

**IN THE HIGH COURT FOR THE STATE OF TELANGANA**

**AT: HYDERABAD**

**HON'BLE SRI JUSTICE K. LAKSHMAN**

**AND**

**HON'BLE JUSTICE B.R. MADHUSUDHAN RAO**

**CIVIL REVISION PETITION No. 643 OF 2026**

**DATE: 08-06-2026**

**Between:**

M/s Rihim Developers Private Limited,  
previously M/s IVRCL Assets & Holdings  
Pvt. Ltd., represented by its Director, Sri  
Pammi Edward Silvistor, having office at 8-  
2-350/5/A/24/1B&2, Road No. 2, Banjara  
Hills, Hyderabad - 500033.

.. Petitioner

Vs.

M. Ramana Rao S/o Late M. Ranga Rao,  
aged about 51 years, Occ: Business, R/o  
321/4/8, Road No. 25, Jubilee Hills,  
Hyderabad, Telangana State.

.. Respondent

This Court made the following:

**ORDER:** (Per Hon'ble Sri Justice K. Lakshman)

1. Aggrieved by the order dated 10.01.2026 (hereinafter referred to as 'impugned order') in I.A. No.1 of 2025 in Arbitration Proceedings No.4 of 2025 (arising out of Arbitration Application No.207 of 2024) passed by learned Sole Arbitrator at Hyderabad (hereinafter referred to as 'the Arbitral

Tribunal'), dismissing the Application filed under Section - 16 of the Arbitration and Conciliation Act, 1996 (hereinafter called as "the Act, 1996) filed by the petitioner herein, the petitioner herein has filed the present Civil Revision Petition.

2. We have heard Mr. G. Kalyan Chakravarthy, learned counsel for the Petitioner and Mr. V.V. Raman, learned counsel for the Respondent.
3. The facts germane to the present case are that the Respondent had entered into a Development Agreement-cum-General Power of Attorney dated 15.10.2006 (hereinafter "DAGPA") with M/s IVR Prime Urban Developers Limited. The said agreement was entered into for development of land admeasuring 325 Sq. Yds. in Plot No. 113, Sy. No. 77 of Madhapur Village, Serilingampally Mandal, Ranga Reddy District. The development was supposed to be completed within a period of 30 months + 06 months of grace period from 01.11.2006. The Respondent claims that no development has taken place till date.
4. It is pertinent to note that, after the execution of the DAGPA, i.e., on 31.03.2010, M/s IVR Prime Urban Developers Limited was renamed as M/s IVRCL Assets and Holdings Limited. Alleging breach of the agreement and claiming compensation, the Respondent herein invoked Clause 15 of the DAGPA, i.e., the arbitration clause, and issued a notice dated 01.05.2024

under Section 21 of the Act, 1996. The notice under Section 21 of the Act, 1996, was sent to M/s IVRCL Assets and Holdings Limited, M/s IVRCLSH & Holdings Ltd., and Mr. E. Sunil Reddy. Contending that he had received, there was no reply, the Respondent had filed an application bearing A.A. No. 207 of 2024, under Section 11 of the Act, 1996, seeking appointment of a sole arbitrator, before this Court.

5. *Vide* order dated 21.03.2025, this Court allowed the application under Section 11 of the Act, 1996 and Justice G. Sri Devi, Former Judge, High Court, was appointed as Sole Arbitrator to adjudicate the disputes between the Petitioner and the Respondent. It is noteworthy that the Respondent had filed Section 11 application against “M/s IVRCL Assets and Holdings Limited, previously M/s IVR Prime Urban Developers Limited”.
6. After the constitution of the arbitral tribunal, the Respondent had filed his Statement of Claim. In the cause title and array of parties to the Statement of Claim, the Respondent was described as follows:

**“M/s. IVRCL Assets & Holdings Limited,**  
Previously M/s. IVR Prime Urban Developers Limited.  
**Presently M/s. Rihim Developers Pvt. Ltd.,**  
Represented by its Director A. Krishna Reddy,  
Having its Registered Office at 8-2-350/5/A/24/18 & 2, Road No. 2,  
Banjara Hills, Hyderabad - 500 033.”

