

Procedural Reforms and Speedy Dispute Resolution in Commercial Suits: An Indian Perspective With respect to UK and USA

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How to cite this article: Aditya Goyal, Akshita Goyal (2024). Procedural Reforms and Speedy Dispute Resolution in Commercial Suits: An Indian Perspective With respect to UK and USA. *Library Progress International*, 44(3), 12109-12113.

ABSTRACT

With an emphasis on the Commercial Courts Act (CCA) of 2015 and the creation of specialized commercial courts (CCs), this paper analyses the development of India's dispute resolution framework. Resolving commercial disputes involving foreign corporations promptly is essential for preserving investor trust, as these issues frequently stem from complicated transactions. This study focuses on India's legal reforms, namely its efforts to increase predictability in business law and speed up dispute resolution through the use of specialist judges and tailored procedures. Legal reforms must take context into account, according to a comparison with business courts in the US and the UK. While we have come a long way in welcoming international investment, there are still obstacles to overcome, like heavy court workloads and a lack of technological integration. The success of India's CCs in luring both local and foreign investors will determine the country's ability to spur strong economic growth.

Keywords: *Dispute redressal, Commercial Courts Act 2015, commercial courts, legal framework.*

Introduction

The dispute resolution framework in India is a robust structure offering various avenues for resolving conflicts. The choices for a litigant are arbitration, and mediation, along with litigation in civil or CCs, and specialized forums such as the National Company Law Tribunal¹ (NCLT), and the National Company Law Appellate Tribunal² (NCLAT), and the Intellectual Property Appellate Board³. Parties may select the process that most effectively addresses their requirements, contingent upon the type and intricacy of the dispute⁴. Disputes comprising foreign enterprises or investors inside India are mostly commercial and generally arise from transactions like investment, and share subscription, and business transfer agreements. In commercial agreements, disputes often lead investors to seek swift settlement due to the implications for their corporate interests. The annual Ease of Doing Business Report is an essential instrument for comprehending the global business environment, aiding both policymakers and researchers. India's remarkable ascent from 142nd in 2014 to 63rd in 2020 is mostly ascribed to the formation of specialist CCs in 2015, which expedite commercial dispute resolution. India's position in contract enforcement is below 100, highlighting the necessity for additional regulatory enhancements⁵. Notwithstanding the report's cessation, its impact persists, especially via the CCs Act, which expands jurisdiction to encompass diverse commercial issues, including those concerning mercantile papers, intellectual property, and property recovery. The Act's distinctive method of appeals—abolishing the second appeal—represents a substantial departure from conventional methods, with the objective of optimizing dispute settlement (Khan, 2021).

¹ The National Company Law Tribunal, 1 June 2016.

² National Company Law Appellate Tribunal (NCLAT)

³ The Intellectual Property Appellate Board

⁴ Jan. (2023, June 14). Commercial dispute mechanism for foreign investment in India. Retrieved from <https://law.asia/commercial-dispute-mechanism-foreign-investment-india/>

⁵ Transforming business environment in India. (2020). ASSOCHAM Foundation Week 2020. Retrieved from <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2022/nov/doc20221123133801.pdf>

Commercial Courts

The introduction of CCs inside India has been a subject of continuous discourse, especially after the Law Commission's proposals. The 188th Report⁶ proposed instituting fast-track courts employing streamlined procedures for high-value business disputes, whereas the 253rd Report⁷ observed that more than fifty percent of civil cases were commercial in nature, thereby affecting investor confidence. This has prompted demands for specialized courts to facilitate expedited contract enforcement and promote investment. The Indian method can be enhanced by studying international models, like the London CC and hybrid systems in Dubai, Abu Dhabi, and Singapore. These models prioritize specialized conflict resolution, a combination of local and international judges, and novel procedures, including the transformation of court rulings into arbitral awards. This global setting highlights the necessity of applying efficient procedures to improve the efficiency of India's CCs, hence promoting economic growth and international collaboration (Gosain & Gosain, 2019).

Various nations possess distinct interpretations of CCs, which are specialized tribunals established to adjudicate business-related disputes. The purpose of these courts is to resolve intricate commercial matters via customized procedures and specialized knowledge. Many nations, however, do not possess genuine specialist CCs, sometimes integrating business cases into existing civil court frameworks, occasionally with judges who lack specific knowledge in commercial law. The heterogeneity in structure, procedure, and case management undermines predictability and trust in the conflict resolution process. A uniform answer for commercial adjudication is non-existent; legal reforms must take into account domestic legal cultures to achieve efficacy. Transplanting regulations from one jurisdiction to another might be harmful if they do not conform to the local legal system. Successful adaptation necessitates alignment with current judicial frameworks and adherence to the legal customs of the receiving jurisdiction (Mitsi, 2022).

Commercial Courts Act, 2015 (CCA, 2015)

CCA, 2015⁸, represents a substantial enhancement in India's legal structure for commercial disputes. It delineates the framework, authority, and protocols for CCs, designed to accelerate the adjudication of commercial disputes by the engagement of specialist judges possessing pertinent experience.

