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Can Arbitration Begin After Dispute?

Supreme Court Draws the Consent Line.

Arbitration works only when both sides say 'Yes'– and when the court allows it.

THE Supreme Court recently made this clear that arbitration can happen only when everyone involved agrees. It cannot be pushed by one side alone.

Once a case is already in court, the parties must first ask the judge for permission before moving the matter to arbitration. Without that approval, any arbitration started on its own has no legal standing. The Court explained that arbitration is meant to be a process of mutual agreement, not a shortcut to avoid court proceedings.

If one party tries to start arbitration while the case is still being heard, it creates confusion and duplication. Even if someone manages to get an arbitration award outside this process, it will not hold unless both sides later agree to accept it. In the case before the Supreme Court, one side never agreed, so the award was treated as invalid.

> *"Arbitration is a creature of consent not compulsion."*

In plain words, the judgment says that arbitration works only when both sides say "yes," and when the court allows it during an ongoing case. Consent and permission are not formalities indeed they are the foundation foundation of fairness.

This article is based upon the analysis of recent case-Ashok vs. Padam Chand, decided by Supreme Court on 29 May 2026

[Read Court's Judgment]

Arbitration Reigns Supreme

Supreme Court Enforces Judicial Restraint

Bhupesh Bhayana v. Kunal Seth

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THE Supreme Court recently gave a ruling that matters for businesses using arbitration Arbitration is meant to be a faster, private way to settle disputes, where the arbitrator's decision is final. Yet, some parties still go to court asking judges to interfere.

The Court made it clear that such interfere- nce must be rare and limited. Judges cannot re-argue the case or re-interpret contracts. Their role is only to check if the award has patent illegality or violates public policy.

Patent illegality means a clear mistake that makes the award unfair, like ignoring consent, denying a fair hearing, or violating equity. Public policy refers to broader principles of fairness and justice, such as preventing fraud or protecting rights and national interest.

By setting this boundary, the Court reinforced that arbitration awards should stand unless they are plainly wrong.

For businesses, this ensures more certainty in contracts, quicker dispute resolution, and fewer chances of being pulled back into litigation. Arbitration remains a dependable mechanism, not just another step before court.

> *" Respect arbitral Autonomy—courts will step in only when restraint gives way to clear illegality."*

Correction is Not Revision

Supreme Court Upholds Limit on Altering Arbitral Awards

WHEN the Supreme Court spoke on 26 May 2026, it sent a clear message to companies and investors arbitration awards are not to be tinkered with by courts, except for the smallest of slip-ups.

In the case before them, a Commercial Court swapped “simple interest” for “compound interest” in an arbitration award, ballooning the liability from about ₹30 crores to nearly ₹145 crores. The Supreme Court stepped in and said that this is not correction, this is rewriting.

The Court explained that only clerical mistakes, typos, or calculation slips can be fixed.

“Section 33(1)(a) is neither designed nor intended to serve as a vehicle for the substantive odification of an Award,” they said.

Simply put that if an arbitrator meant simple interest, you can’t turn it into compound interest and call it a correction.

The ruling gives businesses clarity. Arbitration is meant to avoid drawn-out battles in court. If judges could rewrite awards, deals would be on shaky ground and disputes never-ending.

The Supreme Court made it clear that arbitration is final, and courts can only step in for obvious errors.

GUJARAT WATER SUPPLY VS. SARYU PLASTIC

For companies, the message is clear that arbitration decisions stand as is. Courts can fix the typos, not the terms of the deal.

Collaborator's Connection

THE Supreme Court recently dealt with a dispute involving Elecon Engineering and Bhartiya Rail Bijlee. The issue was simple: when two companies join hands to deliver a project, and one of them signs a joint undertaking to share responsibility, can that partner also demand arbitration if things go wrong?

In this case, Elecon was the main contractor, but it had a collaborator who signed a joint undertaking. This document made both of them jointly responsible for completing the project. Later, when disputes arose, the collaborator asked for arbitration. The High Court said no, claiming the collaborator was not directly part of the main contract. But the Supreme Court disagreed. It said the collaborator was not an outsider at all—because the joint undertaking and tripartite agreement tied them into the project. If you share responsibility, you also share the right to resolve disputes through arbitration.

For Businesses, the takeaway is straightforward that if you enter into a joint undertaking or partnership where you are equally responsible for delivery, you cannot be treated as a bystander when conflicts arise. You are connected to the contract, and you have the same rights to seek arbitration as the main contractor.

In short, if you are wired into the deal, you are wired into the dispute resolution too.

If you are in joint venture where you are equally responsible for delivery, you've got the same seat at the table of resoving dispute.

Original Copy of Judgment

Can arbitration in an old contract bind you in a new one?

Supreme Court if the new contract clearly imports all terms of the old one.

THE Supreme Court on 13 May 2026 said 'Yes', if the new contract clearly imports all terms of the old one. The case involved a developer who had signed a Development Agreement in 2012 with a housing society.