7. As can be seen, M/s IVRCL Assets and Holdings Limited, against whom the Respondent herein has raised a claim, has been described as presently bearing

the name of M/s Rihim Developers Pvt. Ltd. The said Company, i.e., M/s Rihim Developers Pvt. Ltd., is the Petitioner herein.

8. Before the arbitral tribunal, the Petitioner herein filed an application under Section 16 of the Act, 1996, contending that it was a distinct and separate Company from M/s IVRCL Assets and Holdings Limited. It was contended that a composite scheme of arrangement under Sections 391 to 394 of the Companies Act, 1956, had been entered into among four companies, viz., IVRCL Ltd., IVRCL Assets and Holdings Limited, Rihim Developers Pvt. Ltd., and IVRCL TLT Pvt. Ltd. The said scheme of arrangement was approved by the erstwhile High Court of Andhra Pradesh vide order dated 02.07.2012. The Petitioner contended before the arbitral tribunal that, upon approval of the scheme of arrangement, IVRCL Assets and Holdings Limited, against whom the Respondent has raised a claim, ceased to exist from 01.04.2011. The arbitration proceedings were initiated by issuing a notice under Section 21 of the Act, 1996, to a Company that did not exist. Therefore, the Petitioner contended that the arbitration proceedings had been commenced against a dissolved Company. Additionally, the Petitioner also contended, relying upon various decisions of the Supreme Court, that it is a third party to the arbitration proceedings and that no proceedings can be initiated against it. The Petitioner reiterated the said contentions before this Court.

9. On the other hand, the Respondent had contended before the arbitral tribunal that he was unaware of the scheme of arrangement. However, admitted that the real estate business of IVRCL Assets and Holdings Limited stood transferred to the Petitioner, i.e., Rihim Developers Pvt. Ltd. It was contended that the Petitioner herein is “successor in office” of IVRCL Assets and Holdings Limited. As such, it is bound by the arbitration clause.
10. In paragraph No.11 of the counter affidavit, filed by the Respondent before the arbitral tribunal, it is admitted that no Section 21 of the Act, 1996, notice was served on the Petitioner. It was contended that the service of notice on the Petitioner shall be deemed to have been effected as it is the “successor in office” of IVRCL Assets and Holdings Limited. The said contentions were reiterated by the Respondent in the present case.
11. The arbitral tribunal *vide* the impugned order dated 10.01.2026 dismissed the application under Section 16 filed by the Petitioner herein. Referring to Clauses 3.1, 4, 5.1, and 5.2 of the scheme of arrangement, the arbitral tribunal held that all the assets, liabilities, and obligations of IVRCL Assets and Holdings Limited stood transferred to the Petitioner. As such, Petitioner is bound by the arbitration proceedings. In relation to non-issuance of notice under Section 21 of the Act, 1996, to the Petitioner, the arbitral tribunal held that notices were sent to Mr. E. Sunil Reddy, who was the managing director

of both IVRCL Assets and Holdings Limited and the Petitioner Company. The tribunal held that merely because the show cause notices were addressed to IVRCL Assets and Holdings Limited and Mr. Sunil Reddy cannot be a ground to contend that the notice was invalid and issued in the name of a “dead Company”. Further, the tribunal held that Mr. Sunil Reddy being the common managing director indicates continuity of management and that the Petitioner is a successor Company. It was held that the decisions on impleadment of third parties are inapplicable to the facts of the case. Likewise, it held that notice under Section 21 of the Act, 1996, is issued to commence the arbitral proceedings, and that non-service of such notice on each and every party is not a jurisdictional bar. The arbitral tribunal concluded by holding that the Petitioner is not a stranger to the proceeding and that the case requires evidence to be adduced.

