

INDIA ADR WEEK DAY 3: MUMBAI

07:30 PM To 08:00 PM IST

Keynote Address By

Hon'ble Smt. Justice Revati Mohite Dere

Judge, Bombay High Court

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1 **HOST:** Can I please ask everyone's attention? I request you all to be kindly seated. Before we
2 begin, I would like to invite Ashish Kabra who leads the Disputes India practice for Nishith
3 Desai Associates, on the stage. Thank you.

4 **ASHISH KABRA:** Thank you. Good evening, everyone. I'll keep this brief. I recognize we
5 have Honourable Justice Dere and others in the room, and everybody is keen to hear their
6 views. And I must warn the judges that after you, there are dreams to follow. So I'm here
7 quickly to talk about two things. First as part of the IPBA Committee and there and as a Chair
8 of the Scholarship Committee, please, within your law firm and community, please spread the
9 word. Ask your junior lawyers to apply for that scholarship program. Once they get in, it's a
10 complete waiver off the conference fee, and also any travel related and stay related expenses.
11 So it's a good way for every junior member to get integrated into that platform. And the second
12 thing over here is for me to introduce the survey, which can be accessed by scanning that QR
13 Code on the screen.

14 Now, I have spent last six years in Singapore dealing with Indian disputes being resolved in
15 foreign jurisdiction, and as a consequence of that I'm always been on the receiving end of
16 questions from lawyers outside what's happening with the Indian Dispute Resolution
17 Framework. And I am at the one at pains of explaining what is going on. But at the same time,
18 I always endeavour to tell them that please recognize the diversity of disputes that an Indian
19 Court deals with, and please see it from that lens. And once you see that, you automatically
20 sort of put in perspective all the judgments and approach that you see from the courts in India,
21 which in their own right, a fairly well recognized are very well nuanced and advanced.

22 I also am happy to inform everyone outside that there's a healthy competition which is
23 developing within the Indian cities as well to be the preferred choice for the seat of the
24 Arbitration . We do recognize that there are certain fallacies. Sometimes the discussion focus
25 is there, we continue on that path. That said, that also speaks of our humility that we are happy
26 to speak on those subjects, however, with whichever gusto that we feel like at our own
27 individual ends. That said, we feel that the discussion should also move towards what we can
28 do to improve the overall framework. We've obviously spent time in a lot of these jurisdictions
29 outside, and having been spending time on the ground in those areas picked up a few things
30 that they are doing which are new and good, which we can also look at. And to sort of ensure
31 that we move the conversation in this direction and to start thinking of those issues, we have
32 formulated an India ADR Week Survey 2025, which we invite everybody to fill and share their
33 views on that. Once we do that we will probably use this and also reach out to the government
34 and Arbitral institutions alike to sort of use these results in their thought process, in their
35 decision making, in terms to see how we formulate our laws as we move forward. So, yes, I

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1 promise to keep this short. That was my little discussion or things that I wanted to share with
2 you, and that's about it. Thank you.

3 **HOST:** Thank you, Ashish. A very warm welcome to Honourable Justice Revati Dere. We are
4 extremely honoured to have your presence here. I would now like to request Mr. Milind Sathe,
5 MCIA Council Member to come on stage to introduce the Judge. Thank you

6 **MILIND SATHE:** Good evening, everyone and welcome to this ADR Week of MCIA. Before
7 I go to my task, let me say a few things about MCIA, which of course all of you are familiar.
8 But one thing, MCIA is completing ten years now and we had a Council meeting this evening,
9 and I'm glad to inform you all that in last ten years, MCIA had done 200 Arbitration s over a
10 period of ten years. MCIA Arbitration Agreement is being incorporated in large number of
11 Arbitration agreements of private sector as well as public sector. And in the field of Arbitration
12 , the work done by MCIA is something remarkable and amazing. In the field of Arbitration in
13 India, despite the fact that Government is promoting Arbitration , the courts are going out of
14 their way to promote ADR. Section 5 of Arbitration Act provides for least interference of codes
15 in arbitral proceedings. Yet there is scepticism about Arbitration , border-lining almost on
16 cynicism about the arbitral disputes because Arbitration is considered as a pre-litigation stage
17 because the litigation begins after Arbitration . And that is what is required to be changed, and
18 that's what MCIA is committed to.

