NEWSLETTER | LEGAL

August 2024

ALBA LAW OFFICES

INDEX

S. No.	Particulars	Page No.
1.	**The Supreme Court aligns the Prevention of Money Laundering Act, 2002 (PMLA) with the edicts laid down in the Constitution of India** *[Prem Prakash v. Union of India Through the Directorate of Enforcement, (SLP (Crl.) No. 5416/2024)]*	4
2.	**Supreme Court Upholds NCDRC Ruling: Reinforcing the rights of the Private Limited Company as a Consumer under the Consumer Protection Act of 2019** *[Omkar Realtors and Developers Pvt. Ltd. Kushalraj Land Developers Pvt. Ltd. & Anr., (Civil Appeal No. 858 of 2023)]*	4
3.	**The Mumbai Bench of National Company Law Tribunal (NCLT) approves merger of Viacom18 and Star India** *[Viacom 18 Media Private Limited, (C.P. (CAA) - 129/2024)]*	5
4.	**Limitation Period for specific performance shall be computed from the date of performance** *[Usha Devi & Ors. v. Ram Kumar Singh & Ors., (Neut. Cit.: 2024 INSC 599)]*	5
5.	**Delhi High Court quashes CCI Inquiry against JCB, upholding settlement through mediation** *[JCB India Limited and Anr v. The Competition Commission of India and Anr., (W.P. (C) 2244/2014 & CM APPL. 31397/2021)]*	6
6.	**Maharashtra REAT Ruling: Key Ruling on Forfeiture and Refund in Real Estate Disputes** *[Godrej Properties Ltd. v. Mr. Amit Agarwal, (Appeal No. AT00600000052646/20)]*	6

7.	**Telangana High Court Equates Non-Party Incapacity to 'Legal Disability' for Limitation Act Purposes** *[B.R. Subhash Babu v. Y. Jaihind Reddy, (I.A No. 3 of 2023 in A.S. No. 320 of 2023)]*	**8**
8.	**The Jan Vishwas (Amendment of Provisions) Act, 2023 brings major changes in the Intellectual Property legislations except in the Designs Act, 2000** *[The Jan Vishwas (Amendment of Provisions) Act 2023, Gazette ID: CG-DL-E-12082023-248047]*	**8**
9.	**Delhi High Court grants ex-parte ad-interim injunction in favour of Shardul Amarchand Mangaldas and Co. to protect the law firm's trade mark** *[Shardul Amarchand Mangaldas and Co. v. John Doe & Ors. [CS (Comm.) 665/2024]*	**9**
10.	**The Delhi High Court states that the rise in 'deepfakes' must be regulated in light of gradual assimilation of Artificial Intelligence (AI) in the society** *[Chaitanya Rohilla v. Union of India, (W.P.(C) 15596/2023)]*	**9**

LEGAL HIGHLIGHTS

The Supreme Court aligns the Prevention of Money Laundering Act, 2002 (PMLA) with the edicts laid down in the Constitution of India

[Prem Prakash v. Union of India Through the Directorate of Enforcement, (SLP (Crl.) No. 5416/2024)]

Adding to the rights of accused against arbitrary and adverse effects on their fundamental and legal rights, the Supreme Court while hearing the instant case under the PMLA laid down the following:

- Section 45 PMLA which talks of offences to be cognizable and non-bailable, can be relaxed when the accused has already been in custody for a considerable period of time with no surety of trial concluding in a short span of time;
- Article 21 is a higher constitutional right and it must be seen that statutory provisions align with the constitutional mandate; and
- Incriminating statement given by the accused while in judicial custody is hit by Section 25 of the Indian Evidence Act, 1872 and not admissible. The Apex Court also stated it violates Article 20(3) of the Constitution.

Read Here

Supreme Court Upholds NCDRC Ruling: Reinforcing the rights of the Private Limited Company as a Consumer under the Consumer Protection Act of 2019

[Omkar Realtors and Developers Pvt. Ltd. Kushalraj Land Developers Pvt. Ltd. & Anr., (Civil Appeal No. 858 of 2023)]

In a recent Supreme Court ruling, the Court dismissed an appeal filed by a real estate developer challenging the National Consumer Disputes Redressal Commission's (NCDRC) order. The NCDRC had directed the appellant to refund the amount paid by the complainant/allottee. In this case, the allottee was not an individual but a private limited company, which was also a real estate developer.

The judgment reinforced the principle that a legal entity can still have consumer status under certain conditions, ensuring fairness and transparency.

Brief Background:

In this case, Kushalraj Land Developers Pvt. Ltd. (the "Allottee/Respondent"), a private real estate company, booked a flat in a project developed by Omkar Realtors (the "Appellant/Developer"). The flat was allotted to the Respondent. However, it was later discovered that the unit had already been

allotted to another individual/third party, leading to confusion. The Appellant cancelled the allotment and forfeited the amount paid by the respondent.