12. Against the arbitral tribunal’s order, the present civil revision petition has been filed. Both the Petitioner and the Respondent reiterated their respective submissions made before the arbitral tribunal. Additionally, the Respondent had contended that the present civil revision petition under Article 227 of the Constitution of India is not maintainable. The appropriate remedy, according to the Respondent, is to challenge the final award under Section 16(6) of the Act, 1996. The Respondent had relied upon the decisions in **Deep Industries**

**Ltd. v. Oil and Natural Gas Corporation Ltd.<sup>1</sup>, Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd.<sup>2</sup>, Punjab State Power Corporation Ltd. v. EMTA Coal Ltd.<sup>3</sup>, and Serosoft Solutions Pvt. Ltd. v. Dexter Capital Advisors Pvt. Ltd.<sup>4</sup>**

13. At the outset, we would like to address the argument regarding maintainability advanced on behalf of the Respondent. While Section 16(6) of the Act, 1996, provides that the remedy against the dismissal of an application under Section 16(2) is to challenge the same along with the final award, the jurisdiction under Article 227 of the Constitution of India can still be exercised. It is settled law that the constitutional powers of the courts cannot be taken away by a statute. However, the powers under Article 227 should be exercised sparingly and only in exceptional circumstances. Such circumstances include cases where orders are passed without jurisdiction or in contravention of a statute, cases involving mala fides, and cases where the impugned order is so perverse and unjustified as to warrant the exercise of the High Court's constitutional power.

---

<sup>1</sup>. (2020) 15 SCC 706.

<sup>2</sup>. (2022) 1 SCC 75.

<sup>3</sup>. (2020) 17 SCC 93.

<sup>4</sup>. 2025 SCC OnLine SC 22.

14. In **Estralla Rubber v. Dass Estate (P) Ltd.**<sup>5</sup>, the Hon'ble Supreme Court has held as follows:

**“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.**

---

<sup>5</sup>. (2001) 8 SCC 97.

**7. This Court in Ahmedabad Mfg. & Calico Ptg. Co. Ltd. v. Ram Tahel Ramnand [(1972) 1 SCC 898 : AIR 1972 SC 1598] in AIR para 12 has stated that the power under Article 227 of the Constitution is intended to be used sparingly and only in appropriate cases, for the purpose of keeping the subordinate courts and tribunals within the bounds of their authority and, not for correcting mere errors.** Reference also has been made in this regard to the case *Waryam Singh v. Amarnath* [AIR 1954 SC 215 : 1954 SCR 565] . This Court in *BathutmalRaichand Oswal v. Laxmibai R. Tarte* [(1975) 1 SCC 858 : AIR 1975 SC 1297] has observed that the power of superintendence under Article 227 cannot be invoked to correct an error of fact which only a superior court can do in exercise of its statutory power as a court of appeal and that the High Court in exercising its jurisdiction under Article 227 cannot convert itself into a court of appeal when the legislature has not conferred a right of appeal. Judged by these pronounced principles, the High Court clearly exceeded its jurisdiction under Article 227 in passing the impugned order.

(emphasis supplied)”

15. There is no dispute with regard to the legal position that High Court must exercise greater circumspection while exercising its power under Article 227 against interlocutory orders passed by arbitral tribunals. The High Court may interfere under Article 227 only when the order passed by the tribunal is wholly perverse or where there is a patent lack of inherent jurisdiction.
16. The only question then before us is whether the impugned order dated 10.01.2026 can be interfered with under Article 227 of the Constitution of

India. The contention of the Petitioner is that the commencement of the arbitral proceedings was bad in law as the notice under Section 21 of the Act, 1996 was issued to a Company, i.e., IVRCL Assets and Holdings Limited, which was dissolved. Further, the Petitioner contended that no Section 21 of the Act, 1996, notice was served on it and that it is a third party to the arbitral proceedings.

17. To appreciate the *lis* involved in the present case, it is appropriate to refer to the composite scheme of arrangement relied upon by the parties. As stated above, the Respondent had entered into the DAGPA with M/s IVR Prime Urban Developers Limited. The said Company was subsequently renamed as M/s IVRCL Assets and Holdings Limited. Thereafter, a composite scheme of arrangement dated 01.04.2011 was entered into among four companies, viz., IVRCL Ltd., IVRCL Assets and Holdings Limited, Rihim Developers Pvt. Ltd., and IVRCL TLT Pvt. Ltd.

