
Kerala High Court Rules That Contractually Imposed Time Limits For Invoking Arbitration In Deviation of the Limitation Act Are Void

Authors: *Vasanth Rajasekaran and Harshvardhan Korada*

Introduction

The Kerala High Court in *Bhageeratha Engineering Ltd. v. State of Kerala* [2025:Ker:337] examined the validity of contractual time limits that restrict a party's right to invoke arbitration. The case raised the fundamental question of whether a contractually imposed 28-day limitation for initiating arbitration could override statutory provisions governing limitation periods. The High Court's ruling reaffirmed that such restrictions are void under Section 28(b) of the Indian Contract Act, 1872, as they unlawfully curtail legal remedies. In this article, we navigate through the facts of the case and the findings rendered by the Kerala High Court.

Brief Facts

The dispute stemmed from four contracts awarded to Bhageeratha Engineering Ltd. for projects led by the Kerala State Transport pertaining to the periodic renewal of various roads. The contracts provided for a multi-tier dispute resolution mechanism where any disagreement on rates or payments was first referred to an engineer, then to an adjudicator, and finally, if necessary, to arbitration within a stipulated 28-day period.

The Appellant contractor sought adjudication on four disputes relating to price adjustments for raw materials, escalation payments for extended project periods, valuation of bitumen for price adjustment calculations, and interest on delayed payments.

The adjudicator decided in favour of the Appellant on two points and against it on two others. Although neither party invoked arbitration within the 28-day period, the State subsequently sought to refer one dispute to arbitration beyond the contractual time frame. The contractor objected, arguing that once arbitration was permitted for one dispute, all claims should be arbitrated. The arbitral tribunal accepted this argument, adjudicated all four disputes, and ruled in favour of the contractor.

The State then challenged the award under Section 34 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**"), before the District Court, which set aside the award and reinstated the adjudicator's decision. The contractor appealed against this order to the Kerala High Court.

Arguments from Both Sides

The Appellant contractor argued that once the State chose to invoke arbitration, albeit belatedly, it effectively waived the contractual time limitation, opening the door for all disputes to be arbitrated.

It was contended that Clause 25.2 of the contract, which imposed a 28-day limit on seeking arbitration, was contrary to Section 28(b) of the Indian Contract Act, 1872,

which prohibits agreements that restrict legal remedies within a shorter limitation period than what is prescribed by law. The contractor relied on ***Grasim Industries Ltd. v. State of Kerala***, (2018) 14 SCC 265, where the Supreme Court held that contractual time restrictions that curtail statutory limitation periods are void.

The Appellant further submitted that since the arbitral tribunal had ruled within its jurisdiction and the parties had participated in the proceedings, the District Court could not have substituted its own view for that of the tribunal. Reference was made to ***MSK Projects India (JV) Ltd. v. State of Rajasthan***, (2011) 10 SCC 573, which held that an arbitral tribunal cannot expand its jurisdiction beyond what was referred but can decide all disputes once jurisdiction is properly invoked.

The State, on the other hand, contended that the arbitration agreement specifically limited the disputes that could be referred beyond the adjudicator's decision. The State relied on ***Punjab State Civil Supplies Corporation Ltd. v. Sanman Rice Mill***, 2024 SCC OnLine SC 2632, which reiterated that an arbitral tribunal cannot decide matters beyond the scope of reference. It was argued that the tribunal had exceeded its jurisdiction by taking up disputes that were not properly referred for arbitration.

The State also contended that it had specifically objected to the arbitration of additional disputes and had only consented to arbitrate one dispute. It argued that the contractor could not take advantage of the State's willingness to refer one dispute and use it as a gateway to introduce other claims that were otherwise time-barred under the contract.

Findings of the Kerala High Court

The High Court examined the validity of Clause 25.2 of the contract in light of statutory limitations on restricting legal remedies. It held that the contractual provision requiring parties to invoke arbitration within 28 days was void under Section 28(b) of the Contract Act, as it curtailed the statutory limitation period. The High Court relied on ***Grasim Industries Ltd. (supra)*** to reinforce the principle that parties cannot contractually exclude legal remedies by imposing unduly restrictive time limitations.

However, the High Court ruled that this finding alone did not entitle the contractor to a favourable outcome. It observed that while the 28-day limitation was void, the contractor had failed to invoke arbitration by issuing a formal notice under Section 21 of the Arbitration Act. The High Court noted that the contractor merely participated in the arbitration proceedings after the State had invoked arbitration on one issue, without independently asserting a right to arbitrate all disputes.

The High Court further held that an arbitral tribunal derives jurisdiction only from the specific reference made to it. It noted that the contractor had not established that the State had unequivocally agreed to arbitrate all disputes, as required by law. Referring to ***MSK Projects India (JV) Ltd. (supra)***, the High Court reiterated that an arbitral tribunal cannot enlarge its jurisdiction beyond what was referred, and since the State had objected to the adjudication of additional disputes, the tribunal's decision on these claims was without jurisdiction.

The High Court upheld the District Court's decision to set aside the arbitral award but disagreed with its reasoning. While the District Court had ruled that the arbitration reference itself was void under Clause 25.2, the High Court found that the clause was invalid but that the tribunal had nonetheless exceeded its jurisdiction by deciding matters beyond what was referred. The appeal was dismissed, affirming that while contractual restrictions on legal proceedings cannot override statutory limitations, arbitral tribunals must operate within the limits of their reference.

Comment

The ruling of the High Court highlights the nuanced relationship between contractual autonomy and statutory safeguards in arbitration. The High Court's decision to strike down Clause 25.2 as contrary to the Contract Act reinforces the principle that parties cannot impose unfair time limitations that override statutory rights.

A key takeaway from this case is the importance of properly invoking arbitration within statutory frameworks. Contractors and other claimants must ensure that they issue formal arbitration notices under Section 21 rather than relying on implied consent from the opposing party.

Contact

For any query, help or assistance, please reach out at info@trinitychambers.in or visit us at www.trinitychambers.in.

Authors



Vasanth Rajasekaran
Founder & Head
vasanth@trinitychambers.in



Harshvardhan Korada
Counsel
harshvardhan@trinitychambers.in