19 Now, this ADR week is developing or developing the ideas to achieve that goal. This evening
20 we are lucky to have Justice Revati Mohite Dere to deliver keynote address. Justice Dere is one
21 of the senior most judges of Bombay High Court and one of the senior-most lady judges in
22 India. Justice Dere has several firsts to her credit. The first one is that she is the first batch of
23 five year law course ever introduced in India from Symbiosis Law College in Pune which she
24 completed with first class ranking, the University of Pune. Then she went on to pass her LLM
25 from Cambridge University and came back to India to start practice with her father a Senior
26 Advocate from Pune, Mr. Vijayrao Mohite. I have a fond memory of Vijayrao Mohite because
27 my *sanad* is issued under his signature. So that's my relation with her father. Very fond
28 relationship. Then, of course, she came to Mumbai to practice in the High Court and she joined
29 the chambers of late Mr. Raja Bhosle, who was the former Judge of Bombay High Court and
30 former Advocate General of Maharashtra. Her chamber has produced several judges of the
31 High Court and not to miss the present Chief Justice of India, Justice Bushan Gavai is a
32 chamber colleague.

33 As a judge she displays the personification of justice and empathy and compassion. The
34 diverse subjects on which she has either authored the judgments or she has been part of the

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benches which has delivered those judgments range on variety of subjects. They range from personal liberty under Article 21, the excessive, the atrocities... Not atrocities. Excesses done by the investigating agencies, investigations at unearthly hours, the lookout notices issued without following procedures, following due process of law etc., are various subjects she has dealt with. The interesting case of last year when one elephant was sent from Jain Ashram in Kolhapur for his care, and the judgment delivered by her said that the animals also have rights and their rights are predominant over religious sentiments, etc. Of course, that elephant called Mahadevi is still in news again for different reasons.

Her judgments also range on variety of subjects relating to women, children, social justice, etc. She has been author of judgments and part of the judgments in respect of Arbitration law also in relation to the lifting of corporate veil even during the execution of arbitral awards, as well as the proceedings, termination of proceedings before the Arbitrator, what are the consequences of that. So we have Justice Dere this evening with us to deliver the keynote address who has varied experience, large experience of 13 years as a judge of the Bombay High Court and the wealth of judgments which she has delivered and has been part of the judgments over the last 13 years in the Bombay High Court. So, we are very glad to welcome Justice Revati Mohite Dere in our midst this evening. Thank you.

JUSTICE REVATI MOHITE DERE: All of you will just have to excuse my voice, because at least I'm able to speak today. So, the words of the late Shri Fali Nariman, one of India's greatest champions of Arbitration, resonate deeply as we gather here today. He so aptly observed, and I quote, "In the end the question is not whether Arbitration works, but whether it works well enough to inspire confidence." He firmly believed that Arbitration is not merely a mechanism. It is, at its core, a matter of trust, efficiency and credibility.

Let me begin with a brief anecdote. When Justice B.N. Srikrishna chaired the Arbitration Review Committee in 2017, he often recounted how Indian parties, despite having access to domestic institutions, would choose to arbitrate in London, Singapore or Paris. His rhetorical question was simple - Why should an Indian businessman have to cross the seas to resolve the dispute between two Indian entities governed by Indian law? That question remains relevant today as it was then, and it captures the essence of our topic this evening. In fact it was precisely this reality, the exodus of Indian disputes to foreign arbitral seats that prompted the vision for strong domestic, arbitral institutions such as the Mumbai Centre for International Arbitration, Delhi International Arbitration Centre and Bangalore International Arbitration Centre. Institutions like these attempt to reverse this trend and to reclaim confidence in India as a credible seat of Arbitration.

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My esteemed brothers present here today, Justice Sujata Manohar, senior advocates, distinguished guests who have come from all over the world, law firm partners, in-house counsel, office bearers MCIA, all the participants, ladies and gentlemen, a very good evening to all of you. It is indeed a great pleasure and an honour to be here today at this august gathering to deliver the keynote address on India's tryst with Arbitration towards a global hub or still in transition at this fifth India Dispute Resolution Week here in Mumbai. My heartfelt thanks to the organizers of this flagship event, which has, over the years become a vital platform for dialogue on India's evolving role in shaping Global Dispute Resolution. Conferences such as these not only create space for reflection, but also helps us collectively assess where India stands, where it aspires to go, and what roadblocks it must overcome in the Arbitration journey.

