract to become void. Unless the party claiming restitution participated in the illegal act involuntarily or the rule of law offers them protection against the defendant, they would be held to be *in pari delicto* and therefore, their claim for restitution will fail. The SC upheld Telecom Disputes Settlement and Appellate Tribunal's (TDSAT) view

that the quashing of the appellant's licenses by the Court cannot be equated with the UASL agreements becoming void within the meaning of Section-65 of the ICA and therefore, it cannot claim restitution. Hence, the appellant would not be entitled to a refund of the Entry Fee even on the principle of restitution under the ICA.

THE CIVIL COURT HAS NO JURISDICTION TO ENTERTAIN ANY SUIT OR PROCEEDING IN MATTERS WHICH FALL UNDER SECTION 13(4) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTERESTS ACT, 2002 ("SARFAESI ACT")

The BHC, in the case of *V.J. Tirunillai v. Pradeep Mansukhani*, held that Section 13 of the SARFAESI Act deals with the enforcement of security interest without the intervention of the Court or Tribunal but in accordance with the provisions of the said Act, thus any grievance against a "measure" taken by the borrower under Section 13(4) of the SARFAESI Act has to be submitted to the Debt Recovery Tribunal and not before the civil court.

NATURE OF ATTACHABLE "DEBT" FOR THE PURPOSES OF ORDER XXI RULE 46, CODE OF CIVIL PROCEDURE ("CPC")

The DHC, in the case of *Goyal Mg Gases Private Limited vs. Neelachal Ispat Nigam Limited (Nini) & Anr.* observed that Rule 46 of Order XXI of CPC, envisage attachment of properties over which the judgement-debtor has a right, but which are not in its possession. However, the provision does not define "debt". The Court therefore liberally interpreted Section 60 of CPC to include any other person from whom the judgement-debtor may have ability to derive shares or profit. Further, it was held that the liability or obligation to pay must exist in present for a debt to be attachable under Section 60 or, consequently, under Order XXI Rule 46, if the stage of payment would arise in future.

REVIEW JURISDICTION CAN BE EXERCISED ONLY IN A CASE WHERE IT IS FOUND THAT THERE IS AN ERROR APPARENT ON THE FACE OF THE RECORD AND NOT OTHERWISE

The SC in the case of *Ratan Lal Patel v. Dr. Hari Singh Gaur*, set aside the lower court's order stating that it was cryptic and non-reasoned and hence unsustainable in law. The SC reiterated that while exercising the review jurisdiction, the Court has to first satisfy itself on any error apparent on the face of the record. In the present case, nothing was mentioned regarding what exactly was the apparent error on the face of the record. Merely stating an error is not sufficient and it has to be demonstrated that in fact there was an error apparent on the face of the record.

ORDERS GRANTING INJUNCTION, WHICH ARE OBTAINED ON ACCOUNT OF DELIBERATE SUPPRESSION OF MATERIAL FACTS, ARE LIABLE TO BE VACATED ON THE GROUND OF SUPPRESSION AND CONCEALMENT ALONE

The DHC in the case of *Kent RO Systems v. Gattubhai*, held that the ex parte ad-interim injunction granted in favour of the plaintiffs was liable to be vacated on the grounds of gross suppression and concealment of material facts. As per the first proviso to Order XXXIX Rule 4 of the Civil Procedure Code, if in an application for temporary injunction or in any affidavit

supporting such application, a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted without giving notice to the opposite party, the Court shall vacate the injunction unless, for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice. Concealment of material facts and documents is a serious matter and sufficient for disqualifying a litigant from obtaining relief.

PLAINT CANNOT BE REJECTED BASED ON PARTIAL AVERMENTS ALONE

In the case of *Sri Biswanath Banik v. Smt. Sulagna Bose*, while considering an application under Order VII Rule 11 Civil Procedure Code ('CPC'), the SC stated that the entire plaint averments have to be considered and the plaint cannot be rejected on the basis of few lines/passages alone and ignoring the other relevant parts of the plaint. Accordingly, the suit cannot be considered barred by limitation. The SC went on to state that whether the plaintiffs shall be entitled to any relief under Section 53A of the Transfer of Property Act or not has to be considered at the time of trial and that the High

Court had exceeded its jurisdiction in rejecting the plaint while exercising the powers under Order VII Rule 11 CPC.