18. By virtue of the said scheme of arrangement, the business of IVRCL Assets and Holdings Limited, against whom the Respondent seeks to raise a claim, was divided. IVRCL Assets and Holdings Limited had two businesses, namely, real estate development and real estate infrastructure development. Pursuant to a demerger, the real estate business of IVRCL Assets and Holdings Limited stood transferred to the Petitioner herein, i.e., Rihim

Developers Pvt. Ltd. The other business, namely, the real estate infrastructure development business of IVRCL Assets and Holdings Limited, stood transferred to IVRCL Limited by virtue of a merger.

19. As per Clause 15 of the scheme of arrangement, IVRCL Assets and Holdings Limited, referred to therein as the transferor Company under Clause 2.1.16, stood dissolved with effect from 01.04.2011. For the sake of convenience, the relevant clauses are extracted below:

“2.1.16 “Transferor Company” means IVRCL Assets & Holdings Limited and shall have the same meaning as assigned to in clause 1.1.2 above;

15. DISSOLUTION WITHOUT WINDING UP

**15.1. Upon this Scheme becoming effective, the Transferor Company shall be dissolved without winding up pursuant to the provisions of Section 394 of the Act.”**

20. As stated above, the scheme of arrangement was approved by the High Court of Andhra Pradesh *vide* a common order dated 02.07.2012 in Company Petition Nos. 58, 59, 60, and 61 of 2012. In the said order, the High Court had noted that the business of IVRCL Assets and Holdings Limited was being transferred to Rihim Developers Pvt. Ltd. and IVRCL Ltd. The Court also noted that public notices were issued before sanctioning the scheme of arrangement. Likewise, the Court had noted that IVRCL Assets and Holdings Limited will stand dissolved with the approval of the scheme of arrangement. The relevant paragraphs are extracted below:

“10. The transferor company has two divisions viz., infrastructure division and real estate division. Under the proposed composite scheme of arrangement, infrastructure division of the transferor Company is proposed to be demerged and merged with the amalgamated Company. **The real estate division of the transferor Company is proposed to be demerged and merged with the resulting Company-1 and consequently, the transferor Company is proposed to be dissolved.** The transferor Company filed Company Application No.19 of 2012 seeking appointment of a chair-person to convene the meeting of the shareholders on 27.02.2012 at 2.30 P.M. at K.L.N.Prasad Auditorium, Federation House, FAPCCI, FAPCCI Marg, Red Hills, Hyderabad – 500 004. The said application came to be allowed on 24.01.2012 appointing Smt.N.Surekha, an advocate of this Court, as chair-person. The chair-person conducted the meeting of the shareholders and placed on record her report. As per the report, all the shareholders of the transferor Company approved the proposed composite scheme of arrangement.

XXXX

13. The Company Petitions came to be admitted on 21.03.2012. Notice was directed to be taken out to the Central Government in C.P.Nos.58, 60 and 61 of 2012 and notices were directed to be taken out to the Central Government and also to the Official Liquidator in C.P.No.59 of 2012. **The petitioners were also directed to take out publication in ‘THE BUSIENSS STANDARD’ , English daily and in ‘ANDHRA BHOOMI’ , Telugu daily, Hyderabad Editions and ‘TIMES OF INDIA’ ,English daily, Bombay Edition. The petitioners took out**

