



2026:CGHC:27311

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 651 of 2026

Order reserved on 17/06/2026

Order delivered on 02/07/2026

M/s Gulab Chand Jain Through - Trihil Jain, Partner, S/o- Late Vinod Jain,
R/o- Parshwa Apartment, Chowbey Colony, Raipur (C.G.), P.S. Civil Line
District- Raipur (C.G.)

... Petitioner

versus

**1 - Municipal Corporation Raipur, The Commissioner, Municipal
Corporation, Raipur (C.G.)**

**2 - The Zonal Commissioner, Municipal Commissioner, New Head Office,
Near Gandhi Chowk, Raipur (C.G.)**

---Respondents

(Cause title taken from Case Information System)

For Petitioner	: Mr. Ramendra Kishore Prasad, Advocate
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For Respondents	: Mr. H.B. Agrawal, Senior Advocate along with Mr. Pankaj Agrawal, Advocate
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Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Order

- The present writ petition under Article 227 of the Constitution of India filed by the petitioner against the impugned order dated 09.04.2026 passed by learned Commercial Court (District Judge Level), Nava

Raipur, District Raipur, in case No. Arbitration MJC 56 of 2025, whereby the application filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 has been rejected.

2. The brief facts of the case are that, the petitioner was awarded a work contract for widening of road, construction of divider and plantation on existing road from Fafadih, Peeli Building to Mandi Road, Raipur and work order was issued on 29.08.2011. The period for completion of work was 10 months from the date of issue of work order. Since the respondents could not provided layout for work, as there were certain encroachment on both sides of road, the work could not be started for about four months and after that, only a small patch of 300 meters was provided to the petitioner. Subsequently, after about one month, another 400 meters patch was provided by the respondents and the petitioner was compelled to work in piecemeal. Looking to the conduct of the respondents, the petitioner made a request for closure of the contract under clause 18 of the agreement, but instead of closure the respondents terminated the contract on 31.10.2014 under clause 3 of the agreement. Thereafter a dispute cropped up between the parties, which was culminated in appointing the sole arbitrator to resolve the dispute. The sole arbitrator passed its arbitral award on 20.10.2024 in favour of the petitioner and awarded an amount of Rs. 2,32,11,100/- along with the interest @ 8% per annum till its actual payment. The petitioner had informed by the respondents under the provision of Section 34(5) of the Act of 1996 and Arbitration and Conciliation (Amendment) Act, 2015 that they are going to challenge the award under Section 34 of the Act of

1996, however no notice has been served upon the petitioner by the Commercial Court (District Judge Level) Nava Raipur. Since no notice was issued by the petitioner about challenge of the arbitral award, therefore, the petitioner filed an execution application before the Commercial Court (District Judge Level) Nava Raipur on 30.06.2025, which was registered as MJC No. 24 of 2025.

After service of notice in MJC No. 24 of 2025, the respondents served a notice to the petitioner on 08.09.2025 for his appearance on 10.10.2025 in an arbitration case No. 13 of 2025 before learned 9th Additional District Judge, Raipur. On 10.10.2025, the petitioner made his appearance and filed an application under Order 7 Rule 11 of CPC read with Section 3(1) of the Commercial Court Act, 2015 for dismissal of arbitration case No. 13 of 2025 for want of pecuniary jurisdiction. In reply to the application, on 29.10.2025, the respondents filed an application for transfer of arbitration case No. 13 of 2025 from the Court of 9th Additional District Judge, Raipur to the learned Commercial Court (District Judge Level) Nava Raipur enclosing a circular No. 17027/Checker/III-4-2016(Commercial Court), dated 21.12.2023, issued by the Registrar General of the Chhattisgarh High Court, Bilaspur. The learned 9th Additional District Judge, Raipur vide its order dated 21.11.2025, dismissed the application filed by the petitioner under Order 7 Rule 11 of CPC and allowed the application filed by the respondents for transfer of the arbitration case No. 13 of 2025 to Commercial Court (District Judge Level) Nava Raipur. After receiving the arbitration case No. 13 of 2025 on transfer, the learned Commercial Court (District Judge

