

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ARBITRATION CASE NO OF 32 OF 2026.

**IDIEAL MULTI MEDIA NETWORK PRIVATE LIMITED (EARLIER KNOWN AS
RELIABLE MULTIMEDIA AND END PVT.**

Versus

VS. CMYK PRINTECH LIMITED.

Appearance:

Shri Arjun Bajpai - Advocate for the applicant.

Shri Omar Ahmad with Shri Harsh Khbar-Advocate for the respondent.

(O R D E R)

**(Reserved on : 15/05/2026)
(Pronounced on: 05/08/2026)**

This application under Section 11(6) of Arbitration and Conciliation Act, has been filed for appointment of arbitrator. The application has been filed, in the backdrop of the fact that both the parties, in terms of clause 9 of the agreement/ memorandum of understanding, have each appointed their arbitrators, but these two arbitrators so appointed have been unable to arrive at agreement upon the name of third and presiding arbitrator. In this backdrop, this application under Section 11(6), of Act of 1996, has been filed for before this Court.

2. It is the case of the applicant that the applicant and the respondent entered into a memorandum of understanding dated 10.03.2004. When the business in terms of the said memorandum of understanding was worked out, then, certain

dispute arose between the parties. Because of such disputes, notices were issued by the rival parties and the rival parties have appointed their respective arbitrators, but there is a deadlock as to the name of presiding arbitrator.

3. As such, there remains no dispute as to the existence of dispute, so also arbitrability of dispute and the existence of arbitration agreement. Now this court has been brought into picture in view of the deadlock that has arisen. The respective arbitrators appointed by respective parties, have remained unable to arrive at consensus and agreed name as to the third and presiding arbitrator. It is not in dispute that the applicant has appointed one Ms. Bhavana Sadho, retired District Judge, whereas the respondents have appointed Shri Justice Ram Gopal Mishra, former Acting Chief Justice of a High Court.

4. The only question that was argued by learned counsel for the applicant and by the respondent is that, whether this application is maintainable before this court and whether this court has the territorial jurisdiction to entertain this application. It was argued by the applicant side that this court has the requisite jurisdiction to entertain this application, in view of Clause 8 and 9 of the MOU, whereas, it was vehemently contended by counsel for the respondents that the jurisdiction in the present case has to be fixed as per Section 20 of Code of Civil Procedure, because the arbitration agreement does not prescribe any seat of arbitration, and therefore, in absence of the agreement comprising any jurisdiction clause or any seat of arbitration, therefore, this High Court has no jurisdiction to entertain this application.

5. To elaborate the submissions, it was vehemently contended by counsel for the applicant that the application is maintainable before this High Court, in view of Clause 8 and Clause 9 of the agreement, because Clause 8 mentions that all disputes under the MOU, shall be subject to jurisdiction of Court situated at Bhopal or New Delhi and as per Clause 9, it is laid down that the place of arbitration shall be at Delhi, or Bhopal, or as decided by the parties. It is argued that in absence of the parties arriving upon consensus for any other place, therefore the agreement clause defining the place of arbitration has to be seen, and in terms of Section 20 (1) & (2), the place of arbitration would mean the seat of arbitration, and it would be the juridical seat of arbitration. The expression “place of arbitration”, employed in Clause 9 of MOU is not mere venue of arbitration, which would be relatable to Section 20(3) of the Act of 1996. Vehement reliance on various judgment of Hon’ble Supreme Court and other high Courts was made by the counsel for the applicant to buttress his submissions.

6. *Per contra*, it was vehemently contended by the counsel for the respondent that the aforesaid Clause 9 of the MOU, does not define the seat of arbitration, and there is no determination of seat of arbitration by the aforesaid clause 9 of the MOU. It is argued that when there is no determination of seat and the jurisdiction is to be seen as per Clause 20 of CPC, then nothing has happened within the territorial jurisdiction of this court in terms of the agreement. It is further argued that in the present case if the agreement is truly interpreted, it can only be deduced that there is no designation of juridical seat in the terms and

conditions, of the MOU. The MOU was executed at Delhi and the respondent has its registered office at Delhi. The subject matter of the dispute i.e. the print ready pages were also prepared in Delhi and sent to the applicant from Delhi, though the same were sent to and delivered at Bhopal. Therefore, applying Section 20 of CPC, the matter is cognizable only by the concerned court having jurisdiction over New Delhi.

