



Update

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Standard for setting aside arbitral award (Delhi High Court)

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Improve Vyapaar Pvt. Ltd. v. VVA Developers (P) Ltd., 2019 SCC OnLine Del 9793 High Court of Delhi; single-judge bench; Rajiv Shakdher J.; decided on 08 August 2019

An arbitral award passed in November 2017 was challenged under Section 34 of the Arbitration and Conciliation Act, 1996 (“ACA”) claiming that (i) compensation was not awarded in accordance with the agreement; (ii) arbitrator’s interpretation of the agreement was flawed; (iii) Sections 73 and 74 of the Indian Contract Act, 1872 (“ICA”) were overlooked^[1]. 1. One of the respondents was under insolvency. So, given the moratorium provisions under the Insolvency and Bankruptcy Code, 2016, “ordinarily these proceedings would not have gone further” but the matter was examined since the award was ‘composite’(made against others too).
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Dismissing the challenge, Justice Shakdher held: –

1. Sections 73 and 74 of the ICA were irrelevant because there was no underlying pleading in the statement of claim on issues of delay and resultant loss.
2. That apart, the award would not be ‘patently illegal’ under Section 34 of the ACA even if the arbitrator misinterpreted the agreement or failed to apply the provisions of ICA. Erroneous application of law cannot be a ground for setting aside.

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