

## Dispute Resolution Hotline

June 18, 2019

### STAMPING OF THE UNDERLYING CONTRACT FOR A VALID ARBITRATION CLAUSE - AN 'EXISTENTIAL' CRISIS

This article was originally published in the ICC India Arbitration Newsletter ( Issue 4 )



When the Arbitration & Conciliation Act, 1996 (Act) was amended in 2015, insertion of Section 11(6A) limited the scope of court inquiry to only the '*existence*' of an arbitration agreement while entertaining an application for appointment of an arbitrator. Further, insertion of Section 11(13) provided a strict time frame for disposal of such applications. The objective behind such amendments was to expedite the arbitral process in India, historically prone to severe delay. Arbitration applications, even for simpliciter appointment of arbitrators, languish in courts for years.

In what may just be a case of one step forward and two steps back, the Supreme Court of India in a recent decision raked up an old issue concerning the validity of an arbitration agreement in an unstamped document by holding that a court cannot appoint an arbitrator under Section 11 of the Act when the contract containing the arbitration clause is insufficiently stamped.

This article analyzes the evolution of the law prior to this decision, what it means for applications such as those seeking interim reliefs, and the decision's possible impact on the recent progress made by the judiciary as well as the legislature in minimizing court interference.

To access the article, please click [here](#).

Siddharth Ratho

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