7. Learned counsel for the respondent has vehemently relied on the judgment of Hon'ble Supreme Court in the case of *Ravi Ranjan Developers v. Ravi Kumar Chatterjee, (2022) SCC OnLine SC 568* to argue that it is essential for the seat of arbitration to be located in a particular State for the High Court of that State to exercise jurisdiction under Section 11 of the Act of 1996. Since there is no agreement between the parties, fixing seat of arbitration at any place within the territory of State of Madhya Pradesh, therefore, this court does not have jurisdiction to entertain this application.

8. It is argued that the arbitration clauses in the judgments relied by the counsel for the applicant are totally different from the arbitration clause in the present case and it is akin to the arbitration clause in the case of *Ravi Ranjan (supra)*. Therefore, it is contended that this court should follow the ratio laid down in the case of *Ravi Ranjan (supra)* and dismiss the application for want of jurisdiction.

9. This court has heard learned counsel for the rival parties and perused the record.

10. The agreement in this case was for publishing and circulating "Pioneer" newspaper at Bhopal and the present applicant was a franchisee of respondent,

which is the parent company publishing Pioneer newspaper and the respondent was to send print-ready pages to Bhopal. Before printing of these pages, the applicant franchisee was required to send the local news items collected by reporters at Bhopal. These reporters were to be employed by the applicant and then the print-ready pages were to be prepared at Delhi and sent from Delhi to Bhopal to be circulated at Bhopal. Some of the pages had to carry local news and the rest of the pages were to be same as New Delhi edition of Pioneer newspaper.

11. The questioned clauses 8 and 9 of the MOU are relevant for the purpose of adjudication of this application, and are as under:-

“8. That, any dispute under this memorandum of understanding shall be subject to the jurisdiction of the courts situated at Bhopal or New Delhi only.

9. Any dispute under this memorandum of understanding shall be resolved by way of arbitration. Each party shall nominate its own arbitrator and the arbitrators thus nominated shall appoint the Presiding Officer of the Arbitral Tribunal. The provisions of Arbitration and Conciliation Act 1990 shall apply to the arbitration proceedings. The place of arbitration shall be at Delhi or Bhopal or as decided by the parties. “

12. As per clause 8, it is laid down that the dispute under the MOU shall be subject to jurisdiction of the court at Bhopal or New Delhi only. Therefore, the aforesaid clause restricts the jurisdiction to the courts at Bhopal or New Delhi. In the same breath, clause 9 provides that the place of arbitration shall be New Delhi or Bhopal or as decided by the parties. The aforesaid clause is to be interpreted by this court as to whether it amounts to fixation of seat of arbitration in terms of Section 20(1) or that it simply amounts to fixation of venue which may

be New Delhi or Bhopal, or as decided by the parties. Therefore, it is to be seen that whether aforesaid clause 9 is only fixation of venue as per Section 20(3) or it is fixation of seat as per Section 20(1) of the Act of 1996. It is also clear that whether if the aforesaid clause fixes the seat, then application for appointment would lie either at New Delhi or Madhya Pradesh. However, if the aforesaid clause does not fix the seat of arbitration, then it would be a case where there is no fixation of seat of arbitration by the agreement. Then it would have to be seen that whether as per section 20 CPC, the application is maintainable in Madhya Pradesh, or not.