I also take this opportunity to congratulate the MCIA for the commendable work that it is doing. I had the opportunity of going through the MCIA's Annual Report 2024, and the numbers tell a remarkable story. From just seven case filings in 2018-2019, to 34 filings in 2024, the MCIA has witnessed an impressive increase in the case load. The average dispute value in 2024 was around Rs. 97 crores, while the total value of disputes for matters received in 2024 was Rs. 2180 crores. But beyond the numbers what is truly heartening is:

- 1) when 91% of the awards were delivered in 18 months;
- 2) not a single MCIA administered award has been set aside so far.

And in a landmark ruling, even the Dubai International Financial Centre, DIFC Court, an MCIA award. This development is particularly significant because enforcement by the DIFC Court, a leading international commercial court in the Middle East, signals global recognition of the credibility of the MCIA awards.

Much like Singapore, gained prominence when foreign awards began recognizing SIAC awards, and London strengthened its position when England seated awards were readily enforced across jurisdictions, India too, is now witnessing the beginning of this international validation.

- 3) 91% of the MCIA administered matters arose from contracts containing an organic MCIA Arbitration Clause.
- 4) And lastly, we are also witnessing greater representation of women arbitrators, which is around 32%. And yes, MCIA has admitted 463 new young members in 2024. It truly is a step in the right direction.

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To me these are not just statistics, but they are a statement of credibility, reflecting the growing trust in India's arbitral institutions. Numbers may impress but credibility sustains. And credibility once earned, has the power to transform India's arbitral landscape. The India ADR Week itself has become an important intellectual hub, bringing together some of the brightest minds across the globe. It serves as a melting pot of perspectives, bringing together judges, practitioners, scholars and business leaders, each contributing a vital piece to the puzzle of how India can align itself with global standards while also shaping its own distinctive Arbitration culture. This year's session on data privacy in cross border Arbitration, generative artificial intelligence in Arbitration, and strengthening the Arbitration in India, are some of the topics which are both topical and visionary. They highlight how Arbitration must evolve to address technological disruption and commercial complexities.

As Joseph Grinmore once remarked, "An ounce of mediation is worth a pound of Arbitration and a ton of litigation." This witty yet profound statement reminds us that while Arbitration is a preferred mode of dispute resolution, it must constantly evolve to remain relevant, efficient and cost effective. Friends, if India is to emerge as a truly global hub for Arbitration three things are essential: a robust legal framework, a vibrant Arbitration culture, and it must inspire the confidence of the investors and stakeholders. In other words, it requires not only law, but practice; not only vision, but also execution. Today, never than before, Arbitration is no longer just an alternative. It is increasingly the preferred mechanism to resolve commercial and other disputes.

India today stands at the cusp of becoming the world's third largest economy. With this growth comes an inevitable rise in commercial litigation and disputes, and Arbitration has rightly become the preferred mechanism to resolve them. The international business community is closely watching how India handles this transition. Our courts, particularly the Supreme Court, has played a pivotal role in shaping an Arbitration-friendly ecosystem. For long India was criticized for delays, excessive court interference, and uncertain jurisprudence. But in recent years, there has been a decisive course correction. The Supreme Court has laid down pro-Arbitration globally aligned jurisprudence.

To highlight a few key developments, in ***Avitel Post Studioz***, the Supreme Court refused to entertain speculative allegations of bias, reaffirming that only serious conflicts can justify denial of enforcement. This aligns us with the New York Convention and sends a clear message. India will not tolerate frivolous resistance to foreign award enforcements, thereby boosting investor confidence. In ***Rohan Builders***, the court pragmatically allowed extension of an arbitrator's mandate even after expiry recognizing the realities of complex proceedings while ensuring flexibility without undermining discipline. In the recent constitutional bench

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judgment in *N. N. Global Mercantile*, the seven judge bench held that an unstamped Arbitration Agreement is not *void ab initio*. In *Perkins, Eastman* and subsequent rulings, unilateral appointments by PSUs were struck down, reinforcing impartiality and independence as non-negotiable cornerstones of Arbitration. In *Cox and King*, the court upheld the Group of Companies Doctrine ensuring Arbitration reflects commercial realities and it is not defeated by rigid formulas. In *Gayatri Balasamy*, the court adopted a nuanced position. It clarified that courts cannot retry disputes or substitute their reasoning, but they do have limited authority to modify arbitral awards under Section 34 of the Arbitration Act, i.e., to correct clerical errors, computational mistakes, and to sever invalid portions where possible.

