



## MAJESTY LEGAL

Advocates & Solicitors

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### **EMPLOYMENT CONTRACT CANNOT BE TREATED AS COMMERCIAL DISPUTE**

(*SANJAY KUMAR vs. ELIOR INDIA FOOD SERVICES LLP*<sup>1</sup>)

The Karnataka High Court held that a contract of simple employment cannot be given the colour of commercial dispute by dressing it as a provision of services. Additionally, merely because a party invokes the wrong jurisdiction and a determination is made by the court without parties to it, for the subsequent proceeding the jurisdiction will not become binding.

#### **HIGHLIGHTS OF THE CASE:**

- In the abovementioned case, the employment of the petitioner was terminated by the respondent. On termination, the petitioner had sent a legal notice demanding the payment of various amounts. When the firm refused to pay, the petitioner filed an application under section 17<sup>2</sup> of the Act, 1996<sup>3</sup> before the Arbitral Tribunal. Thereafter, the Arbitral Tribunal passed directions to secure the amount claimed by the petitioner, aggrieved by this, the respondents approached the Commercial Court and the petitioner disputed the jurisdiction of Commercial Court.
- The Hon'ble High Court placed reliance on a judgment of the Supreme Court in the case of *Ambalal Sarabhai Enterprises Limited v. KS Infraspace LLP* and concluded that as per section 2(1)(c)(xviii)<sup>4</sup> of the Act, 2015<sup>5</sup> the dispute between the parties is not a commercial dispute. Thus, the Commercial Court has no jurisdiction to decide the dispute hereinabove.

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<sup>1</sup>W.P. No. 2584 of 2023.

<sup>2</sup> Interim measures order by Arbitral Tribunal.

<sup>3</sup> The Arbitration and Conciliation Act, 1996

<sup>4</sup> Commercial dispute means a dispute arising out of agreements for sale of goods or provision of services.

<sup>5</sup> The Commercial Courts Act, 2015

<sup>6</sup> Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.