The primary aims of the Act include:

- To minimize delays
- To foster consistency in adjudications
- To improve predictability in business law.

The Act delineates the jurisdiction of these courts, encompassing disputes pertaining to contracts, transactions, intellectual property, and corporate affairs, frequently with designated monetary thresholds. It implements procedural mechanisms such as case management approaches, early assessments, and alternative conflict resolution procedures to optimize litigation. The CC Rules⁹, along with with the Act, delineate comprehensive protocols for case management, and pleadings, and evidence presentation, along with remedies, thereby assuring procedural fairness and clarity. Collectively, they improve the efficiency and efficacy of business litigation. The influence of these legal instruments is substantial: they facilitate expedited conflict settlement, guarantee informed decision-making by specialized judges, and enhance investor confidence. The Act along with Rules establish a dependable and consistent legal framework that promotes company expansion and attracts both local and international investments, hence enhancing economic development. (Garimella & Ashraf, 2019).

Expedited dispute resolution

A primary effect of the CC Act and Rules is the facilitation of rapid dispute settlement. These measures seek to minimize delays and accelerate commercial dispute resolution straight through the establishment of specialist CCs and the use of streamlined processes. This enables firms to conserve time, expenses, and resources that might otherwise be used in protracted litigation procedures. The prompt conflict resolution enables parties to concentrate on their primary operations and sustain company continuity, so fostering overall growth economically. Also, specialized skill and well-versed choice-making The CCA¹⁰ and Rules improve decision-making quality within commercial cases by offering specialized knowledge. The creation of specialized business courts guarantees that judges overseeing these issues have extensive expertise and understanding of commercial law. This specific knowledge allows courts to render informed rulings, considering the distinct difficulties of economic conflicts. The consistent utilisation of commercial law principles and a particular grasp of industry practices improve the

⁶ The 188th Report of the Law Commission.

⁷ 253rd Law Commission report

⁸ India Code: Commercial Courts Act, 2015, Act No. 4 of 2016.

⁹ The Commercial Courts Rules, 2018.

¹⁰ Ibid

predictability along with fairness of verdicts (Sarraf, 2023).

Act Instated Procedural Mechanisms

The CCA¹¹ establishes procedural systems designed to improve the efficacy of business litigation. These methods may encompass provisions for case management, including early case evaluation and pre-trial consultations, to promote prompt dispute resolution. Also, the Act may also facilitate the recruitment of specialist judges with knowledge in commercial law or even designate current judges to only oversee commercial disputes. Moreover, the Act may promote the utilization of alternative conflict resolution procedures, including mediation or even arbitration, to accelerate dispute resolution and alleviate the strain on the judicial system. Also, it may delineate certain procedural prerequisites for the presenting of evidence, encompassing stipulations for expert witnesses or even the admissibility of intricate business evidence. CCA delineates the structure for the operation of CCs, specifying their jurisdiction, and objectives, along with procedural methods. The Act aims to enhance the efficiency, uniformity, and efficacy of commercial litigation by establishing a specialized forum for all commercial disputes along with implementing efficient procedures, thereby benefiting enterprises and fostering a conducive business climate (Kesarwani, 2024).

Commercial suits in India: Case Studies

In its decision on *SBI v. Nilesh*¹² (2021), the Delhi High Court dismissed the plaintiff's claim under Order 7 Rule 11(d)¹³ on the basis that it was not maintainable. The complaint was instructed to "commence a new lawsuit after satisfying the requisite legal criteria under Section 12A¹⁴ of the Act, taking into account the relevant limitation period and legal stipulations."

Bombay High Court issued a verdict in the *Deepak Raheja v. Ganga Taro Vazirani* case¹⁵ (2021), in which it urged the parties concerned to participate in mediation through the Legal Services Authority. The court interpreted the circumstances as if mediation had already begun in accordance with Section 12A¹⁶.

On the other hand, in the *GSD Constructions Pvt. Ltd. v. Balaji Febtech Engineering* case¹⁷, the plaintiff needed a speedy interim remedy because they had suffered an irreparable loss. The High Court of Madhya Pradesh suggested that rather than pursuing mediation, the parties should instead file a personal case.

The High Court of Telangana also held that the matter was "urgent in nature" and sought an injunction to stop the defendant from copyright infringement in *M/s M.K. Food Products v. M/s S.H. Food Products*¹⁸. As a result, the court decided the parties could not be forced into mediation.

As a result of the recent decision made by the Delhi High Court within the case of *Bolt Technology OU v. Ujoy Technology Private Limited & Anr.*¹⁹ (2022), it was determined that the prerequisite for pre-institution mediation directly under Section 12A of the CCA may be considered satisfied if one party submits a settlement proposal and the other party rejects it in response to a resolution letter. When taken into consideration in conjunction with Rule 3²⁰ of the CCs (Pre-institution Mediation and Settlement) Rules 2018, this verdict has the effect of reducing the procedural limits that are outlined in Section 12A²¹ of the CCA. Following an examination of the specifics of the case, the High Court concluded that intellectual property rights possessed a major value for consumers, the general public, and the groups that were concerned. As a consequence of this, a great number of disagreements are eligible for the urgent temporary remedy exception provided by Section 12A (1)²².