This approach strikes a careful balance. It prevents the absurdity of forcing parties into fresh Arbitration for minor corrections while safeguarding arbitral autonomy by ruling out wholesale litigation. Taken together, these developments reflect not just doctrinal refinements, but a cultural shift in Indian Arbitration jurisprudence, making our system more predictable, efficient and internationally competitive. They signal India's intent to be a credible seat of Arbitration where fairness, impartiality and finality are respected.

Yet, challenges remain. Nearly half of Arbitration cases in India remain pending beyond a year, with some dragging on for more than a decade. Delay, as we know, is the enemy of Arbitration. If Arbitration begins to mirror litigation in terms of cost and time, its very purpose stands defeated. What then is the way forward? Alongside judicial reform, we must also focus on a couple of critical areas. We must make Arbitration more affordable by capping fees, especially in small value disputes so that Arbitration does not remain the preserve of only large corporations, but becomes truly accessible to MSMEs and individuals.

We must build a comprehensive national database of Arbitrators with details of their expertise, experience and specializations, thereby improving transparency, party choice and accountability. We must introduce expedited Arbitration Rules for lower value claims, ensuring that such disputes are resolved within a strict timeline without compromising on fairness. We must invest in education and training, by strengthening law school curriculum, integrating modules on Arbitration advocacy and encouraging earlier career exposure through internships and research opportunities with arbitral institutions. Beyond these, we must also ensure greater diversity in arbitral appointments. Not just gender diversity, but also diversity of region, background and professional experience. This will make Arbitration more representative and inclusive.

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Equally important is the recognition and enforcement of foreign awards by foreign courts. If arbitral awards rendered in India continue to be upheld overseas, as we have already seen with the DIFC Court, this will be the strongest endorsement of India's arbitral credibility. History shows that Singapore and London cemented their places as global hubs only when their awards gained unquestioned enforceability across jurisdictions. For India too, this external validation will be the litmus test of whether we are merely in transition or ready to stand as a true global hub.

If we match our economic rise with judicial innovation, institutional reform and inclusivity, India can emerge as a leader in the global Arbitration community. As Justice B. N. Srikrishna once reminded us, Arbitration is only as good as the court that supports it. This truth underscores the symbiotic relationship between arbitral institutions and the judiciary - one cannot thrive without the other. Friends, India's ambition to become a global Arbitration hub is no longer a distant dream. With consistent jurisprudence, legislative reforms and institutional strengthening, we are well on that path. But the true test lies in whether parties across borders will repose trust in India as a seat of Arbitration, and whether our awards travel seamlessly across jurisdictions. When that becomes the norm, India will not only participate, it will lead the global Arbitration community, an Arbitration hub that reflects our constitutional ethos of fairness, efficiency and justice, worthy of global confidence and worthy of India's destiny.

In conclusion, I would like to say that as India prepares to take its place among the world's top three economies in the coming decade, it must also position itself as a top three destination for Dispute Resolution. Only then will our economic might be matched by institutional credibility ensuring that India is not just a factory of the world, but also the forum of choice for the world. Thank you for inviting me. Thank you very much.

HOST: Thank you very much Honourable Justice Revati Dere. I would like to now call upon Vyapak Desai, MCIA Co-Chair, to deliver the concluding remarks and vote of thanks.

VYAPAK DESAI: Thank you, everyone, for holding on. Before we break for the remaining cocktails and the dinner, and first of all, thank you Justice Dere for such an eloquent speech. I think the emphasis of coexistence of courts and Arbitration and the message around that and behind that I think summarizes the reason why we are all here. Yesterday when we opened this event in Bombay, I said, and I truly believe in this, and so possibly I'm repeating it for some reason, but I always believe that if you change the way you look at things, the things you look at change.