**notices to the authorities and also publications as indicated above and filed proof of the same.”**

21. From the composite scheme of arrangement and the order dated 02.07.2012, it is clear that IVRCL Assets and Holdings Limited ceased to exist. This brings us to the question whether issuance of notice under Section 21 of the Act, 1996, to a non-existent Company is sufficient to commence the arbitral process. We answer the said question in the negative.
22. It is pertinent to note that Section 21 of the Act, 1996, deals with commencement of arbitral proceedings. It provides that the arbitral proceedings are deemed to commence when a request is made by a party for the disputes to be referred to arbitration and such request is received by the other party, i.e., the respondent. Therefore, unless a party issues a notice seeking reference of disputes to arbitration and such notice is received by the other party, the arbitral proceedings do not commence. Service of notice seeking reference of disputes to arbitration and receipt of such notice by the respondent is a *sine qua non* for commencement of arbitral proceedings.
23. Explaining the object of Section 21 of the Act, 1996, the Hon’ble Supreme Court in **Adavya Projects (P) Ltd. v. Vishal Structurals (P) Ltd.**<sup>6</sup>, held as follows:

---

<sup>6</sup>. (2025) 9 SCC 686.

“17. A plain reading of the provision shows that in the absence of an agreement between the parties, arbitral proceedings are deemed to have commenced when the respondent receives a request to refer disputes to arbitration. It is clear that Section 21 does not expressly mandate the claimant to send a notice invoking arbitration to the respondents. **However, the provision necessarily mandates such notice as its receipt by the respondent is required to commence arbitral proceedings, unless the parties have mutually agreed on another date/event for determining when the arbitral proceedings have commenced.**

18. This Court has expounded the purpose and object underlying the notice referenced in Section 21 in several judgments, which can be stated as follows.

19. **First, the notice is necessary to determine whether claims are within the period of limitation or are time-barred. Section 43(1) ACA stipulates that the Limitation Act, 1963 shall apply to arbitrations as it applies to court proceedings.** Further, Section 43(2) provides that for the purpose of the Limitation Act, an arbitration shall be deemed to have commenced on the date referred to in Section 21. **Hence, the date of receipt of the Section 21 notice is used to determine whether a dispute has been raised within the limitation period as specified in the Schedule to the Limitation Act, as held by this Court in *Milkfood Ltd. v. GMC Ice Cream (P) Ltd.*[*Milkfood Ltd. v. GMC Ice Cream (P) Ltd.*, (2004) 7 SCC 288, paras 26, 29 : (2004) 121 Comp Cas 581] and *State of Goa v. Praveen Enterprises* [*State of Goa v. Praveen Enterprises*, (2012) 12 SCC 581, paras 16, 18] .**

**20.Second, the date of receipt of notice is also relevant to determine the applicable law to the arbitral proceedings.**

This can be understood in two senses: (i) When the arbitral proceedings are governed by a law that is different from the proper law of the contract, the governing law applies only after the arbitral proceedings have commenced, as held in *Milkfood* [*Milkfood Ltd. v. GMC Ice Cream (P) Ltd.*, (2004) 7 SCC 288, para 31 : (2004) 121 Comp Cas 581] ; and (ii) Section 85(2)(a) ACA provides that the Arbitration Act, 1940 and the Foreign Awards (Recognition and Enforcement) Act, 1961 will apply to arbitral proceedings that commenced prior to the ACA coming into force, unless otherwise agreed by the parties. Hence, the date of invoking arbitration is necessary to determine which arbitration law applies to the proceedings as per the decisions in *Milkfood* [*Milkfood case*, (2004) 7 SCC 288, paras 46, 49, 70 : (2004) 121 Comp Cas 581] and *Geo Miller & Co. (P) Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd.* [*Geo Miller & Co. (P) Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd.*, (2020) 14 SCC 643, para 10] Similarly, the applicability of amendments to the ACA to arbitral proceedings is determined by reference to the date on which such proceedings commenced as per Section 21. [ For example, the applicability of the Arbitration and Conciliation (Amendment) Act, 2015 to arbitral proceedings depends on whether the notice invoking arbitration was issued before or after the amendment came into force. See *BCCI v. Kochi Cricket (P) Ltd.*, (2018) 6 SCC 287, paras 37-39 : (2018) 3 SCC (Civ) 534.]

