

[2023 LiveLaw \(SC\) 828](#)

**IN THE SUPREME COURT OF INDIA**

***D.Y.CHANDRACHUD; CJI., SANJAY KISHAN KAUL; J., SANJIV KHANNA; J., B.R. GAVAI; J., SURYA KANT; J.***  
**CURATIVE PETITION (C) No.44/2023 In R.P.(C) No.704/2021 In C.A. No.1599/2020; 26-09-2023**

**M/S. BHASKAR RAJU AND BROTHERS & ANR.**

*versus*

**M/S. DHARMARATNAKARA RAI BAHADUR ARCOT NARAINSWAMY MUDALIAR CHATTRAM  
OTHER CHARITIES & ORS.**

**Arbitration - Is an Arbitration Clause in an unstamped agreement enforceable?  
Supreme Court Refers *N.N. Global Mercantile Pvt. Ltd. v. Indo Unique Flame Ltd;*  
[2023 LiveLaw \(SC\) 343](#) to a Seven-Judge Bench.**

(Arising out of impugned final judgment and order dated 20-07-2021 in R.P.(C) No.704/2021 14-02-2020 in C.A. No.1599/2020 passed by the Supreme Court of India)

(With IA No.168032/2023 - INTERVENTION APPLICATION and IA No.194554/2023 - RECALLING THE COURTS ORDER) WITH ARBITRATION CASE (C) No.25/2023 (PIL-W)

*For Petitioner(s) Mr. Arvind P. Datar, Sr. Adv. Mr. Nikhil Sakhardande, Sr. Adv. Mr. Jayant Mehta, Sr. Adv. Mr. Debesh Panda, AOR Ms. Amrita Panda, Adv. Mr. Naman Maheshwari, Adv. Ms. Snehal Maheshwari, Adv. Ms. Payal Chawla, Adv. Ms. Hina Shaheen, Adv. Mr. Rameshwar Totala, Adv. Mr. Rahul Totala, Adv. Mr. Garv Malhotra, Adv. Mr. Siddharth Sijoria, Adv. Mr. Udit Dedhiya, Adv. Ms. Anu Shrivastava, Adv. Mr. Pratyush Miglani, Adv. Mr. Udbhav Gady, Adv. Mr. Sri Aditya Kumar, Adv. Arb.Pet(C) 25/2023 Mr. P.V. Dinesh, Adv. Mr. Asav Rajan, Adv. Mr. Soayib Qureshi, AOR*

*For Respondent(s) Mr. Shyam Divan, Sr. Adv. Mr. Nikhil Nayyar, Sr. Adv. Ms. Pritha Srikumar, AOR Mr. Sulabh Rewari, Adv. Mr. Divyanshu Rai, Adv. Mr. Rongon Choudhury, Adv. Mr. Atharv Gupta, Adv. Arb.Pet(C) 25/2023 Mr. Ravi Raghunath, AOR Ms. Aakash Lodha, Adv. Mr. Dhanaram Ramachandran, Adv. CuPC 44/2023 Mr. Abir Phukan, Adv. Mr. V. Shyamohan, Adv. Ms. Eshita Baruah, Adv. Mr. Vedant Goel, Adv. Ms. Swechha Chettri, Adv. M/s. Kmnp Law Mr. Gourab Banerji, Sr. Adv. Mr. S.P. Mukherjee, Adv. Mr. Mohit Pandey, Adv. Mr. T.S. Sundaram, Adv. Mr. Rakesh Talukdar, Adv. Mr. Venkata Supreeth, Adv. Mr. Arvind Verma, Sr. Adv. Ms. Rooh-e-Hina Dua, Adv. Mr. Harshit Khanduja, Adv. Mr. Pratham Mehrota, Adv. Mr. George Pothan Poothicote, Adv. Ms. Jyoti Singh, Adv. Ms. Manisha Singh, Adv. Mr. Ashu Pathak, Adv. Mr. Saurav Agrawal, Adv. Mr. Anshuman Chowdhary, Adv. Ms. Kavya Pahwa, Adv. Mr. Ajay Sharma, Adv. Ms. Devpriya Singh, Adv. Mr. Yash Saxena, Adv. Mr. Kunal Vajani, Adv. Ms. Simran Brar, Adv. Ms. Sanya Dua, Adv. Ms. Apoorva, Adv. M/s. Karanjawala & Co. Mr. Tejas Karia, Adv. Ms. Shruti Sabharwal, Adv. Ms. Vrinda Pareek, Adv. Mr. Sanyat Lodha, Adv. Mr. Ankur Kashyap, Adv. Mr. Ajith S. Rangnathan, Adv. Mr. Rohit Rajershi, Adv. Mr. Aman Bajaj, Adv.*

**ORDER**

- 1 Notice has been issued in the Curative Petition on 18 July 2023.
- 2 Having regard to the larger ramifications and consequences of the view of the majority in ***N N Global Mercantile Private Limited vs Indo Unique Flame Limited and Others***<sup>1</sup>, we are of the considered view that the proceedings should be placed before a seven-Judge Bench to reconsider the correctness of the view of the five-Judge Bench.
- 3 The proceedings shall be listed for hearing on 11 October 2023 before a seven-Judge Bench.
- 4 A compilation containing the submissions/documents of Mr Arvind Datar, Mr Gaurab Banerjee, Mr Ramesh Singh, Mr Shyam Divan, senior counsel and Mr Debesh Panda, Mr Shadan Farasat, Mr Kunal Vajani and Ms Pritha Srikumar has already been filed.
- 5 In order to facilitate the submissions before the seven-Judge Bench, it has been agreed that Mr Debesh Panda and Ms Pritha Srikumar, counsel shall act as the nodal

<sup>1</sup> (2023) 7 SCC 1

counsel. They shall put together a common compilation of the submissions, pleadings, documents and precedents in terms of the Circular dated 22 August 2023 issued for regulating the course of submissions in larger Bench cases. This exercise shall be completed on or before 6 October 2023. The common compilation shall be made available to all the parties. The compilation shall be exclusively in the electronic form and shall be emailed to cmvc.dyc@gmail.com.

**6** The petitioners who are seeking a reconsideration of the decision in ***N N Global Mercantile Private Limited*** (*supra*) shall conclude their arguments in the first session on 11 October 2023. The respondents would be at liberty to respond in the second session so that arguments are concluded on the same day.

**7** Mr Shyam Divan, senior counsel appearing on behalf of the first, second and fourth respondents in the Curative Petition has expressed his concern during the course of his preliminary submission that his case should not be reopened on facts. This aspect will be duly borne in mind in arriving at a final conclusion of the proceedings before the seven-Judge Bench.

**8** List the matters on 11 October 2023 at 10.30 am.

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