The NCDRC ordered the Appellant to refund the amount along with interest. The Respondent argued that the unit was not intended for sale but was meant to be used personally by one of its directors. Therefore, the Respondent claimed relief under the Consumer Protection Act of 2019. The Appellant rebutted this claim, arguing that the Allottee, being a developer, could not claim relief as a "consumer."

The Supreme Court upheld the NCDRC's order, affirming that the Respondent was a consumer in this context, as the unit was intended for personal use by one of its directors and not for commercial purposes. Therefore, the appeal was dismissed reinforcing the rights of the private limited company as a consumer.

Read Here

The Mumbai Bench of National Company Law Tribunal (NCLT) approves merger of Viacom18 and Star India

[Viacom 18 Media Private Limited, (C.P. (CAA) - 129/2024)]

After approval from the Competition Commission of India (CCI), the NCLT has also given its approval to the merger of Reliance India Limited's (RIL) Viacom18 and Walt Disney owned Star India, which is to be one of the largest mergers in the entertainment industry.

Limitation Period for specific performance shall be computed from the date of performance

[Usha Devi & Ors. v. Ram Kumar Singh & Ors., (Neut. Cit.: 2024 INSC 599)]

Recently, the Hon'ble Supreme Court referred to the Article 54 of the Limitation Act, 1963 and observed that where any specific period is fixed for the performance under the agreement, then the limitation shall begin to run from the expiry of such fixed period.

As given in the scheme, Viacom18 will hold over 63 percent of shareholding in the combined entity with Star India holding over 36 percent of shareholding. The combined entity is said to provide two streaming services and 120 television channels.

The only step remaining now is the approval from the Ministry of Information and Broadcasting for the transfer of TV channels to Star India from Viacom18.

Read Here

In the instant case, the parties had entered into an agreement to sell whereby it was agreed that the sale deed would be executed within one month from the date of such agreement to sell. As per the terms and conditions of the agreement to sell, the said agreement was to remain valid for a period of 5 years from the date of its execution.

In this context, the Hon'ble Supreme Court observed that the period of limitation would begin to run from the expiry of the said one month which was specifically agreed to by the parties and not from the date of expiry of the agreement to sell.

Read Here

Delhi High Court quashes CCI Inquiry against JCB, upholding settlement through mediation.

[JCB India Limited and Anr v. The Competition Commission of India and Anr., (W.P. (C) 2244/2014 & CM APPL. 31397/2021)]

In the instant case**,** the Delhi Hight Court has passed an order quashing an inquiry initiated by the Competition Commission of India (CCI) against JCB and its Indian subsidiary.

A Division Bench consisting of Justices Pratibha M Singh and Amit Sharma quashes the CCI proceedings of inquiry that had issued search warrants against JCB. This decision came in light because the complainant, Bull Machine- an Indian manufacturer of tractors had withdrawn its complaint after settling the dispute with JCB through mediation and recorded its terms of settlement.

Maharashtra REAT Ruling: Key Ruling on Forfeiture and Refund in Real Estate Disputes

[Godrej Properties Ltd. v. Mr. Amit Agarwal, (Appeal No. AT00600000052646/20)]

In a notable decision from the Maharashtra Real Estate Appellate Tribunal (REAT), the Tribunal addressed critical issues concerning forfeiture and refunds in real estate transactions.

In this case, the allottee had purchased two units from Godrej Properties Ltd., ("Godrej") with a payment schedule requiring 25% of the total consideration upon agreement registration, 60% upon completion of the final floor slab, and the remaining 15% upon possession.

Allottee had made a considerable payment, which included partial consideration and additional charges. However, Godrej terminated the

The Court criticized the CCI for persisting with its investigation despite the settlement terms being recorded through mediation, emphasizing that regulatory bodies must honour mediation outcomes. The Bench stressed that respecting settlements is crucial for maintaining trust in the mediation process, which aims to resolve disputes amicably without subsequent regulatory/court interference.

The Court's ruling underscores that settlements should be considered final and binding, reinforcing that unless an extraordinary situation arises, they should not be reopened. The ongoing inquiry by the CCI, the Court noted, risked undermining the settlement and potentially discouraging future mediation.

This ruling reinforces the legal principle that mediation settlements should be respected by all parties, including regulatory authorities, to ensure a fair and predictable legal environment.

Read Here

agreements on 23rd March 2018, citing allottee's default in paying the 60% instalment. Godrej forfeited ₹56,66,800 as per Clause 13(b) of the agreement for sale ("Agreement") which was the provision for forfeiture of the amount, if allottee is in default for payment in favour of the units.

The Maharashtra RERA Authority found Clause 13(b) of the Agreement, which permitted the forfeiture of 20% of the total consideration plus interest for delayed payments, to be totally one-sided and unfair. The Authority highlighted that allottee had no bargaining power and thus was subjected to an unfair practice under Section 7 of RERA.