**21.Third, an application before the High Court or this Court under Section 11(6) ACA for appointment of arbitrator can be filed only after the respondent has failed to**

**act as per the appointment procedure in the arbitration agreement. Hence, invocation of arbitration as provided in Section 21, and the subsequent failure of the respondent to appoint its arbitrator or agree to the appointment of a sole arbitrator as provided in Sections 11(4) and 11(5), are necessary for invoking the court's jurisdiction under Section 11.** This is as per the decision of this Court in *BSNL v. Nortel Networks (India) (P) Ltd.* [*BSNL v. Nortel Networks (India) (P) Ltd.*, (2021) 5 SCC 738, para 15 : (2021) 3 SCC (Civ) 352] Further, the limitation period within which the Section 11 application must be filed is also calculated with reference to the date on which the appointment procedure under the arbitration agreement fails. [*BSNL case*, (2021) 5 SCC 738, para 16 : (2021) 3 SCC (Civ) 352]

22. It is clear that by fixing the date of commencement of arbitral proceedings by anchoring the same to a notice invoking arbitration, Section 21 ACA fulfils various objects that are time-related. The receipt of such notice is determinative of the limitation period for substantive disputes as well as the Section 11 application, and also the law applicable to the arbitration proceedings.”

24. As can be seen from *Adavya (supra)*, notice under Section 21 serves multiple purposes. Mainly, the period of limitation is computed from the date of receipt of the notice, and an application under Section 11 can only be filed if the notice under Section 21 of the Act, 1996, is received by the respondent, who refuses appointment of an arbitrator.

25. In the present case, notice under Section 21 of the Act, 1996, was issued to IVRCL Assets and Holdings Limited. As stated above, upon the approval of the composite scheme of arrangement, the said Company had ceased to exist. Any statutory notice issued in the name of a non-existing entity is a nullity and vitiates the entire process. In this regard, gainful reference may be made to the decision of the Supreme Court in **CIT v. Maruti Suzuki (India) Ltd.**<sup>7</sup>, wherein the following was held:

**“20.3. Thirdly, the consequence of the scheme of amalgamation approved under Section 394 of the Companies Act, 1956 is that the amalgamating company ceased to exist.**

*In Saraswati Industrial Syndicate Ltd.[Saraswati Industrial Syndicate Ltd. v. CIT, 1990 Supp SCC 675 : (1990) 186 ITR 278]* , the principle has been formulated by this Court in the following observations : (SCC pp. 679-80, para 5)

“5. Generally, where only one company is involved in change and the rights of the shareholders and creditors are varied, it amounts to reconstruction or reorganisation of scheme of arrangement. In amalgamation two or more companies are fused into one by merger or by taking over by another. Reconstruction or “amalgamation” has no precise legal meaning. The amalgamation is a blending of two or more existing undertakings into one undertaking, the shareholders of each blending company become substantially the shareholders in the company which is to carry on the blended undertakings. There may be amalgamation either by the transfer of two or more undertakings

---

<sup>7</sup>. (2020) 18 SCC 331.

to a new company, or by the transfer of one or more undertakings to an existing company. Strictly “amalgamation” does not cover the mere acquisition by a company of the share capital of other company which remains in existence and continues its undertaking but the context in which the term is used may show that it is intended to include such an acquisition. See : *Halsbury's Laws of England* (4th Edn., Vol. 7, Para 1539). Two companies may join to form a new company, but there may be absorption or blending of one by the other, both amount to amalgamation. When two companies are merged and are so joined, as to form a third company or one is absorbed into one or blended with another, the amalgamating company loses its entity.”

**20.4. Fourthly, upon the amalgamating company ceasing to exist, it cannot be regarded as a person under Section 2(31) of the 1961 Act against whom assessment proceedings can be initiated or an order of assessment passed.**

XXXX

**36.** In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in its name. **The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation. Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law.** This position now holds the field in view of the judgment of a coordinate Bench of two learned Judges which dismissed the

appeal of the Revenue in *Spice Enfotainment* [*CIT v. Spice Enfotainment Ltd.*, (2020) 18 SCC 353] on 2-11-2017. The decision in *Spice Enfotainment* [*CIT v. Spice Enfotainment Ltd.*, (2020) 18 SCC 353] has been followed in the case of the respondent while dismissing the special leave petition for AY 2011-2012. In doing so, this Court has relied on the decision in *Spice Enfotainment* [*CIT v. Spice Enfotainment Ltd.*, (2020) 18 SCC 353].”

