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## **Supreme Court of India reaffirms that rejection of jurisdictional challenge under Section 16 is not an interim award and the only remedy lies after conclusion of the arbitration proceedings**

The Supreme Court of India (“**Supreme Court**”), in *M/s. MCM Worldwide Private Limited vs. Construction Industry Development Council*<sup>1</sup> provided a significant clarification of the procedural framework governing challenges to arbitral tribunal’s orders under the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”). Addressing a recurring ambiguity in arbitration law, the Supreme Court examined whether an order rejecting a jurisdictional objection under Section 16<sup>2</sup> of the Arbitration Act, particularly on the ground of limitation, can be challenged at a preliminary stage under Section 34<sup>3</sup> of the Arbitration Act.

In doing so, the Supreme Court reaffirmed the statutory framework of minimal judicial interference during arbitral proceedings. It drew a crucial distinction between interim awards and jurisdictional determinations by the arbitral tribunal, thereby reinforcing the efficiency and finality of the arbitral process.

### **Brief facts**

A dispute arose between M/s. MCM Worldwide Private Limited (“**Appellant**”) and M/s. Construction Industry Development Council (“**Respondent**”) in relation to obligations under the memorandum of understanding dated March 2, 2006 read with the memorandum of understanding dated May 5, 2008.

The Appellant initially filed a recovery suit before the Saket District Court, New Delhi. The dispute was thereafter referred to arbitration under Section 8<sup>4</sup> of the Arbitration Act, and a sole arbitrator was appointed by the Delhi High Court under Section 11(6)<sup>5</sup> of the Arbitration Act.

<sup>1</sup> 2026 SCC OnLine SC 717 (decided on April 21, 2026)

<sup>2</sup> Section 16 of the Arbitration Act empowers the arbitral tribunal to determine its own jurisdiction, including objections relating to the existence, validity, or scope of the arbitration agreement (the *Kompetenz-Kompetenz* principle). It also recognises the separability of the arbitration clause, treating it as independent of the underlying contract and allowing it to survive the termination of the contract.

<sup>3</sup> Section 34 of the Arbitration Act provides the exclusive statutory mechanism for challenging and setting aside an arbitral award in India. It significantly limits judicial intervention by permitting an award to be set aside only on narrowly defined grounds, such as incapacity of the parties, invalidity of the arbitration agreement, lack of proper notice, excess of jurisdiction, or conflict with the public policy of India.

<sup>4</sup> Section 8 of the Arbitration Act states that a judicial authority must refer parties to arbitration where a valid arbitration agreement exists, provided such request is made no later than the filing of the first statement on the substance of the dispute. It restricts judicial intervention by requiring courts to refer the parties to arbitration unless the agreement is found to be prima facie invalid.

<sup>5</sup> Section 11(6) of the Arbitration Act enables the parties to request the Supreme Court to appoint an arbitrator when a party, the appointed arbitrator, or an institution fails to perform their duties under the agreed-upon appointment procedure.

During the arbitral proceedings, the Respondent raised an objection that the claims of the Appellant were barred by limitation. This objection was first raised under Order VII Rule 11<sup>6</sup> of the Code of Civil Procedure, 1908 (“CPC”) which was dismissed by the arbitrator on merits. Thereafter, through an application under Section 16 of the Arbitration Act, the Respondent contended that the arbitrator does not possess jurisdiction to entertain the same as it is barred by limitation. The arbitrator while rejecting the jurisdictional objection dismissed this application.

Aggrieved by the order, the Respondent filed an application under Section 34 of the Arbitration Act before the Saket District Court, wherein the District Judge proceeded to decide the matter on merits and dismissed it. Thereafter, the Respondent preferred an appeal under Section 37<sup>7</sup> of the Arbitration Act before the Division Bench of the Delhi High Court. The division bench allowed the appeal on merits.

The appellant challenged this decision before the Supreme Court.

## Issue

Whether an order of the arbitral tribunal rejecting a jurisdictional objection under Section 16 of the Arbitration Act, specifically on the ground of limitation, can be challenged under Section 34 of the Arbitration Act before the passing of the final arbitral award?

## Findings and analysis

The Supreme Court held that such a challenge is not maintainable under the scheme of the Arbitration Act. It undertook a detailed analysis of Sections 16, 34, and 37 of the Arbitration Act and clarified the following:

1. Section 16 of the Arbitration Act embodies the principle of *Kompetenz-Kompetenz*, empowering the arbitral tribunal to rule on its own jurisdiction. Where the tribunal rejects a plea of lack of jurisdiction, Section 16(5) of the Arbitration Act mandates continuation of proceedings, and Section 16(6) of the Arbitration Act provides that such rejection can only be challenged under Section 34 of the Arbitration Act after the final award has been passed;
2. the Supreme Court emphasised that the Arbitration Act does not permit a party to challenge a rejection of a jurisdictional objection at an intermediate stage. Even Section 37 of the Arbitration Act allows appeals only where the tribunal accepts a plea of lack of jurisdiction. No appeal lies where such a plea is rejected;
3. the lower courts erred in relying on *Indian Farmers Fertilizer Cooperative Limited vs. Bhadra Products*<sup>8</sup>. The Supreme Court clarified that the said judgment applies only where limitation is decided as a preliminary issue resulting in an interim award, which is challengeable under Section 34 of the Arbitration Act. Conversely, a decision rejecting a jurisdictional objection under Section 16 of the Arbitration Act does not constitute an interim award and therefore cannot be challenged at an intermediate stage.

Accordingly, the Supreme Court set aside the judgment of the Delhi High Court and held that the Respondent could challenge the Section 16 order only after the final award is passed.

## Conclusion

This judgment provides a significant clarification on the procedural framework governing arbitral challenges in India. It reinforces the legislative intent of minimising judicial interference during the pendency of arbitral proceedings and

<sup>6</sup> Order VII Rule 11 of the CPC empowers courts to summarily reject a plaint, at any stage prior to the conclusion of trial, if it does not disclose a cause of action, is undervalued, insufficiently stamped, barred by law, or instituted in a court lacking jurisdiction.

<sup>7</sup> Section 37 of the Arbitration Act provides a limited right of appeal against certain orders, including refusal to refer parties to arbitration (Section 8), grant or refusal of interim measures by courts (Section 9), setting aside or refusal to set aside an award (Section 34), acceptance of jurisdictional pleas by the tribunal (Section 16), and grant or refusal of interim measures by the tribunal (Section 17). It bars a second appeal while preserving the right to approach the Supreme Court.

<sup>8</sup> (2018) 2 SCC 534

preventing piecemeal litigation. By drawing a clear distinction between interim awards and orders passed under Section 16 of the Arbitration Act, the Supreme Court clarified and strengthens the efficiency of arbitration as a dispute resolution mechanism. While the ruling promotes procedural discipline and aligns with the pro-arbitration stance of Indian courts, the judgment strikes a balance in favour of ensuring continuity and finality in arbitral proceedings, consistent with the objectives of the Arbitration Act.

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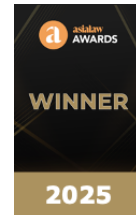
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