That agreement had an arbitration clause. Later, in 2023–24, the developer signed supplementary accommodation agreements with individual members. Each new contract stated that "all the terms and conditions of the Development Agreement dated 04/07/2012 shall be construed to form part of these agreements."

When disputes arose, the developer wanted arbitration. The members resisted, saying the new agreements did not mention arbitration. The High Court agreed with them. But the Supreme Court reversed this, holding that the supplementary contracts had imported the Development Agreement "body and soul." That meant the arbitration clause from 2012 automatically applied. The Court relied on earlier rulings:

M.R. Engineers v. Som Datt Builders (2009) — mere reference is not enough; only full incorporation brings in arbitration.

NBCC v. Zillion Infraprojects (2024) — incorporation must be clear, intentional, and consistent with the later contract.

Applying these principles, the Court found Clause 14 of the supplementary agreements to be a clear and deliberate incorporation. Arbitration was therefore binding. Why it matters for business as a single line importing "all terms and conditions" can redirect disputes from consumer forums or civil courts into arbitration.

Companies must be careful when drafting incorporation clauses, they carry forward not just commercial terms but also dispute resolution mechanisms. The ruling strengthens contractual certainty and ensures arbitration remains the chosen path when parties consciously carry forward their original bargain.

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Does asking for corrections give more time to challenge an award?

Yes, the Supreme Court says the clock stops until the request is decided.

LIMITATION simply means the time limit within which you are allowed to take a legal step. If you miss that time, your case can be thrown out even if you have a strong point. In this dispute, the National Highways Authority of India had land acquired for a highway and an arbitrator gave his award in 2022.

NHAI was not satisfied and asked for corrections. That request was dismissed, and when NHAI later tried to challenge the award, the High Court said it was too late because the time limit had already run out.

The Supreme Court disagreed. It said that when someone asks for corrections, the clock for filing a challenge stops until that correction request is decided. This pause applies even if the correction request is eventually rejected. The Court explained that the purpose is to give parties a fair chance and not let technicalities defeat them.

For businesses, this ruling is important because it means they can safely ask for clarifications or corrections without worrying that they will loose their right to challenge later. It gives them breathing space to prepare a proper challenge and ensure that genuine efforts to mix mistakes are not punished.

At the same time, the Court warned that correction requests must be genuine. If they are made only to delay or without substance, they may attract costs.

This balance ensures fairness for genuine parties while discouraging misuse, and it strengthens predictability in arbitration by making sure rights are not lost just because of timing technicalities.

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Can arbitration clauses block consumer complaints?

No, the Supreme Court says consumer rights come first

"Consumer Rights Come First"-Supreme Court

THIS case was about a homebuyer in Delhi who had paid for his flat but faced long delays in getting possession. Frustrated, he filed a complaint with the consumer forum. The builder argued that the matter should go to arbitration because their agreement mentioned it, and the lower forums agreed.

The Supreme Court disagreed. It explained that once a consumer complaint is accepted, it must be decided in the consumer forum. An arbitration clause in the contract cannot take away that right.

The Court also said that even if the flat is eventually handed over, the buyer can still claim compensation for the delay.

For businesses, this ruling is important because it means they cannot rely on arbitration clauses to avoid consumer forums. Customers can still seek justice here, and companies remain responsible fordelays or poor service. It reminds businesses that contracts cannot override fairness, and that consumer consumer forums are designed to give quick inexpensive remedies..

At the same time, the Court emphasized that companies should focus on timely delivery and customer satisfaction.

Trying to hide behind contract clauses will not work. This balance ensures protection for business genuine consumers while pushing business to honout the committments.

[Read the Judgment Here](#) «

Can a buyer force a seller to hand over land years after the deal?

No – the Supreme Court said delay and lack of readiness defeat such claims

Mohammed Khaleel v. Jayamma

Read Judgment Here

Agreement to Sale Timeline

A MAN had agreed to buy a piece of land and paid a small advance. But when the time came to finish the deal, he did not show that he had the money ready, nor did he help in getting the required permission for the sale. Instead, he waited almost three years before going to court, asking the judges to compel the seller to hand over the land and complete the agreement.

This request is called "specific performance." In simple words, it means asking the court to make the other side carry out the deal exactly as promised — not just return money or pay damages, but actually transfer the property.

The first court believed him and ordered the sale to go through. But the higher court found that he had not really been prepared with the money and had delayed too long. They cancelled the earlier order.