13. The Constitution Bench of the Hon'ble Supreme Court in the case of ***Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc., (2012) 9 SCC 552***, had the occasion to consider in detail the difference between “seat” and “venue” as dealt with in the Act of 1996. In the aforesaid judgment, the Hon'ble Supreme Court held as under:-

“70. Whilst interpreting the provisions of the Arbitration Act, 1996, it is necessary to remember that we are dealing with the Act which seeks to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards. The aforesaid Act also seeks to define the law relating to conciliation and for matters connected therewith or incidental thereto. It is thus obvious that the Arbitration Act, 1996 seeks to repeal and replace the three pre-existing Acts i.e. the Arbitration Act, 1940, the Arbitration (Protocol and Convention) Act, 1937 and the Foreign Awards (Recognition and Enforcement) Act, 1961. Section 85 repeals all the three Acts. Earlier the 1937 Act catered to the arbitrations under the Geneva Convention. After the 1958 New York Convention was ratified by India, the 1961 Act was passed. The domestic law of arbitration had remained static since 1940. Therefore, the Arbitration Act, 1996 consolidates the law on domestic arbitrations by incorporating the provisions to expressly deal with the domestic as well as international commercial arbitration by taking into account the 1985 Uncitral Model Laws. It is not confined to the New York Convention, which is concerned only with enforcement of certain foreign awards. It is also necessary to appreciate that the Arbitration Act, 1996 seeks to remove the anomalies that existed in the Arbitration Act, 1940 by introducing provisions based on the Uncitral Model Laws, which deals with international commercial

arbitrations and also extends it to commercial domestic arbitrations. *Uncitral Model Law* has unequivocally accepted the territorial principle. Similarly, the *Arbitration Act, 1996* has also adopted the territorial principle, thereby limiting the applicability of Part I to arbitrations, which take place in India.

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98. We now come to Section 20, which is as under:

“20. Place of arbitration.—(1) The parties are free to agree on the place of arbitration.

(2) Failing any agreement referred to in sub-section (1), the place of arbitration shall be determined by the Arbitral Tribunal having regard to the circumstances of the case, including the convenience of the parties.

(3) Notwithstanding sub-section (1) or sub-section (2), the Arbitral Tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.”

A plain reading of Section 20 leaves no room for doubt that where the place of arbitration is in India, the parties are free to agree to any “place” or “seat” within India, be it Delhi, Mumbai, etc. In the absence of the parties’ agreement thereto, Section 20(2) authorises the tribunal to determine the place/seat of such arbitration. Section 20(3) enables the tribunal to meet at any place for conducting hearings at a place of convenience in matters such as consultations among its members for hearing witnesses, experts or the parties.

99. The fixation of the most convenient “venue” is taken care of by Section 20(3). Section 20, has to be read in the context of Section 2(2), which places a threshold limitation on the applicability of Part I, where the place of arbitration is in India. Therefore, Section 20 would also not support the submission of the extra-territorial applicability of Part I, as canvassed by the learned counsel for the appellants, so far as purely domestic arbitration is concerned.

100. True, that in an international commercial arbitration, having a seat in India, hearings may be necessitated outside India. In such circumstances, the hearing of the arbitration will be conducted at the venue fixed by the parties, but it would not have the effect of changing the seat of arbitration which would remain in India. The legal position in this regard is summed up by Redfern and Hunter, *The Law and Practice of International Commercial Arbitration* (1986) at p. 69 in the following passage under the heading “The Place of Arbitration”:

“The preceding discussion has been on the basis that there is only one ‘place’ of arbitration. This will be the place chosen by or on behalf of the parties; and it will be designated in the arbitration agreement or the terms of the reference or the minutes of proceedings or in some other way as the place or ‘seat’ of the arbitration. This does not mean, however, that the Arbitral Tribunal must hold all its meetings or hearings at the place of arbitration. International commercial arbitration often involves people of many different nationalities, from many different countries. In these circumstances, it is by no means unusual for an Arbitral Tribunal to hold meetings—or even hearings—in

a place other than the designated place of arbitration, either for its own convenience or for the convenience of the parties or their witnesses.... It may be more convenient for an Arbitral Tribunal sitting in one country to conduct a hearing in another country—for instance, for the purpose of taking evidence.... In such circumstances, each move of the Arbitral Tribunal does not of itself mean that the seat of arbitration changes. The seat of the arbitration remains the place initially agreed by or on behalf of the parties.”