Level) Nava Raipur continued with the proceeding under Section 34 of the Act of 1996, which has been filed by the respondents. In the proceeding, the petitioner filed an objection (I.A. No.2) before the learned Commercial Court (District Judge Level) Nava Raipur that the learned 9th Additional District Judge has no authority to transfer the MJC No. 13 of 2025 to the Commercial Court (District Judge Level) Nava Raipur as the Commercial Court (District Judge Level) Nava Raipur is notified of the schedule-III rank having pecuniary jurisdiction of more than Rs. 50 lakhs and territorial jurisdiction of entire district and thus, a superior court to the transferor court and the case cannot be transferred to such court. Instead of dismissing the arbitration application in case No. 13 of 2025, the learned 9th Additional District Judge, Raipur has transferred the arbitration case to the learned Commercial Court (District Judge Level) Nava Raipur, therefore, the transfer of the case is bad in law and the proceeding of MJC No. 13 of 2025 is liable to be quashed. The objection raised by the petitioner has been rejected by the learned Commercial Court (District Judge Level) Nava Raipur on 09.04.2026 holding that though the transfer of the present proceeding cannot strictly be construed as a transfer in terms of Section 24 of the CPC, but such transfer is necessitated under the circular dated 21.12.2023 and mandate of the Commercial Court Act, 2015 in conjunction with the notification dated 20.12.2023 issued by the State Government. The said order dated 09.04.2026 is under challenge in the present writ petition.

3. Learned counsel for the petitioner would submit that the respondents were well aware about the award dated 20.10.2024 and its value of

more than Rs. 2 crores and the learned 9th Additional District Judge, Raipur was not having pecuniary jurisdiction to decide the application under Section 34 of the Act of 1996. The learned 9th Additional District Judge, Raipur did not have pecuniary jurisdiction of more than Rs. 50 lakhs, yet they have got registered the arbitration case No. 13 of 2025, which is valued more than Rs. 2 crores. Despite knowing the jurisdiction, the respondents filed their application under Section 34 of the Act of 1996 in a wrong court without any diligence and willful violated the limitation. He would also submit that the circular dated 21.12.2023 issued by the Chhattisgarh High Court and the notification dated 20.12.2023 issued by the State Government have duly been served to the learned District and Sessions Judge, Raipur in which the pecuniary jurisdiction of schedule-II Commercial court (District Level) is mentioned as Rs. 10 lakhs to Rs. 50 lakhs including arbitration cases and the learned 2nd Additional District Judge, Raipur was designated as Commercial Court of schedule-II (which has been changed as 9th Additional District Judge, Raipur). Despite having knowledge of pecuniary jurisdiction, the respondents prosecuting the application under Section 34 of the Act of 1996. the application filed by the respondents under Section 34 of the Act of 1996 was registered on 14.01.2025, but the notice was served upon the petitioner on 08.09.2025 i.e. after the limitation of filing application under Section 34 of the Act of 1996. The petitioner was served with the notice under Section 34(5) of the Act of 1996 on 08.01.2025 and the period for disposal of such application by the concerned commercial court is expired on 07.01.2026 under the provisions of Section 34(6) of Arbitration and Conciliation

(Amendment) Act, 2015 and thus, all the recourse after 07.01.2026 has become null and void. The learned 9th Additional District Judge, Raipur instead of dismissing the application under Section 34 of the Act of 1996 for want of pecuniary jurisdiction transferred the same to the learned Commercial Court (District Judge Level) Nava Raipur. Learned 9th Additional District Judge, Raipur has no jurisdiction to transferred the application filed by the respondents and they have not mentioned any provisions of law under which they are empowered to transfer the same. If the learned 9th Additional District Judge considered that they have no pecuniary jurisdiction in the matter, they should have returned the application to the respondents for filing of the same in a court having competent jurisdiction, but has no jurisdiction to transfer it. He would further submit that the learned 9th Additional District Judge in its order dated 09.04.2026 itself observed that the present proceeding cannot strictly be construed as a transfer in terms of Section 24 of CPC, but it necessitated under the scheme and mandate under the Commercial Court (Amendment) Act, 2015. the jurisdiction to transfer in such manner is nowhere provided in the Act and therefore, the MJC No. 13 of 2025 cannot be transferred to the Commercial Court (District Judge Level) Nava Raipur and the impugned order may be set aside and the objection raised by the petitioner may be sustained.