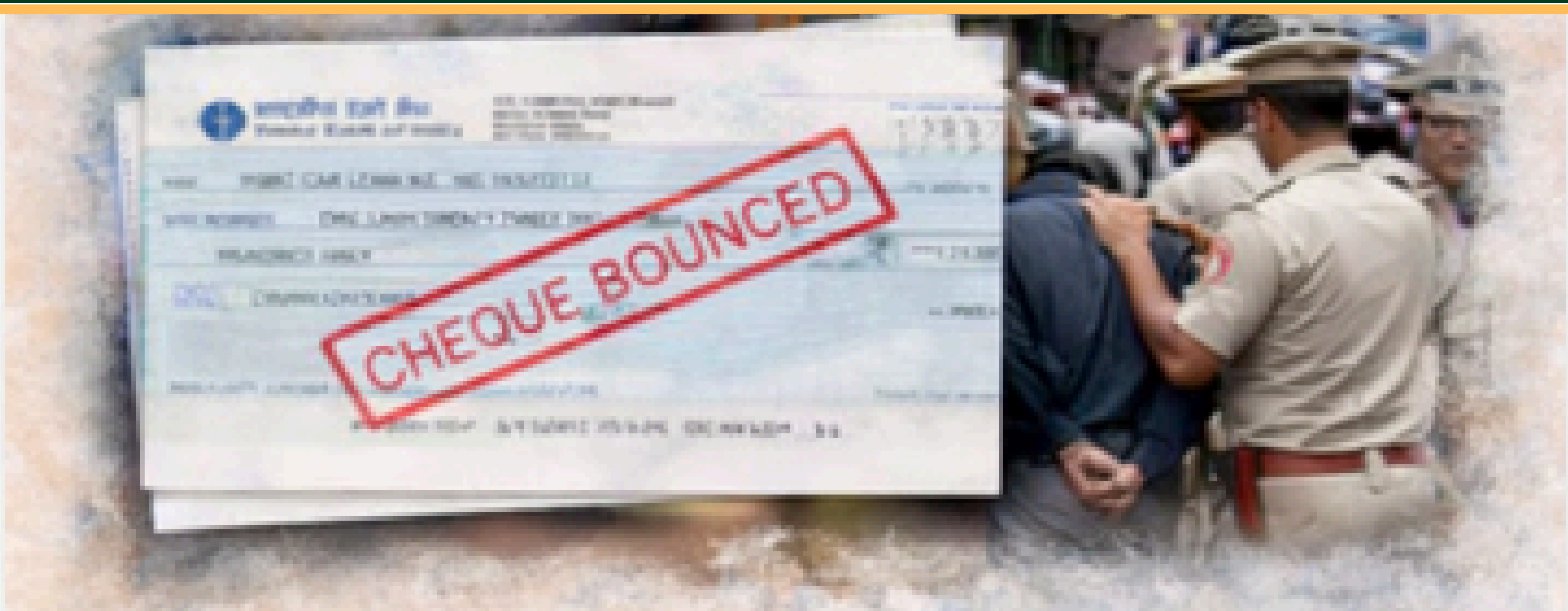
When the matter reached the Supreme Court, the judges agreed.

They explained that buying property is not just about signing papers-you must show seriousness keep your money ready, and act quickly. "Keeping money ready" means being able to prove at the time of the deal that you had the funds available, not years later.

Acting quickly means filing your case without long delays, cooperating in permissions, and not adding new conditions that were never part of the agreement.

In simple words, the Court made it clear: if you want the court to force the other side to complete a deal, you must prove you were ready and willing all along.

The lesson for readers is straightforward — when you enter into an agreement, be prepared with the money, act without delay, and show through your conduct that you are serious. Otherwise, even if the other side breaks the promise, you may lose your case.



Cheque Bounced-No Prosecution after Debt Clearance

A CHEQUE bounce happens when a bank refuses to pay the amount written on a cheque because the account doesn't have enough money. It's not just a financial slip, the law treats it as a serious matter. The reason is that a cheque is presumed to represent a genuine debt or payment.

If that debt remains unpaid, the dishonour of the cheque becomes a criminal offence, and the person who issued it can face fines or even imprisonment.

The intention behind making cheque bounce a criminal offence was to streamline commercial transactions and ensure trust in business dealings. Although at its core a cheque is part of a civil transaction between two parties, the law added criminal consequences to discourage misuse and protect the credibility of cheques in trade.

In a recent case from Kerala, M.K. Johnappan lent ₹3 lakh to another person for business. To repay the amount, the borrower gave him a cheque. When Johnappan deposited it, the bank returned it marked "insufficient funds." He sent a notice, but the borrower didn't pay.

Believing it was a clear case of cheque bounce, Johnappan went to court. During the trial, the borrower showed proof that he had already paid back more than ₹3.6 lakh through several instalments. He produced receipts and witnesses to confirm these payments. Johnappan argued that those payments were for something else i.e., peeling-work charges not for the loan. But he couldn't prove it.

The judge examined all the documents and found that the borrower had indeed cleared his debt. Since the money was already repaid, the cheque could not be treated as unpaid debt.

The court explained that once the borrower proves he has settled the amount, the complaint for cheque bounce cannot continue.

In short, the court dismissed the appeal and confirmed that no prosecution can continue after the debt is cleared.

Original Copy of Judgment