This, in our view, is the correct depiction of the practical considerations and the distinction between “seat” [Sections 20(1) and 20(2)] and “venue” [Section 20(3)]. We may point out here that the distinction between “seat” and “venue” would be quite crucial in the event, the arbitration agreement designates a foreign country as the “seat”/“place” of the arbitration and also selects the Arbitration Act, 1996 as the curial law/law governing the arbitration proceedings. It would be a matter of construction of the individual agreement to decide whether:

- (i) the designated foreign “seat” would be read as in fact only providing for a “venue”/“place” where the hearings would be held, in view of the choice of the Arbitration Act, 1996 as being the curial law, or*
- (ii) the specific designation of a foreign seat, necessarily carrying with it the choice of that country's arbitration/curial law, would prevail over and subsume the conflicting selection choice by the parties of the Arbitration Act, 1996.”*

14. Subsequently, the matter was considered by the Hon’ble Supreme Court in the case of **BGS SGS SOMA JV v. NHPC, (2020) 4 SCC 234**, wherein the Hon’ble Supreme Court has held that designation of a place of arbitration, even if mentioned as venue of arbitration, renders the said place the juridical seat of arbitration in absence of any significant contrary circumstances or intention of the parties. The Hon’ble Apex Court has held as under:-

“ 60. The judgments of the English courts have examined the concept of the “juridical seat” of the arbitral proceedings, and have laid down several important tests in order to determine whether the “seat” of the arbitral proceedings has, in fact, been indicated in the agreement between the parties. The judgment of Cooke, J., in Shashoua [Shashoua v. Sharma, 2009 EWHC 957 (Comm) : (2009) 2 Lloyd's Law Rep 376] , states:

“34. London arbitration is a well-known phenomenon which is often chosen by foreign nationals with a different law, such as the law of New York, governing the substantive rights of the parties. This is because of the legislative framework and supervisory powers of the courts here which many parties are keen to adopt. When therefore there is an express designation of the arbitration venue as London and no designation of any alternative place as the seat, combined with a supranational body of rules governing the arbitration and no other significant contrary indicia, the

inexorable conclusion is, to my mind, that London is the juridical seat and English Law the curial law. In my judgment it is clear that either London has been designated by the parties to the arbitration agreement as the seat of the arbitration, or, having regard to the parties' agreement and all the relevant circumstances, it is the seat to be determined in accordance with the final fall back provision of Section 3 of the Arbitration Act."

61. *It will thus be seen that wherever there is an express designation of a "venue", and no designation of any alternative place as the "seat", combined with a supranational body of rules governing the arbitration, and no other significant contrary indicia, the inexorable conclusion is that the stated venue is actually the juridical seat of the arbitral proceeding.*

63. *The Court in Enercon GmbH [Enercon GmbH v. Enercon (India) Ltd., 2012 EWHC 689 (Comm) : (2012) 1 Lloyd's Rep 519] began its discussion on the "seat" of the arbitration by referring to Shashoua [Shashoua v. Sharma, 2009 EWHC 957 (Comm) : (2009) 2 Lloyd's Law Rep 376] , and then referring to "The Conflict of Laws", Dicey, Morris & Collins, 14th Edn. as follows:*

"58. Moreover, as Cooke, J. noted, this conclusion is consistent with the views expressed in The Conflict of Laws, Dicey, Morris & Collins, 14th Edition at ¶16-035 where the authors state that the seat "is in most cases sufficiently indicated by the country chosen as the place of the arbitration. For such a choice of place not to be given effect as a choice of seat, there will need to be clear evidence that the parties ... agreed to choose another seat for the arbitration and that such a choice will be effective to endow the courts of that country with jurisdiction to supervise and support the arbitration".