4. On the other hand, learned counsel appearing for the respondents has objected the submissions made by learned counsel for the petitioner and would submit that, the respondents have filed their application under Section 34 of the Act of 1996 on 14.01.2025

challenging the arbitral award dated 20.10.2024. The said application was filed well within the prescribed time before the learned 9th Additional District Judge, Raipur which is a designated court for deciding the arbitration application. Though the learned 9th Additional District Judge, Raipur is not having any pecuniary jurisdiction to decide the present application and the value of the arbitral award is more than Rs. 2 crores, however considering the pecuniary jurisdiction issue, they have transferred the same to the Commercial Court (District Judge Level) Nava Raipur for its adjudication. He would also submit that, even if the learned 9th Additional District Judge, Raipur would have returned the application, the same could have been filed before the competent jurisdictional court with resorting of the provisions of Section 14 of the Limitation Act, 1963 and then the ultimate outcome would be the same, therefore, the transfer of the MJC No. 13 of 2025 would not be prejudicial to the petitioner. The learned 9th Additional District Judge, Raipur having inherent power under Section 151 of CPC and has transferred the case to the competent jurisdictional court, which does not suffer from any illegality and the writ petition is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the documents annexed with the writ petition and gone through the impugned order.
6. The main objection raised by the petitioner is that the application under Section 34 of the Arbitration and Conciliation Act, 1996 was instituted before a Court which admittedly lacked pecuniary jurisdiction inasmuch as the arbitral award exceeded Rs.2 crores

and, therefore, the application itself ought to have been rejected by the learned 9th Additional District Judge, Raipur.

7. The Commercial Court has been defined under Section 2(1)(b) of the Commercial Courts Act, 2015. According to which “Commercial Court” means the Commercial Courts shall constituted under sub-section (1) of Section 3.
8. The constitution of the Commercial Courts are governed by Section 3 of the Commercial Courts Act, 2015 and the State Government, after consultation with the High Court, may constitute Commercial Courts at District Level. Local limits of the jurisdiction of such Commercial Courts are to be determined by the State Government after consultation with the concerned High Court. It is necessary here to notice Section 3 of the Commercial Courts Act, 2015, which is as under:-

“3. Constitution of Commercial Courts.—

(1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Court Courts have ordinary

original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.

(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government may, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court either at the level of District Judge or a court below the level of a District Judge.”

9. The jurisdiction of Commercial Courts has been defined under Section 6 of the Act of 2015, which is as under:-

“6. Jurisdiction of Commercial Court.—The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the

entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).”

10. Section 10 of the Act of 2015 provided the jurisdiction in respect of the arbitration matters, which reads as under:-

“10. Jurisdiction in respect of arbitration matters.—Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where

such Commercial Division has been constituted in such High Court.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.”

11. It is also necessary to notice here the provisions of Section 12 of the Act of 2015, which provides the determination of specific value. Since, the constitution of Commercial Courts is divided for a specific value of the subject matter and pecuniary jurisdiction under Section 3 of the Commercial Courts Act, 2015, the determination of specific value is also to be taken note here, which reads as under:-

“12. Determination of Specified Value.—

(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed upto the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value; and

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;

(2) The aggregate value of the claim and counter-claim, if any as set out in the statement of claim and the counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.”

12. Since, the present dispute is about transfer of the application under Section 34 of the Arbitration and Conciliation Act, 1996, the power of transfer of pending cases are also to be considered as provided under Section 15 of the Commercial Courts Act, 2015. In the present case, on 20.12.2023, the State Government issued a notification in exercise of the power conferred by sub-section (1), (1-A), (2) and (3) of the Section 3 of Commercial Courts Act, 2015 and in consultation of High Court of Chhattisgarh and also in compliance of memo dated 20.10.2023, the State Government amends the notification dated 15.06.2016 and constituted and designated the commercial courts, which specified pecuniary jurisdiction, by which three schedules were prepared. In schedule-I, the commercial courts below the District Judge Level (Civil Judge Level) have been established, which have the pecuniary value of Rs. 3 lakhs to Rs. 10 lakhs (except arbitration cases). In schedule-II, the Commercial Courts (District Judge Level) is established, which have the pecuniary value of more than Rs. 10 lakhs up to Rs. 50 lakhs (including arbitration cases). In schedule-II, the entry No.6 relates to Raipur zone for Commercial Courts, which is as under:-

SCHEDULE – II

Commercial Court (District Judge Level)

Pecuniary value of more than Rupees 10 Lakh upto 50 Lakh
(including Arbitration Cases)

SL.	Name of the zone for Commercial Courts	Name of the court to be designated	Territorial Jurisdiction of the commercial court arising in the Civil Districts
(1)	(2)	(3)	(4)
6	Raipur	II Additional	Raipur, Balodabazar-