26. We hold that the issuance of the notice dated 01.05.2024 under Section 21 of the Act, 1996, to IVRCL Assets and Holdings Limited was insufficient to trigger the arbitral process. The notice dated 01.05.2024 shall be treated as non-est, as the same was issued to a Company which ceased to exist.

27. It was contended on behalf of the Respondent that he was not aware of the composite scheme of arrangement and the transfer of the real estate business of IVRCL Assets and Holdings Limited to the Petitioner Company. The said contention is liable to be rejected. A scheme of arrangement approved by the High Court operates as a judgment in rem. It has statutory force and binds everyone concerned with the Company. As there is no estoppel against law, the Respondent cannot contend that he was unaware of the demerger and the arrangement.

28. Another reason to reject the contention of the Respondent that he was unaware of the composite scheme of arrangement is the finding of the arbitral tribunal at paragraph 9 of the impugned order. The learned arbitrator records

that the Respondent (claimant in the arbitration proceedings) was aware of the amalgamation and transfer of the real estate business to the Petitioner Company. The said finding is extracted below:

“9. The claimant has issued arbitration notices on 01.05.2024 in the name of M/s. IVRCL Assets and Developers Limited. **Before issuing such notice, the claimant enquired about the status of the company on 05.04.2024 with the Registrar of Companies and that he came to know about the amalgamation including the allocation of the Real Estate holdings to M/s. RIHIM Developers Limited under the scheme.** Mr. E. Sunil Reddy is the Managing Director of both M/s.IVRCL Limited as well as M/s. RIHIM Developers Limited. He was also the Managing Director of the old company M/s. IVR Prime Urban Developers Limited. (Even the tracking record discloses that the notices were delivered to the addressee.) Such being the case, merely because notices were issued in the name of M/s.IVRCLSH Holdings and Mr. E. Sunil Reddy and M/s.IVRCLAssests and Holdings Limited and Mr.E.Sunil Reddy, which was not in existence because of liquidation proceedings, cannot be a ground to contend that the notice is invalid and issued in the name of dead company.....”

29.From the above extract, it is clear that the arbitral tribunal has rendered a finding that the Respondent was aware of the composite scheme of arrangement. If that were so, the Respondent ought to have sent the notice under Section 21 of the Act, 1996, to the Petitioner Company. This indicates

that, despite being aware of the same, the Respondent issued the notice seeking reference to arbitration to a dissolved Company.

30. Once the notice under Section 21 of the Act, 1996, itself is bad in law and a nullity, all subsequent arbitral proceedings stand vitiated. As held in *Adavya* (supra), for the commencement of arbitral proceedings, the other party must receive the notice and refuse to appoint an arbitrator. Likewise, it is only when the other party fails to appoint an arbitrator that an application under Section 11 can be filed.

31. In the present case, a non-existing entity could neither have received the notice nor taken a decision regarding the appointment of an arbitrator. Therefore, no right had accrued to the Respondent to file an application under Section 11 of the Act, 1996. IVRCL Assets and Holdings Limited ceased to exist was not brought to the notice of this Court while appointing the sole Arbitrator. Therefore, we hold that the constitution of the arbitral tribunal stands vitiated.

32. It was strenuously contended by the Respondent that the Petitioner herein is the legal successor/successor Company of IVRCL Assets and Holdings Limited. It was argued that, by virtue of being a successor Company, the Petitioner is not a stranger to the proceedings and is bound by the arbitration clause. It was also contended that service upon the Petitioner must be deemed

to have been effected, as the notice was also addressed to Mr. E. Sunil Reddy, who is purportedly a director of the Petitioner Company. We reject these contentions.