59. Apart from the last sentence in Clause 18.3 (i.e. "The provisions of the Indian Arbitration and Conciliation Act, 1996 shall apply"), it seems to me that the conclusion that London is the "seat" of any arbitration there-under is beyond any possible doubt. Thus, the main issue is whether this last sentence is to be regarded as "significant contrary indicia" (using the language of Cooke, J.) so as to place the "seat" of the arbitration in India. A similar issue was considered by Saville, J. in Union of India v. McDonnell Douglas [Union of India v. McDonnell Douglas Corp., (1993) 2 Lloyd's Rep 48] which, of course, pre-dates the English 1996 Act. The arbitration agreement in that case provided as follows: "In the event of a dispute arising out of or in connection with this agreement...the same shall be referred to an Arbitration Tribunal...The arbitration shall be conducted in accordance with the procedure provided in the Indian Arbitration Act of 1940 or any enactment or modification thereof. The arbitration shall be conducted in the English language...The seat of the arbitration proceedings shall be London, United Kingdom." Saville, J. expressed the view that the arguments on both sides were "finely balanced" but in effect concluded that the reference to the Indian Arbitration Act, 1940 did not have the effect of changing the "seat" of the arbitration designated by the parties. Rather, the phrase referring to the 1940 Act was to be reconciled with the rest of the clause by reading it as referring to the internal conduct of the arbitration as opposed to the external supervision of the arbitration by the courts."

(emphasis supplied)

82. *On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being*

the “venue” of the arbitration proceedings, the expression “arbitration proceedings” would make it clear that the “venue” is really the “seat” of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a whole, including the making of an award at that place. This language has to be contrasted with language such as “tribunals are to meet or have witnesses, experts or the parties” where only hearings are to take place in the “venue”, which may lead to the conclusion, other things being equal, that the venue so stated is not the “seat” of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral proceedings “shall be held” at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a “venue” and not the “seat” of the arbitral proceedings, would then conclusively show that such a clause designates a “seat” of the arbitral proceedings. In an international context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that “the venue”, so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the “stated venue”, which then becomes the “seat” for the purposes of arbitration.”.

15. In the case of ***Indus Mobile Distribution (P) Ltd. v. Datawind Innovations (P) Ltd.***, (2017) 7 SCC 678, it has been held by Hon’ble Apex Court that once a seat is designated by the parties, then it becomes like exclusive jurisdiction clause and the court of that seat alone can have a jurisdiction to entertain applications concerning the arbitral proceedings.

16. Recently, in the case of ***Arif Azim Co. Ltd. v. Micromax Informatics FZE***, (2025) 9 SCC 750, it has been held as under:-

“77.4. The moment “seat” is determined, it would be akin to an exclusive jurisdiction clause whereby only the jurisdictional courts of that seat alone will have the jurisdiction to regulate the arbitral proceedings. The notional doctrine of concurrent jurisdiction has been expressly rejected and overruled by this Court in its subsequent decisions.

77.5. The “Closest Connection Test” for determining the seat of arbitration by identifying the law with which the agreement to arbitrate has its closest and most real connection is no longer a viable criterion for determination of the seat or situs of arbitration in view of the Shashoua Principle. The seat of arbitration cannot be determined by formulaic and unpredictable application of choice of law rules based on abstract connecting factors to the underlying contract. Even if the law governing the contract has been expressly stipulated, it does not mean that the law governing the arbitration agreement and by extension the seat of arbitration will be the same as the *lex contractus*.

77.6. The more appropriate criterion for determining the seat of arbitration in view of the subsequent decisions of this Court is that where in an arbitration agreement there is an express designation of a place of arbitration anchoring the arbitral proceedings to such place, and there being no other significant contrary indicia to show otherwise, such place would be the “seat” of arbitration even if it is designated in the nomenclature of “venue” in the arbitration agreement.