		District Judge, Raipur	Bhatapara, Dhamtari and Mahasamund
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13. In schedule-III, the existing Commercial Court (District Judge Level), Raipur has been mentioned, which have the pecuniary value of more than Rs. 50 lakhs (including arbitration cases).
14. From the notification dated 20.12.2023, the State Government notified three level Commercial Courts. The court of learned 2nd Additional District Judge, Raipur has been designated as Commercial Court (District Judge Level) Schedule-II having pecuniary jurisdiction of Rs. 10 lakhs to Rs. 50 lakhs and the existing Commercial Courts (District Judge Level) Raipur is designated as Commercial Courts for pecuniary value of more than Rs. 50 lakhs under schedule-III.
15. In furtherance of the notification dated 20.12.2023 issued by the State Government, the Chhattisgarh High Court, Bilaspur issued a circular endorsement No. 17027/Checker/III-4-1/2016 (Commercial Courts), Bilaspur dated 21.12.2023, whereby the notification dated 20.12.2023 issued by the State Government was forwarded to all the District and Sessions Judges including the District and Sessions Judge, Raipur with request to transfer all pending cases related to commercial disputes of specified valued as mentioned in the notification to the newly constituted and designated Commercial Courts. The relevant part of the notification dated 20.12.2023 issued by the State Government and clause 19 of the circular dated 21.12.2023 issued by the Chhattisgarh High Court, Bilaspur is quoted herein below, which are as under:-

HIGH COURT OF CHHATTISGARH, BILASPUR

Endt. No. 17027/Checker, Bilaspur, dated 21 December, 2023
III-4-1/2016 (Commercial Court)

Copy of Government Notification F. No. 14389 & 14391/3830/XXI-B/C.G./2023 dated 20-12-2023 issued by the Law Department, Government of Chhattisgarh, Atal Nagar, Nava Raipur with regard to constitute and designate of commercial Courts (i) below District Judge level (Civil Judge Level), (ii) District Judge Level and (iii) commercial Appellate Courts (District Judge level) of the State of Chhattisgarh are forwarded to :-

1 to 18. xxx

19. The District and Sessions Judge, Balod/ Balodabazar-Bhatapara/ Balrampur-Ramanujganj/ Bastar(Jagdalpur)/ Bemetara/ Bilaspur/ Dakshin Bastar (Dantewada)/ Dhamtari/ Durg/ Janjgir-Champa/Jashpur/ Kabhirdham (Kawardha)/ Kondagaon/ Korba/ Korla (Baikunthpur)/ Mahasamund/Mungeli/ Raigarh/ Raipur/ Rajnandgaon/ Surajpur/Surguja (Ambikapur)/ Uttar Bastar (Kanker) with request to transfer all pending cases related to commercial disputes of specified value as mentioned in the Notification to the newly constituted and designated Commercial courts/Commercial Appellate Courts in your respective District.”

16. The Commercial Courts Act, 2015 is a special enactment enacted with the object of ensuring speedy and specialized adjudication of commercial disputes. Section 10 thereof specifically provides that applications arising out of arbitration, including applications under Section 34 of the Arbitration and Conciliation Act, 1996 shall be heard and disposed of by the Commercial Court where the subject matter constitutes a commercial dispute of the specified value. Thus, the

jurisdiction to entertain an application under Section 34 is not determined merely by the provisions of the Arbitration and Conciliation Act but stands regulated by the Commercial Courts Act once the dispute answers the description of a commercial dispute of specified value.

17. In the present case, the State Government, in exercise of powers under Section 3 of the Commercial Courts Act and in consultation with the High Court, issued notification dated 20.12.2023 restructuring the Commercial Courts within the State and prescribing distinct pecuniary jurisdictions. Schedule-II designated the Court of the Additional District Judge as Commercial Court for disputes valued between Rs.10 lakhs and Rs.50 lakhs, whereas Schedule-III designated the Commercial Court (District Judge Level), Nava Raipur for commercial disputes exceeding Rs.50 lakhs, including arbitration matters. The subsequent circular/endorsement dated 21.12.2023 issued by the High Court directed all District Judges to ensure transfer of pending commercial matters to the newly constituted/ designated Commercial Courts in accordance with the notification. Section 18 of the Act of 2015 empowers the High Court to issue directions that it may issue practice directions to supplement the provisions of chapter-II of the Act of 2015 or the Code of Civil Procedure, 1908 insofar as such provision applied to the hearing of commercial disputes of a specified value.
18. The aforesaid notification and administrative directions were issued in implementation of the statutory mandate contained in the Commercial Courts Act, 2015. Consequently, once the revised

pecuniary jurisdiction came into force, every pending commercial dispute, including proceedings under Section 34 of the Arbitration and Conciliation Act, 1996, was required to be placed before the Commercial Court having jurisdiction under the notification. The object behind the exercise was to avoid multiplicity of proceedings and to ensure that all commercial disputes are adjudicated by the Court specifically designated by law.