A MERE REFERENCE BY A GUARANTEE TO THE UNDERLYING CONTRACT, DOES NOT AUTOMATICALLY MAKE SUCH GUARANTEE 'CONDITIONAL'

The DHC in the case of *Reliance Infra Ltd v. NLC India Ltd*. observed that a guarantee does not automatically become 'conditional', just because it makes a reference to the underlying contract or contains a clause requiring the beneficiary to advise or state that it is being invoked on account of a breach of the underlying contract. Especially in cases where the guarantee states that the Bank is not entitled to inquire into or dispute the beneficiary's opinion on such breach, it typically results in the guarantee being 'unconditional'. The court further elaborated on the issue of whether invocation of a bank guarantee can be termed as fraudulent. The court reasoned that an entitlement to damages cannot be termed as 'fraud', since 'fraud' has to be absolute and egregious, vitiating the very foundation of the bank guarantee.

MARCH 2022

PERMANENT INJUNCTION CANNOT BE GRANTED AGAINST TRUE OWNER WHEN THE TITLE DISPUTE HAS BEEN SETTLED AGAINST PLAINTIFF

The SC in the case of *Padhiya Chenaji v. Maniben Jagmalbhai*, stated that once the suit is held to be barred by limitation qua the declaratory relief, the prayer for permanent injunction, which is a consequential relief, will also be said to be barred by limitation. The SC stated that, the High Court's observation that the relief of permanent injunction could be considered to be a substantive relief, is erroneous. Once the plaintiff has failed to get any substantive relief of cancellation of the sale deed and failed to get any declaratory relief, relief of injunction would be considered to be a consequential relief. In the present case, since the possession of the plaintiff is "not legal or authorised by the law", the plaintiff shall not be entitled to any permanent injunction.

AN APPLICATION UNDER SECTION 151 READ WITH ORDER XX, RULE 6A MAY BE FILED WHEN THE SUIT HAS BEEN CONCLUSIVELY DECIDED BUT WITHOUT A DECREE

The Meghalaya High Court in the case of *Shri. Delcan Shadap & Anr v. Dal Nongtri*, held that the petitioner is required to file an application under Section 151 read with Order XX, Rule 6-A of the Civil Procedure Code ("CPC") before the lower Court for drawing the decree in accordance with the lower court's order. The Court observed that as per the provisions of the CPC, after the recording of a compromise, the courts need to proceed to pass a decree. However, in the present case, the title suit was disposed of in terms of the compromise and no formal decree was drawn up. Subsequently, the MHC set aside the lower court's order and directed that the execution application on the preparation of the decree shall be taken up by the executing court.

DISCLAIMER

This Newsletter does not constitute professional guidance or legal opinion. No claim is made as to the accuracy or authenticity of the contents of this Newsletter. Readers are advised to make appropriate enquiries and seek appropriate professional advice and not take any decision based solely on the contents of this Newsletter. In no event shall this Newsletter shall be liable for any damages whatsoever arising out of the use of or inability to use the material or contents of this Newsletter or the accuracy or otherwise of such material or contents. The views expressed in this Newsletter do not necessarily constitute the final opinion of AKS Partners and should you have any queries, please feel free to contact us at info@akspartners.in

MARCH 2022

AWARDS & RECOGNITIONS



CONTACT US

Building No. G - 16, 3rd Floor, Saket, New Delhi 110 017, India

T: +91-11-40522433
40536792

F: +91-11-41764559

E: delhi@akspartners.in
info@akspartners.in

www.akspartners.in

For regular updates follow us @ [LinkedIn](#) | [Facebook](#) | [Mondaq](#)