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1 I think that was the message when Madhukeshwar, Neeti, myself, Nish Shetty, we were much
 2 younger than what we were ten years back. Idea was not to set up MCIA. Idea was to set up
 3 institutional Arbitration culture and mindset in India. MCIA was just a medium and with that
 4 intention the thought of ADR Week came about. And idea was, again, not to promote an
 5 institution. Idea was to promote institutional Arbitration in India, because at least not very far
 6 from now, when I started practice, I think there was doomsday discussion on Arbitration. It
 7 was always things very negative. There was no **BALCO** judgment, there was no 2015
 8 Amendments, and things were not looking hunky dory in that sense. But what every problem
 9 led to that if we have institutional Arbitration, a lot of that, if not all can be resolved, whether
 10 it is the question of ad hoc Arbitration, ad hoc appointment of arbitrators, costs, delays, a lot
 11 of problems in different forms, shapes and sizes were leading to a common solution of
 12 institutional Arbitration, which was surprisingly missing in India, which was always successful
 13 in other parts of the world.

14 So after nine years of that thought, and we'll be completing ten years next year, I must let
 15 everyone know that this year, the ADR Week has seen 700 paid registrations, and it is 17
 16 jurisdictions of the world who are participating as part of the ADR Week. And when I say 17
 17 jurisdictions, these are 17 different countries who are coming to India to participate here. And
 18 we are even more proud to suggest and let you know that more than 30 arbitral institutions
 19 are supporting this ADR Week in India, and we are having several of their sessions, their
 20 support. I think there is a session even talking about SIAC Rules. There is a session on LCIA,
 21 ICC. We could not put all the logos on the screen. But the moment that which makes us proud
 22 is the coexistence and the collaboration that we are seeing and the support that we are seeing
 23 so far as India as an institutional hub is concerned. So again, thank you, Justice Dere. Thank
 24 you, Justice Manohar, to be part of here. Justice Mohit Shah is here from... he was possibly
 25 one of the instrumental judges. I remember when he was Chief Justice of Bombay High Court
 26 to talk about institutional Arbitration then. Justice Jamdar, Justice Khata, Justice Gokhale,
 27 Justice Dubash and Justice Shyam. I think we are very, very delighted to have this kind of a
 28 gathering here.

29 Beyond ADR of course, we wanted to talk about MCIA, and I think Justice Dere did talk about
 30 the 2024 statistics. And just to give you a startling statistics, we took more than seven years
 31 and we were patient, we were not impatient, to complete first hundred cases at MCIA. And we
 32 took less than 14 months to complete 200 cases yesterday night as we speak. So the kind of
 33 speed at which institutional Arbitration is getting recognized and accepted in the system, we
 34 are getting cases. Our very first case ever was referred by a Supreme Court of India. And then,
 35 of course, through many other High Courts, including the Bombay High Court. So we have

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1 been getting that kind of support. And the kind of people sitting and standing here shows how
2 much support that we already have and we'll continue to have from each one of you here.

3 So without taking more time, thank you everyone to be part of it. Thanks the Host Committee
4 of Mumbai. Samir Tapia, I think he's here, Naira, Vivek Mittal, Karan Bhosle, who are part of
5 the Bombay Session of the ADR Week. ADR will move to Delhi tomorrow and day after, so it's
6 like a journey from Bangalore to Mumbai to Delhi. Starts from South and ends in Delhi. That's
7 how the ADR Week travels every year. And we promise that this journey would be even longer
8 and wider spread in India when we complete ten years next year. So thank you everyone for
9 being part of this journey, and thank you Madhukeshwar and Neeti to hold on this. Sitting in
10 the sidelines take it from me everything what you are seeing here is because of them. We are
11 just trying to portray what is happening behind the scenes. So thank you, everyone. Thank you
12 all the sponsors. I'm not taking all the names but it is there, the supporting partners, the media
13 partners, transcription partners and everyone who has... Yeah, we have the proof of what I
14 said in terms of the evidence of all the arbitral institutions as well. So that's about it. And thank
15 you, everyone. Please join us for the cocktails and dinners. Thank you.

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19 ~~~END OF SESSION~~~

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