19. Significantly, Section 15 of the Commercial Courts Act itself manifests the legislative policy that commercial disputes pending before ordinary civil courts are to stand transferred to the Commercial Court having jurisdiction. Though Section 15 deals with transfer of pending suits and applications upon constitution of Commercial Courts, the legislative intent underlying the provision is unmistakable, namely, that proceedings falling within the jurisdiction of the Commercial Court should continue before such Court instead of being terminated merely because they were initially instituted before another civil court. Therefore, the scheme of the Act favours continuation of proceedings before the competent Commercial Court rather than compelling the parties to institute fresh proceedings. Though Section 15 deals with transfer of pending suits and applications upon constitution or designation of Commercial Courts, the legislative policy underlying the provision is that proceedings relating to commercial disputes should not fail merely because they are pending before a Court which, after restructuring of jurisdiction, ceases to possess jurisdiction. The present transfer is in consonance with the same legislative object.

20. The submission of the petitioner that the learned 9th Additional District Judge, Raipur was required to reject or return the application instead of transmitting it to the Commercial Court cannot be accepted in the peculiar facts of the present case. The transfer did not confer jurisdiction where none existed; rather, it facilitated continuation of proceedings before the Court which alone possessed jurisdiction under the statutory notification. No adjudication on merits was undertaken by the transferor Court after noticing the pecuniary limitation. The learned 9th Additional District Judge, Raipur merely acted in aid of implementation of the statutory notification and the directions issued by the High Court.
21. The contention of the petitioner that the application filed under Section 34 of the Arbitration and Conciliation Act, 1996 ought to have been rejected under Order VII Rule 11 of the Code of Civil Procedure also does not merit acceptance. Order VII Rule 11 CPC contemplates rejection of a plaint only on the grounds specifically enumerated therein, such as where the plaint does not disclose a cause of action, is undervalued, insufficiently stamped, or where the suit appears from the statements contained in the plaint to be barred by any law. In the present case, the application under Section 34 of the Arbitration and Conciliation Act, 1996 cannot be termed as 'plaint' and it is only an application. Further, lack of pecuniary jurisdiction is not one of the grounds contemplated under Order VII Rule 11 CPC. When a proceeding is instituted before a Court lacking territorial or pecuniary jurisdiction, the appropriate course ordinarily is to return the plaint or application for presentation before the competent Court,

or where the statutory scheme so requires, to transmit the matter to the Court having jurisdiction. Therefore, merely because the application under Section 34 was initially presented before a Commercial Court not possessing the requisite pecuniary jurisdiction, the same could not have been rejected under Order VII Rule 11 CPC. Consequently, the learned 9th Additional District Judge rightly declined the petitioner's application under Order VII Rule 11 CPC and proceeded to ensure that the matter reached the competent Commercial Court in terms of the statutory notification and the administrative directions issued by the High Court.

22. The Hon'ble Supreme Court has consistently held that procedural laws are handmaids of justice and should ordinarily be interpreted so as to advance, rather than defeat, adjudication on merits. In **Salem Advocate Bar Association v. Union of India**, (2005) 6 SCC 344 the Hon'ble Supreme Court held that procedural provisions are intended to facilitate justice and should not ordinarily be construed in a manner that results in failure of justice. In paragraph 20 the Hon'ble Supreme Court held that:-

“20. The use of the word "shall" in Order 8 Rule 1 by itself is not conclusive to determine whether the provision is mandatory or directory. We have to ascertain the object which is required to be served by this provision and its design and context in which it is enacted. The use of the word "shall" is ordinarily indicative of mandatory nature of the provision but having regard to the context in which it is used or having regard to the intention of the legislation, the same can be construed as directory. The rule in question has to

advance the cause of justice and not to defeat it. The rules of procedure are made to advance the cause of justice and not to defeat it. Construction of the rule or procedure which promotes justice and prevents miscarriage has to be preferred. The rules of procedure are the handmaid of justice and not its mistress. In the present context, the strict interpretation would defeat justice.”