33. Even if we were to accept that the Petitioner is the successor Company of IVRCL Assets and Holdings Limited, there was still non-compliance with Section 21 of the Act, 1996. The Petitioner Company is a separate legal entity and is entitled to receive a separate notice under Section 21 of the Act, 1996, before any arbitral proceedings are initiated against it.

34. The Respondent may have a right to claim against the Petitioner and a corresponding right to initiate arbitration proceedings against it. However, such right could have been enforced only by issuing a valid notice under Section 21 of the Act, 1996. It is an admitted fact that no notice under Section 21 of the Act, 1996, was issued to the Petitioner. Therefore, no arbitral proceedings can lie against it.

35. We hold that service of notice upon Mr. E. Sunil Reddy does not establish deemed service of notice upon the Petitioner. Firstly, the notices were sent to Mr. E. Sunil Reddy in his capacity as the Managing Director of IVRCL Assets and Holdings Limited, a Company that had ceased to exist. Mr. E. Sunil Reddy could not have represented a dissolved Company. Secondly, for the purpose of service of notice under Section 21 of the Act, 1996, Mr. E.

Sunil Reddy cannot be termed the “respondent.” Merely because Mr. E. Sunil Reddy was also a director of the Petitioner Company, it cannot be contended that service of notice upon the Petitioner stood deemed to have been effected. The issuance of notice under Section 21 of the Act, 1996, being a nullity, cannot be cured by contending that service shall be deemed to have been effected.

36. We would like to address the findings rendered by the arbitral tribunal in paragraphs 9 and 10. The arbitral tribunal held that a notice under Section 21 of the Act, 1996, is not required to be served upon “every single potential party (like a successor or a non-signatory).” Further, it held that the Petitioner is not merely a “group Company,” but also the legal successor of IVRCL Assets and Holdings Limited. The said findings are unsustainable.

37. Perhaps, in a case where the arbitral tribunal has been validly constituted, such tribunal may implead non-signatories on the basis of the Group of Companies doctrine. In such cases, non-issuance of a notice under Section 21 of the Act, 1996, to non-signatories may not vitiate the arbitral proceedings. In other words, the valid constitution of the arbitral tribunal is a prerequisite for the tribunal to exercise its power to implead non-signatories, even in the absence of a notice under Section 21 of the Act, 1996.

38. In the present case, the proceedings were initiated against a Company that had been dissolved. Further, this is not a case where impleadment of the Petitioner was sought. The Respondent incorrectly refers to IVRCL Assets and Holdings Limited as presently being known as Rihim Developers Pvt. Ltd. At the cost of repetition, we reiterate that IVRCL Assets and Holdings Limited was a separate Company that stood dissolved. The proceedings were initiated against IVRCL Assets and Holdings Limited. It was only after the constitution of the tribunal that the description of the respondent in the Statement of Claim was altered to state that IVRCL Assets and Holdings Limited is presently known as Rihim Developers Pvt. Ltd.

39. For the reasons stated above, we hold that the impugned order is perverse as it failed to consider that the arbitral proceedings were initiated on the basis of a notice issued to a Company which ceased to exist. As the commencement of the arbitral proceedings was against the mandate of Section 21 of the Act, 1996, the constitution of the tribunal also stood vitiated. According to us, the arbitral tribunal suffers from patent lack of inherent jurisdiction in relation to the Petitioner herein. Therefore, the impugned order dated 10.01.2026 is liable to be set aside.

38. In light of the aforesaid discussion, we hold as follows:

- i. The present civil revision petition is allowed;

- ii. The impugned order dated 10.01.2026 in I.A. No. 1 of 2025 in Arbitration Proceedings No. 4 of 2025 passed by the arbitral tribunal is set aside;
- iii. The Respondent is at liberty to initiate proceedings against the Petitioner either by issuing a fresh notice under Section 21 of the Arbitration & Conciliation Act, 1996, or under any other law.

As a sequel thereto, miscellaneous applications, if any, pending in the present revision, stand closed.

---

**K. LAKSHMAN, J**

---

**B.R. MADHUSUDHAN RAO, J**

**8<sup>th</sup> June, 2026**

Mgr