

## **Enforcement Of Domestic Award In International Commercial Arbitration Lies Before The High Court And Not The District Commercial Court: Allahabad High Court**

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### **Introduction**

In **Shri Colonizers and Developers Pvt. Ltd. v. Abha Gupta** [Special Appeal No. 394 of 2025, decided on 16.12.2025], the Division Bench of the Allahabad High Court (Lucknow Bench) held that an application under Section 36 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") for enforcement of a domestic award rendered in an international commercial arbitration is to be filed before the Commercial Division of the High Court, and not before the Commercial Court at the district level. The High Court arrived at this conclusion by reading Section 36 conjointly with the definition of "**Court**" under Section 2(1)(e)(ii) of the Arbitration Act, and further by reference to Section 10(1) of the Commercial Courts Act, 2015 ("**Commercial Courts Act**").

In this article, we navigate through the facts of the case and the findings rendered by the Division Bench on the question of the appropriate forum for the enforcement of such awards.

### **Brief Facts**

The respondent had obtained an arbitral award in an international commercial arbitration where the seat of arbitration was in India. It was common ground between the parties that the award in question was a domestic award, albeit one rendered in an international commercial arbitration, and not a foreign award. The respondent initially filed an application under Section 36 of the Arbitration Act before the District Commercial Court for enforcement of the award. However, finding the application to be not maintainable before that forum, the respondent withdrew it and filed a fresh application under Section 36 before the Commercial Division of the Allahabad High Court at Lucknow.

The appellants challenged the order of the Single Judge of the Commercial Division dated 9 October 2025, which had rejected their objections to the maintainability of the application. The appeal was filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952, the parties being agreed that no further remedy was prescribed under either the Arbitration Act or the Commercial Courts Act against such an order.

### **Issues and Submissions**

The sole question before the Division Bench was whether a domestic award rendered in an international commercial arbitration with its seat in India is to be

enforced through the Commercial Court at the district level or through the Commercial Division of the High Court.

The appellants submitted that Section 36 of the Arbitration Act provides that an award is to be enforced in accordance with the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court. It was argued that since execution of decrees is ordinarily carried out by the District Court, the application ought to have been filed before the District Commercial Court. The appellants further relied on the Explanation to Section 47 of the Arbitration Act, inserted by Act No. 3 of 2016, which defines "*Court*" for the purposes of enforcement of foreign awards. It was contended that since the legislature had specifically provided for enforcement of foreign awards before the High Court under Section 47, the logical inference was that all other awards, including domestic awards in international commercial arbitrations, were intended to be enforced before the District Commercial Court. The appellants additionally sought to draw a distinction between international commercial arbitrations that are "*place-centric*" and those that are "*party-centric*" contending that only in the former case would enforcement lie before the High Court. Reliance was placed on ***Sundaram Finance Limited v. Abdul Samad*** [(AIR 2018 SC 965)] and on Section 10 of the Commercial Courts Act.

The respondent submitted that the provisions of Section 36 read with Section 2(1)(e)(ii) of the Arbitration Act are explicit and leave no room for doubt. It was argued that the definition of "*Court*" under Section 2(1)(e)(ii) applies to all matters of international commercial arbitration governed by Part I of the Arbitration Act, and designates the High Court as the competent forum. In respect of High Courts not exercising ordinary original civil jurisdiction, the second limb of Section 2(1)(e)(ii) provides that a High Court having jurisdiction to hear appeals from decrees of courts subordinate to it shall be the "*Court*." Reliance was placed on decisions of the Karnataka High Court in ***ITI Limited v. Alphion Corporation*** [2022 SCC OnLine Kar 1631], the Gujarat High Court in ***M/s OCI Corporation v. Kandla Export Corporation*** [2016 SCC OnLine Guj 5981], and Single Judge decisions of the Allahabad High Court.

### **Findings of the High Court**

The Division Bench dismissed the appeal and upheld the order of the Single Judge, holding that the Commercial Division of the Allahabad High Court was the competent forum for enforcement of the domestic award in question.

The High Court commenced its analysis by observing that Section 36 of the Arbitration Act does not itself specify the court before which an award is to be enforced. It only prescribes the manner of enforcement, namely, in accordance with the Code of Civil Procedure as if the award were a decree. The Court held that Section 36 must therefore be read conjointly with the definition of "*Court*" in Section 2(1)(e) of the Arbitration Act to determine the competent forum.

The Court noted that Section 2(1)(e)(i) applies to arbitrations other than international commercial arbitrations and was therefore inapplicable to the case at hand. The applicable provision was Section 2(1)(e)(ii), which defines "*Court*" in the case of international commercial arbitration. The Division Bench split the provision into two limbs: the first designates the High Court exercising ordinary original civil jurisdiction, and the second, applicable where the High Court does not exercise such jurisdiction, designates a High Court having jurisdiction to hear appeals from decrees of courts subordinate to it. Since the Allahabad High Court does not exercise ordinary original civil jurisdiction but does have appellate jurisdiction over decrees of subordinate courts, the second limb applied, making the Allahabad High Court the competent "*Court*".

The Division Bench rejected the appellants' argument based on the Explanation to Section 47 of the Arbitration Act. The Court held that Section 47 falls in Part II of the Arbitration Act, which deals exclusively with foreign awards, whereas Section 36 falls in Part I. The definition of "*Court*" in Section 2(1)(e) is contained in Part I and applies only to that Part. Since Part II had no separate definition of "*Court*", the Explanation was added to Section 47 to fill that gap. No inference could be drawn from this amendment that domestic awards in international commercial arbitrations were intended to be enforced before the District Commercial Court.

The Court further held that Section 2(1)(e)(ii) does not draw any distinction between international commercial arbitrations based on whether they are party-centric or place-centric. The definition applies uniformly wherever Part I of the Arbitration Act governs the proceedings. The Division Bench also referred to Section 10(1) of the Commercial Courts Act, which provides that in matters of international commercial arbitration, all applications or appeals arising under the Arbitration Act that have been filed in a High Court shall be heard by the Commercial Division. This provision was found to be consistent with the scheme of Section 2(1)(e)(ii) of the Arbitration Act. The Court observed that the legislature is presumed to have been aware of the existing definition of "*Court*" when enacting the Commercial Courts Act. Reliance on ***Sundaram Finance Limited*** was held to have no application to the facts and issues involved.

## Comment

The judgment in ***Shri Colonizers and Developers*** provides a clear and well-reasoned determination of the forum for enforcement of domestic awards rendered in international commercial arbitrations seated in India. The Division Bench's analysis, anchored in the textual distinction between Parts I and II of the Arbitration Act and the definition of "*Court*" under Section 2(1)(e)(ii), is consistent with the statutory scheme and with the Constitution Bench decision in BALCO and the three-Judge Bench decision in PASL Wind Solutions.

The judgment is of particular practical significance for parties to international commercial arbitrations seated in India. It settles, at least for the jurisdiction of the Allahabad High Court, that such parties must approach the Commercial Division of the High Court for enforcement under Section 36, and cannot file applications before the District Commercial Court. The decision also effectively forecloses the argument that the Explanation to Section 47 can be read as an implied carve-out for domestic awards in international commercial arbitrations from the definition of "*Court*" under Section 2(1)(e)(ii). For practitioners, the judgment serves as a useful reminder that the enforcement forum under the Arbitration Act must be determined by reference to the definition of "*Court*" applicable to the relevant Part of the statute, and that the manner of enforcement prescribed in Section 36 does not, by itself, determine the forum.

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