77.8. Merely because the parties have stipulated a venue without any express choice of a seat, the courts cannot sideline the specific choices made by the parties in the arbitration agreement by imputing these stipulations as inadvertence at the behest of the parties as regards the seat of arbitration. Deference has to be shown to each and every choice and stipulations made by the parties, after all, the courts are only a conduit or means to arbitration, and the sum and substance of the arbitration is derived from the choices of the parties and their intentions contained in the arbitration agreement. It is the duty of the court to give weight and due consideration to each choice made by the parties and to construe the arbitration agreement in a manner that aligns the most with such stipulations and intentions.

77.9. We do not for a moment say that, the Closest Connection Test has no application whatsoever, where there is no express or implied designation of a place of arbitration in the agreement either in the form of “venue” or “curial law”, there the closest connection test may be more suitable for determining the seat of arbitration.

77.10. Where two or more possible places that have been designated in the arbitration agreement either expressly or impliedly, equally appear to be the seat of arbitration, then in such cases the conflict may be resolved through recourse to the doctrine of forum non conveniens, and the seat be then determined based on which one of the possible places may be the most appropriate forum keeping in mind the nature of the agreement, the dispute at hand, the parties themselves and their intentions. The place most suited for the interests of all the parties and the ends of justice may be determined as the “seat” of arbitration.”

17. In the present case, so far as the dual places of arbitration are concerned, the MOU does indicate that courts at Bhopal or New Delhi shall have the jurisdiction and the place shall be Delhi or Bhopal, or as decided by the parties. No different decision has been taken by the parties and therefore, the position remains that now the seat of arbitration is Delhi or Bhopal and the High Courts exercising jurisdiction over Delhi as well as over Madhya Pradesh would therefore have jurisdiction to entertain this application under Section 11(6).

18. The learned counsel for the respondents has heavily relied on judgment in the case **Ravi Ranjan (supra)**, however, In the considered opinion of this court, the aforesaid judgment would not apply to the facts of the present case because in the

said case, the relevant clause was that the sitting of the arbitral tribunal shall be at Kolkata. The Hon'ble Apex Court in para 48 of the aforesaid judgment held that it can be gathered by the clause of agreement that the parties intended to agree to refer their disputes to the jurisdiction of courts at Kolkata and it does not appear to be the intention of the parties that the seat of arbitration should be Kolkata and Kolkata only appears to be the venue of arbitration in the case.

19. There is a drastic difference in the terminology employed in the clause considered by the Hon'ble Supreme Court in the case of *Ravi Rajan (supra)* where it was related to "sitting of the Tribunal", whereas in the present case clause 9 of the MOU refers to "place of arbitration". It does not relate to place of meeting of arbitration tribunal or the place of sitting of arbitration Tribunal, but it refers to the place of arbitration.

20. Once clause 9 of the MOU in the present case refers to place of arbitration, therefore it would become the juridical seat in view of Section 20 of the Act of 1996 and hence, in terms of judgment of the Constitution Bench in the case of *BALCO (supra)*, the proceedings are maintainable before the Madhya Pradesh High Court.

21. As no other disputes have been raised as to the arbitrability of the dispute and existence of arbitration agreement, therefore, this court deems it fit to appoint a sole arbitrator to adjudicate upon the disputes arising between the parties.

22. Accordingly, this court appoints *Shri Justice Sujoy Paul, Former Chief Justice, Calcutta High Court*, presently at Jabalpur (MP), as the sole Arbitrator to

adjudicate upon the disputes arising between the parties from the MOU in question.

23. The ***Registrar (Judicial-I)*** shall obtain the necessary consent and disclosure of **Shri Justice Sujoy Paul**, and if the necessary consent and disclosure is not received within 15 days, then this case shall be listed before the Court for “directions” on 31.08.2026. If the necessary consent and disclosure is received, then the case shall be treated as disposed of otherwise the case shall be listed on 31.08.2026 under the caption “directions”.

24. The parties shall appear before the learned arbitrator on 01.9.2026 and shall thereafter appear before him on such further dates as may be fixed by the arbitrator in that regard.

25. The application is ***disposed of***.

(VIVEK JAIN)
JUDGE

MISHRA