The Maharashtra Real Estate Appellate Tribunal reviewed the case and focused on whether the forfeited amount could be considered "earnest money," as asserted by Godrej. The Tribunal concluded that the amount paid by the allottee – was part of the total consideration price rather than earnest money, and therefore, the forfeiture clause could not be applied.

Moreover, since Godrej had used the withheld funds for commercial purposes, the Tribunal ruled that interest should be paid on the refunded amounts.

Read here

Telangana High Court Equates Non-Party Incapacity to 'Legal Disability' for Limitation Act Purposes

[B.R. Subhash Babu v. Y. Jaihind Reddy, (I.A No. 3 of 2023 in A.S. No. 320 of 2023)]

In a recent landmark judgment, the Telangana High Court has recently addressed an important issue regarding the limitation period for non-parties seeking to file appeals. In the instant case, the Court condoned a delay of 428 days in filing an Appeal Suit, affirming that the incapacity of a non-party to a suit can be equated to a 'legal disability' under Sections 6 and 7 of the Limitation Act, 1963. The case had stemmed from the suit filed by the first respondent against other respondents, for specific performance of sale agreement of disputed land.

Sections 6 and 7 of the Act are specifically relevant as they allow parties to file suits even after the expiration of the limitation period if the disabilities of a minority or insanity are involved.

The Court observed that the standard for assessing delay for non-parties should differ from that applied to parties directly involved in a case. The Court noted that while parties to a dispute are expected to act diligently, non-parties cannot be held to the same stringent limitations due to their lack of involvement and awareness of the proceedings.

The case involved an appeal against a judgment and decree passed by the Additional District and Sessions Judge. The appeal was filed by third parties who were unaware of the decree until after

The Jan Vishwas (Amendment of Provisions) Act, 2023 brings major changes in the Intellectual Property legislations except in the Designs Act, 2000

[The Jan Vishwas (Amendment of Provisions) Act 2023, Gazette ID: CG-DL-E-12082023-248047]

The Amendment Act, while modifying various other legislations, has introduced major changes in-

- The Patents Act, 1970
- The Trade Marks Act, 1999
- The Geographical Indication of Goods (Registration and Protection) Act, 1999
- The Copyright Act, 1957

The Notifications dated July 26, 2024 and July 30, 2024 issued by the Ministry of Commerce and Industry brought the Amendment Act into effect on August 1, 2024.

The key changes include decriminalization of offences pertaining to falsification of the status of a trade mark or copyright of geographical, and false claims of validity of a patent, alongside introduction of specific provisions that further empower the Indian Patent Office to administer the Indian IP laws through effective means and greater authority.

it was issued. The Court recognized that a non-party's inability to file an appeal within the prescribed time due to their unawareness constitutes a form of legal disability, which justifies a different approach to delay.

In the pivotal ruling, the Court expanded the interpretation of "*legal disability*" under the Limitation act to include the non-parties who were unaware of the legal proceedings, underscored that the discretion to condone delay should be exercised judiciously, with a focus on whether there is a sufficient cause for the delay.

The Court's decision illustrates a justice-oriented approach, allowing for delays to be addressed appropriately when justified.

Read here

Delhi High Court grants ex-parte ad-interim injunction in favour of Shardul Amarchand Mangaldas and Co. to protect the law firm's trade mark

[Shardul Amarchand Mangaldas and Co. v. John Doe & Ors. [CS (Comm.) 665/2024]

Recently, the Hon'ble Delhi High Court, while protecting the trade mark of the law firm Shardul Amarchand Mangaldas and Co., granted ex-parte ad-interim injunction in its favour.

An ex-parte ad-interim injunction is a type of injunction which is granted in favour of a party at the preliminary stage of the suit and without hearing the opposite party.

In this case, certain unknown and unauthorised persons were sending legal notices, emails and

The Delhi High Court states that the rise in 'deepfakes' must be regulated in light of gradual assimilation of Artificial Intelligence (AI) in the society

[Chaitanya Rohilla v. Union of India, (W.P.(C) 15596/2023)]

In the instant case, the Delhi High Court acknowledged that due to the unregulated and rampant use of AI on various online platforms, veracity of facts and discerning truth from speculations and rumours can no longer be ascertained due to rise in 'deepfakes'.

Taking note of the growing menace caused by wrongful use of AI, the High Court has urged the Central Government to take up the issue for stringent regulation.

letters in the name of the plaintiff, Shardul Amarchand Mangaldas and Co. The Hon'ble Court held that such an act constituted prima facie violation of the registered trademark of the plaintiff and directed an injunction in its favour.	Read Here

Collaborated by: Alba Law Offices

LinkedIn: Alba Law Offices