

SUIT FOR IMPLEMENTATION OF AN AWARD

IN THE COURT OF THE.....

Suit No..... of 19.....

C. D..... Plaintiff

versus

C. F..... Defendant

The abovenamed plaintiff most respectfully submits as under: —

1. On the..... day of..... 19....., the plaintiff and defendant, having a difference between them concerning a demand of the plaintiff for the price of ten barrels of oil which the defendant refused to pay, agreed in writing to submit the difference to the arbitration of..... and....., and the original document is annexed hereto.
2. On the..... day of..... 19..... the arbitrators awarded that the defendant should pay the plaintiff..... rupees.
2. The defendant has not paid the money.
3. The cause of action arose on..... 19..... when the defendant refused to pay the money, and this Court has jurisdiction to try the suit.
5. The suit is valued at..... rupees, the money awarded by the arbitration and the interest thereon at the rate of..... % per annum, and court fee is paid thereon.

RELIEF CLAIMED:

The relief claimed by way of this suit is that this Court may be pleased to make the award the rule of the Court and decree the amount awarded by the Arbitration with interest at the rate of..... % per annum.

Plaintiff

Through

Advocate

VERIFICATION

I, abovenamed plaintiff, do hereby verify that the contents of paras to..... of the plaint are true to my personal knowledge and those of paras..... and..... thereof are based on legal advice which I believe to be true.

Verified on this..... day of..... 19..... at.....

CASE LAW

OF APPEAL AGAINST AWARD.

Appellant is entitled to file appeal without being required to make deposit under Section 173 of Motor Vehicles Act against award passed in a petition instituted under Old Motor Vehicle Act of 1939.¹

VALIDITY OF AWARD.

The validity of award made under the Act can be challenged only within the parameters of the Act.²

There are four essential conditions necessary to make the Section 20 of the Act applicable. They are: —

- (i) The parties must have entered into an arbitration agreement.
- (ii) The agreement must have been entered into before a suit with respect to its subject matter is filed in court.
- (iii) A dispute or difference, contemplated in the agreement, must have arisen; and
- (iv) The court has jurisdiction in the matter.³

ARBITRATION AND CONCILIATION ACT, 1996

SECTION 8 — PENDENCY OF APPEAL — REFERENCE OF MATTER TO ARBITRATION

During pendency of appeal matter can be referred to arbitration.⁴

INTERIM ORDERS BY COURT — SECTION 21

Under the Arbitration and Conciliation Act, 1996 the Court can pass interim order under Section 9 even before the Commencement of arbitral proceedings.⁵

APPOINTMENT OF ARBITRATOR BY CHIEF JUSTICE OF HIGH COURT UNDER SECTION 11(6) OF ARBITRATION AND CONCILIATION ACT, 1996.

Orders passed by the Chief Justice under section 11 (6) of the Arbitration and

Conciliation Act, 1996 being of an administrative nature cannot be subjected to any challenge directly under Article 136 of the Constitution of India.⁶

STATE OF PROCEEDINGS

Proceedings under Section 11 of the Arbitration and Conciliation Act are not liable to be stayed on account of respondent having been declared a sick company under Section 22 of Sick Industrial Companies Act.⁷

ARBITRATION AND CONCILIATION ACT, 1996 EXISTENCE OF ARBITRATION CLAUSE

The jurisdiction of the Chief Justice of India or his designate to decide the question as to the existence of the arbitration clause cannot be doubted and cannot be said to be excluded by Section 16 of Arbitration and Conciliation Act, 1996.⁸

PROVISIONS OF 1996 ACT — CANNOT BE OPERATED RETROSPECTIVELY

The provisions of the Arbitration and Reconciliation Act 1996 cannot be operated retrospectively in view of section 85(1) of the Act.⁹

1. Ramesh Singh v. Chinta Devi, 1996 (5) Supreme 153.
2. State of Bihar v. Shri Gopal Chandra Palit, 1996 (2) C. C. C. 242 (Pat.).
3. M/s. Meena Engineering & Contractor Pvt. Ltd. v. Municipal Corporation of Greater Bombay, 1996 (3) C. C. C. 152 (Bom.).
4. P. Anand Gopapathi Raju v. P. V. G. Raju, AIR 2000 SC 1886.
5. M/s. Sundaram Finance Ltd. v. M/s. NEPC India Ltd., AIR 1999 SC 565.
6. Ador Samia Pvt. Ltd. v. Peekay Holdings Ltd.. AIR 1999 SC 3246.
7. 1TC Hotels Ltd. v. Amitabh Bachchan Corporation Ltd., 2001 (4) CCC 65 (Del.).
8. Wellington Associates Ltd. v. Kirti Mehta, AIR 2000 SC 1379.
9. Rajputana Hotels Pvt. Ltd. v. Pradeep Kumar Sriya, 2000 (1) CCC 178 (Raj.).

APPLICATION UNDER SECTION 34 OF THE ARBITRATION ACT

IN THE COURT OF.....

Suit No..... of 200

In the Matter of:

AB..... Plaintiff

versus

CD..... Defendant

Most Respectfully Showeth: -

1. That the plaintiff has filed the present suit for impleading the applicant as defendant. This Hon'ble Court has fixed..... for filing the written statement.
2. That as per Arbitration agreement entered into between the plaintiff and the defendant, it was agreed that in case of difference the matter may. be referred to Arbitrator to be appointed with the consent of both the parties.
3. That the matters in difference in the present suit are similar to the matters in difference referred to in the arbitration agreement. They should therefore have been first referred to an arbitrator to be appointed pursuant to the arbitration agreement.
4. That the plaintiff instead of referring the matters in dispute to the Arbitrator has filed the present suit. Since the plaintiff has filed the present proceedings in contravention of the terms of the Arbitration agreement, the proceedings of the present suit are liable to be stayed.
5. That the Applicant is ready and willing to do all things that are necessary for reference of dispute to Arbitrator as per the terms of the Arbitration Agreement.

PRAYER

It is most respectfully prayed that the proceedings in the suit be stayed on such terms and conditions as this Hon'ble Court may deem fit and proper.

It is prayed accordingly. Applicant

Through

Advocate

Place:.....

Date:.....

IN THE COURT OF.....

Suit No..... /200

In the Matter of

AB..... Plaintiff/Petitioner

versus

CD..... Defendant/Respondent.

AFFIDAVIT

I..... resident of
..... do hereby solemnly affirm and declare as under:
-

1. That I am the..... in this case and hence competent to swear this affidavit.

2. That the contents of the accompanying application are true and correct.

DEPONENT

VERIFICATION

Verified at..... on this..... day of
..... that the contents of the above affidavit are true and correct to my knowledge.

DEPONENT.

POWER TO GRANT INTEREST

Section 34

Neither the arbitrator nor the court dealing with the validity of the award can award a higher rate of interest than the mutually agreed rate.¹

1. Gautam Construction & Fisheries Ltd. v. National Bank for A. & R. Development, AIR 2000 SC 3018.