23. Likewise, in **State of Punjab v. Shamlal Murari**, (1976) 1 SCC 719 it was observed that procedure is meant to advance justice and not to thwart it. These principles apply with greater force where a statutory restructuring of jurisdiction necessitates continuation of proceedings before a newly designated Court.
24. The Hon’ble Supreme Court has repeatedly held that procedural law is intended to advance justice and not to defeat it. In **Sangram Singh v. Election Tribunal, Kotah**, AIR 1955 SC 425, the Court observed that procedural provisions are handmaids of justice and should ordinarily be construed so as to facilitate adjudication on merits rather than to defeat substantive rights on technical considerations. In paragraph 13, the Hon’ble Supreme Court has held that:-

“13. Now a code of procedure must be regarded as such. It is 'procedure', something, designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to 'both' sides) lest the very

means designed for the furtherance of justice be used to frustrate it.”

25. Equally relevant is the principle recognised by the Hon'ble Supreme Court in **Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department**, (2008) 7 SCC 169 wherein it was held that a litigant prosecuting proceedings before a wrong forum with due diligence should not ordinarily suffer on account of technical defects of jurisdiction and that the benefit of Section 14 of the Limitation Act is available even in proceedings arising under the Arbitration and Conciliation Act, 1996. Thus, even assuming that the application under Section 34 ought to have been presented before another Court, the legislative policy is to preserve the proceeding where the party has acted bona fide rather than render it non est on technical grounds.
26. The Hon'ble Supreme Court has repeatedly emphasized that the Commercial Courts Act, 2015 is intended to provide an efficient institutional mechanism for adjudication of commercial disputes and that its provisions must receive an interpretation consistent with that legislative object. In **Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace LLP**, (2020) 15 SCC 585, the Hon'ble Supreme Court explained the scheme of the Commercial Courts Act and observed that jurisdiction under the Act is governed by the statutory requirements relating to commercial disputes and specified value. The notifications issued under Section 3 constitute an integral part of that statutory framework.

27. In the present case, the arbitral award exceeded Rs.2 crores and, therefore, after enforcement of the notification dated 20.12.2023 and the consequential circular dated 21.12.2023, the Commercial Court (District Judge Level), Nava Raipur alone possessed pecuniary jurisdiction to decide the application under Section 34 of the Arbitration and Conciliation Act, 1996. The transmission of the proceedings by the learned 9th Additional District Judge was thus only a ministerial and procedural act undertaken for placing the matter before the Court legally empowered to adjudicate it. Such transmission neither caused prejudice to the petitioner nor resulted in assumption of jurisdiction by an incompetent Court.
28. This Court is also unable to accept the contention that absence of an express reference to Section 24 CPC or any other statutory provision renders the order without jurisdiction. The source of authority for the transfer is traceable to the statutory scheme of the Commercial Courts Act read with the notification issued by the State Government under Section 3 and the consequential administrative directions issued by the High Court for implementation thereof. The order is not an exercise of power under Section 24 CPC, but it is merely an administrative/statutory transmission in implementation of the Government Notification and High Court Circular.
29. The petitioner has also failed to demonstrate any failure of justice or prejudice occasioned by such transfer. The application under Section 34 ultimately came to be considered by the Court having lawful jurisdiction over the dispute. Interference under Article 227 of the Constitution is warranted only where there exists patent lack of

jurisdiction, perversity or manifest failure of justice. No such circumstance is made out in the present case.

30. Consequently, this Court is of the considered opinion that the order whereby the proceedings under Section 34 of the Arbitration and Conciliation Act were transmitted from the Court of the learned 9th Additional District Judge, Raipur to the Commercial Court (District Judge Level), Nava Raipur in implementation of the statutory notification dated 20.12.2023 and the High Court circular dated 21.12.2023 does not suffer from any jurisdictional infirmity warranting interference.
31. Accordingly, the writ petition, being devoid of merit, is **dismissed**.
32. No order as to costs.
33. Pending interlocutory application(s), if any, shall also stand disposed of.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved

HEAD NOTE

Procedural provisions are handmaids of justice and should be construed to facilitate adjudication on the merits rather than on technical considerations, and the provisions must receive an interpretation consistent with that legislative object.