



# COURT CORRIDORS

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**S. Jalan**  
ADVOCATES & Co.

## **Emaar India Ltd. Vs. Tarun Aggarwal Projects LLP, Civil Appeal No. 6774 of 2022**

Justice M.R. Shah and Krishna Murari held that any matter under the “excepted” category mentioned in the parties’ agreement is not subject to arbitration. Hence, no hearings will be held regarding those issues. The Court concluded that Clause 36 states that if the matter is connected to Clauses 3, 6, and 9 of the Contract, the aggrieved party must go to the competent Court of law for selective enforcement of the contract, and Clause 37 states that all disputes, excluding those falling under Clause 36, must be sent to arbitration. The Court ruled that an arbitration agreement must be properly interpreted and that the parties’ purpose of excluding some matters from arbitration must be given effect. Furthermore, it was decided that a party could not ask for more than what was specified in the contract and that the Court could not, even if appropriate, create a new contract on their behalf. The Court then addressed who decides whether a matter is non-arbitrable. In the Vidya Drolia case, the Court held that where an objection to that effect is raised by the respondent, the High Courts might initiate a preliminary investigation to resolve the question of “Excepted Matters” while selecting the arbitrator. The High Court erred in choosing the arbitrator without first evaluating whether the issue genuinely falls inside the

purview of the arbitration provision or the “excepted” category, the Court concluded.

### **C.S. Ramaswamy Vs. V.K. Senthil & Ors | Civil Appeal No. 500 Of 2022**

India’s Supreme Court ruled last week that a mere finding in a complaint that wrongdoing was committed is insufficient and that such allegations must be explicitly refuted in the complaint. If not, the parties will try to file a lawsuit within the statute of limitations, the court added. The court has heard petitions challenging the orders of the Trial Court and the High Court that have filed suit to revoke the deed of sale that was barred by limitation. According to the court, the plaintiff used “clever drafting” to file his complaint within the statute of limitations. “By clever wording and use of the word ‘fraud,’ plaintiffs sought to bring the action within the statute of limitations, citing Article 17 of the statute of

limitations. Plaintiffs are not allowed to bring cases to the statute of limitations by skillful formulation or are otherwise barred from the statute of limitations.”

### **Vineetha Thomas Vs. SQD LDR Dr. Praveen Kumar Borushetty**

The Karnataka High Court held that ‘passage of time’ and ‘cost of living’ were valid grounds that could be considered modified circumstances for increasing the amount of alimony awarded to the wife under the Special Marriage Act. Changed circumstances do not mean that a wife must give explicit details of every situation, lifestyle, or increased child support. It is permissible for a court to grant an increase in maintenance costs if circumstances change. Changes in circumstances, in this case, include the passage of time and the cost of living.

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