Comparative Analysis: Commercial courts in India, UK and USA.

There is a significant amount of variation in the structure, historical context, and procedural frameworks of the CCs in UK, USA and India. These courts are vital for addressing complex business matters (Dimitropoulos, 2021). The King's Bench Division²³ of the High Court is responsible for the operation of CCs in the UK. These courts

¹¹ Ibid

¹² *State Bank of India V. Nilesh Mehra and Anr*, Case No. TA/96/2014.

¹³ Order 7 Rule 11(d) of the Code of Civil Procedure (CPC)

¹⁴ Section 12A of the Commercial Courts Act, 2015

¹⁵ *Deepak Raheja vs Ganga Taro Vazirani* on 1 October, 2021, Commercial Appeal (L) No. 11950 OF 2021.

¹⁶ Ibid

¹⁷ *GSD Constructions Pvt. Ltd v Balaji Febtech Engineering*, MA No. 4081/2019.

¹⁸ *M/S.M K Food Products vs M/S.S H Food Products*, CS(Comm.Div.) No. 202 of 2022.

¹⁹ *Bolt Technology OU V. Ujoy Technology Private Limited & Anr*, CS (COMM) 582/2022.

²⁰ Section 3 of the Commercial Courts Act, 2015.

²¹ Ibid

²² Ibid

²³ King's Bench Division of the High Court

are a specialized subset of the judicial system. Through the establishment of specialized divisions such as the Business and Property Courts, these courts, which were established in 1895 with the establishment of the "Commercial List," are responsible for the resolution of complex commercial, admiralty, and arbitration disputes. As a result of Brexit, the jurisdiction of business courts in the United Kingdom has undergone significant changes. These changes are now governed by the Hague Convention of 2005²⁴, which allows English courts to reach decisions about cross-border disputes where parties prefer English jurisdiction. The procedural architecture places an emphasis on efficiency by means of automatic multi-track allocation, defined pre-action protocols, and mandatory case management conferences. This ensures that complexities are effectively managed. The legal frameworks of the UK, regulated by the Civil Procedure Rules 1998, exhibit a notable divergence from the Indian system. In the UK, permission to appeal is closely linked to the genuine likelihood of success or the existence of a substantial reason. Second appeals are limited to particular grounds, establishing a refined review standard subject to judicial interpretation (Yates, 2023).

On the other hand, the USA is home to a number of renowned business courts, such as New York's Southern District and the New York Commercial Division²⁵, both of which were formed in 1789 and 1995, respectively. The federal law in the US establishes jurisdiction for disputes that pertain to federal statutes or diversity of citizenship. State courts, on the other hand, are responsible for adjudicating any other claims. The business courts in the US place an emphasis on procedural distinctions that prioritize efficiency. These distinctions include reduced discovery processes, strict trial dates, and alternative dispute resolution systems that speed up the conclusion of cases. Utilizing a unique case management system that categorizes cases according to their level of complexity, the New York Commercial Division²⁶ is able to handle cases in a manner that is more tailored to the individual (Strong, 2021).

With the passage of the CCA²⁷ in 2015, India's CC system was formalized, and commercial divisions were established inside the High Courts of large cities. The jurisdiction of Indian CCs is demarcated by a predetermined monetary threshold, which enables them to adjudicate a wide variety of commercial disputes, including those that are related to construction and licensing agreements. In addition to the provision for issuing summary decisions in order to promote efficiency, the procedural structure that was established by the CCA²⁸ includes rigorous deadlines for the submission of pleadings and restrictions on the production of documents. In spite of this, there are still challenges to overcome, such as the burden of the courts and the requirement for strengthened technological integration.

UK, USA and India have each developed their own CCs with their own distinct frameworks, which are impacted by their respective historical contexts, jurisdictional restrictions, and procedural innovations. These courts are essential for resolving more complex commercial disputes, and as business practices continue to expand, they will need to alter their operations to accommodate the ever-changing requirements of the global market (Mitsi, 2022).

Conclusion

To sum up, the Commercial Court Act²⁹ of 2015 and the creation of specialized commercial courts represent a major improvement in the effectiveness and efficiency of commercial litigation, as well as an evolution of the conflict resolution system in India. India is working to improve its investment climate for local and international companies by incorporating specialist knowledge, simplified dispute resolution processes, and personalized procedures. By contrasting their methods with those of CCs within the UK and the US, this study demonstrates the need of contextual adaptation in the resolution of complicated business conflicts.

In order to boost economic growth and investor confidence, India must take steps to solve the unique problems encountered by international investors, in addition to continuing changes in the legislative and judicial branches.

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