

## **Supreme Court Settles Section 29A Forum Dispute: Application For Time Extension Lies Before The "*Court*" Under Section 2(1)(e), Not The Section 11 Court Under The Arbitration Act**

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### **Introduction**

In *Jagdeep Chowgule v. Sheela Chowgule* (2026 INSC 92), the Supreme Court resolved a recurring jurisdictional controversy under Section 29A of the Arbitration and Conciliation Act, 1996 (the "**Arbitration Act**"). The moot question was whether an application for extension of time to make an award under Section 29A(4) must be filed before the High Court merely because the arbitral tribunal was constituted through the process envisaged under Section 11(6) of the Arbitration Act, or whether it must be filed before the "*Court*" as defined in Section 2(1)(e).

Rejecting the "*contextual*" approach adopted by several High Courts, the Supreme Court held that the term "*Court*" in Section 29A must carry its defined meaning under Section 2(1)(e) of the Arbitration Act. The Section 11 Court's role is limited to constituting the tribunal. Once appointment is made, the referral Court becomes *functus officio* and retains no supervisory role over the conduct of arbitral proceedings or statutory timelines.

### **Facts**

The dispute arose from a Memorandum of Family Settlement dated 11 January 2021 within the Chowgule family. Arbitration was invoked on 18 May 2021 under the settlement's arbitration clause.

As the arbitration did not conclude within the prescribed time, Respondent No. 2 filed an application under Section 29A of the Arbitration Act before the Commercial Court on 5 August 2023.

In the meantime, the presiding arbitrator resigned. Respondent No. 2 moved the High Court under Section 11, and the High Court allowed the application on 31 October 2023. Thereafter, on 2 January 2024, the Commercial Court allowed the Section 29A application and extended time for making the award.

Respondent No. 1 challenged the Commercial Court's order by writ petition, contending that once the arbitrator had been appointed by the High Court under Section 11, the Commercial Court lacked jurisdiction under Section 29A. Owing to conflicting High Court decisions, the Single Judge referred the issue to a Division Bench for an authoritative ruling. The Division Bench held that, where the tribunal is constituted by the High Court under Section 11(6), a Section 29A(4) application would lie to the High Court. Relying on that view, the Single

Judge quashed the Commercial Court's extension order while permitting the parties to approach the High Court. The matter then reached the Supreme Court.

## The Core Issue

The Supreme Court reframed the controversy as a single, straightforward question: if an arbitral tribunal, whether appointed by the High Court or constituted by the parties, does not complete proceedings within the required or extended time, can an application under Section 29A be filed before the High Court, or must it be filed before the Civil Court of original jurisdiction as contemplated by Section 2(1)(e) of the Arbitration Act?

## Divergent Approaches by the High Court

The Supreme Court noted two competing streams of decisions.

One stream held that "*Court*" in Section 29A is the Court as defined in Section 2(1)(e) of the Arbitration Act, irrespective of whether the tribunal was constituted under Section 11(6) by the High Court or by party agreement under Section 11(2). These decisions emphasised that, once an arbitrator has been appointed through the judicial process, the appointing Court becomes *functus officio*, and applications for extension under Section 29A must be filed before the Court defined in Section 2(1)(e).

The other stream adopted a "*contextual*" interpretation, relying on the words "*unless the context otherwise requires*" in Section 2(1) of the Arbitration Act. This stream reasoned that permitting a principal Civil Court to extend time, and potentially substitute arbitrators under Section 29A(6), could create an "*anomaly*" because it would allow a Court perceived to be inferior to deal with a tribunal constituted by the High Court. On that basis, it read "*Court*" in Section 29A as referring to the High Court (or Supreme Court, as applicable) when the tribunal was constituted through Section 11.

## Supreme Court's Analysis

The Supreme Court held that the Arbitration Act is a complete code with a carefully structured allocation of jurisdiction. Chapter III deals with constitution and composition of the arbitral tribunal (including Section 11). Chapters V and VI deal with conduct of proceedings, making of the award, and termination. Section 29A of the Arbitration Act falls within the latter scheme and is a legislative tool to ensure the timely conclusion of arbitration. Its forum is therefore not dictated by the appointment mechanism under Section 11.

The Court then squarely addressed the "*hierarchy*" concern which had driven the contextual line of authority. It held that perceived status differences between Courts cannot supply legal "*context*" to disapply a statutory definition. Jurisdiction

is conferred by the Constitution or by legislation. It cannot be assumed or shifted because a Court is considered "*higher*" or "*lower*". Concerns of "*conflict of power*" or "*jurisdictional anomaly*" cannot justify rewriting a definition provided by Parliament.

On Section 11 of the Arbitration Act, the Supreme Court reaffirmed that the jurisdiction exercised by the High Court (or the Supreme Court, as the case may be) under Section 11 is special and limited. It is directed to the constitution of the arbitral tribunal. Once appointment is made, Section 11 jurisdiction stands exhausted. There is no residual supervisory or controlling power over arbitral proceedings, including their timelines. Treating the referral Court as an enduring supervisor would conflate appointment with supervision, which the statutory scheme does not permit.

On the meaning of "*Court*" under Section 29A, the Supreme Court held that a defined term must ordinarily bear the meaning assigned to it unless there is a compelling contextual reason to depart. No such reason existed in Section 29A of the Arbitration Act. Accordingly, "*Court*" in Section 29A means the Court as defined in Section 2(1)(e), *namely* the principal Civil Court of original jurisdiction in a district, including the High Court only where it exercises ordinary original civil jurisdiction. Where the High Court does not exercise ordinary original civil jurisdiction, it is not the forum for Section 29A applications in domestic arbitration.

The Court also clarified that Section 42 does not "*anchor*" Section 29A proceedings to the Section 11 forum. Section 42 applies where an application under Part I is made in a "*Court*" as defined. A Section 11 application is not made in a "*Court*" within Section 2(1)(e), even though the Section 11 function is judicial. Consequently, Section 42 does not apply so as to confer Section 29A jurisdiction on the High Court merely because it constituted the tribunal under Section 11.

Accordingly, the Supreme Court allowed the appeals, set aside the Division Bench view and the consequential order of the Single Judge, and restored the Commercial Court's order extending time under Section 29A. The parties were left at liberty to approach the Commercial Court for further extension under Section 29A(5), to be considered on merits after hearing all parties. There was no order as to costs.

## Comments

The judgment of the Supreme Court in ***Jagdeep Chowgule (supra)*** is noteworthy for several reasons.

*First*, the judgment provides a clear rule for the forum where an application under Section 29A would lie in a domestic arbitration. Applications for extension of time must be filed before the "*Court*" defined in Section 2(1)(e), which, in most

domestic cases, will be the principal Civil Court of original jurisdiction (including the Commercial Court where applicable), and not the High Court merely because it appointed an arbitrator under Section 11.

*Secondly*, the decision reinforces the limited scope of Section 11 jurisdiction. The referral Court's role is confined to appointment and does not translate into continuing supervisory control over arbitral timelines or the tribunal's mandate.

*Thirdly*, the Supreme Court decisively rejects "*hierarchy-based*" context as a basis for altering statutory meaning. Jurisdiction is a matter of law, not status.

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