STEPPING CAUTIOUSLY: RE-EMPHASIZING THE LIMITS OF APPEALS UNDER ARTICLE 226 & ARTICLE 227 OF THE INDIAN CONSTITUTION VIS-À-VIS THE COMMERCIAL COURTS ACT 2015

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ABSTRACT

This essay critically examines the scope and limitations of appeals under the Commercial Courts Act, 2015, particularly in light of Articles 226 and 227 of the Indian Constitution. Introduced with the laudable objective of expediting the adjudication of commercial disputes in lieu of mitigating delays and enhancing the business environment, this legislation has simultaneously birthed certain difficulties, specifically concerning appeals from pronouncements of Commercial Courts that continue to hinder its efficacy. Two major challenges are highlighted – *first*, the ambiguity in the interpretation of Section 13 of the Commercial Courts Act and the proviso thereto and *second*, the widespread frivolous use of Article 226 and Article 227 of the Indian Constitution as a route for appealing decisions of Commercial Courts, despite the narrow scope of these Articles. The uncertainty regarding interpretation of the Section 13 has accorded room to a narrow interpretation, as a restrictive exception to the body of the Section, as well as a broader interpretation, as a mere clarification. The plausibility of both has led to divergent judicial interpretations without a settlement on the position of the law. The resultant failure to fully restrict appeals has allowed parties to undermine the object of the Commercial Courts Act through appeals, leading to prolonged disputes. Settling the position of the law, however, proves to be a remedy but not a cure. The narrow, and arguably correct, interpretation of the law means there is a restricted scope of grievance redressal in commercial disputes and subsequently leads to the frequent invocation of Articles 226 and 227 of the Indian Constitution. The wide powers of High Courts under these provisions have been diluted, and restrictive covenants been added, by numerous judgements of the Supreme Court. However, in the absence of a clear framework for their application in commercial disputes, litigants continue to routinely turn to the High Courts for remedy under these Articles. The need of the hour is clarity from both, the Legislature as well as the Judiciary, on the ambit of appeals against pronouncements of Commercial Courts.

Keywords: Section 13, commercial disputes, appeals, objective, interpretation

Essay

The need for a legislation dedicated to commercial cases was in deliberation as early as 2003 when the idea of the Commercial Courts Act was first mooted. Commercial cases, at the time, were dealt with under the category of regular suits. This meant they suffered from inefficiencies and delays typical of the Indian judiciary – being deferred from date to date, and often remaining in the shelves of the Courts for years altogether. However, the accelerated economic growth in the aftermath of the overhaul in India's economic policy in 1991 necessitated an improvement in this situation. The Law Commission of India too recognised this in 2003 as part of their 188th Report[1] which drew inspiration from countries like United Kingdom, United States of America, France and Singapore among others, whose legal systems comprised independent and dedicated commercial divisions in courts. Manned with experienced judges, these bodies made it possible to adopt fast and hi-tech procedures to deal with commercial cases of high pecuniary value, and the Law Commission insisted on the adoption of a similar mechanism in India as well. This materialised on the legislative front in 2009, when the Commercial Division of High Courts Bill, modelled on the Law Commission's recommendations was tabled for discussion, and subsequently passed, in the Lower House of the Indian Parliament. However, owing to its multifarious defects, it was met with opposition in the Upper House and eventually withdrawn, and shelved away indefinitely.

The sluggish disposition of commercial cases continued unabated, only increasing as years passed owing to India's rampant population expansion and corresponding increase in commercial disputes. The Law Commission, through its 253rd Report in 2015[2], took cognizance of this along with the increasing delay in establishing a system to fast track the disposal of commercial disputes, and lamented the impact it continued to have on financial investments and larger economic activity in the country. Subsequently, it brought the 2009 Bill back to the fore, and undertook a detailed study of it. In the process, the Commission identified

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[1] Law Commission of India, *Proposals for Constitution of Hi-Tech Fast – Track Commercial Divisions in High Courts* (Report No. 188, 2003).

[2] Law Commission of India, *Commercial Division and Commercial Appellate Division of High Courts and Commercial Courts Bill, 2015* (Report No. 253, 2015).

the drawbacks of the Bill with the aim of rectifying them and enhancing its efficacy. Based on these recommendations, the then NDA Government introduced a new bill, which eventually translated into the Commercial Courts Act[3]. Passed in 2015, this Act provided for the constitution of special courts to adjudicate exclusively upon commercial matters. The intent behind this legislation, i.e., the speedy disposal of commercial cases, is articulated in its Statement of Objects and Reasons, in pursuance of which several sections have been enacted within it. Among these sections, Section 8[4] and Section 13[5] are of importance, both of which play instrumental roles in restricting the scope of appeals in commercial cases. Section 8 bars the entertainment of civil revision applications or petitions against interlocutory orders of commercial courts, while Section 13 is the primary provision concerning appeals. Its sub-clause and proviso thereto read thus –

"13. Appeals from decrees of Commercial Courts and Commercial Divisions:

(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]"[6]

The manner in which litigation in the commercial courts and under the provisions of the Commercial Courts Act, specifically with respect to appeals, has unfolded has revealed two major defects. First, the terminology with which the Section in its entirety has been constructed, including the sub-section and the proviso, has widened the scope of varying interpretations,

[3] The Commercial Courts Act 2015.
[4] The Commercial Courts Act 2015, s 8.
[5] The Commercial Courts Act 2015, s 13.
[6] *ibid.*

specifically with respect to the ambit of the words 'decree', 'order', and 'judgement' and these have been the subject matter of quite a few cases in the recent past. The effect this is that the scope for appeals against the decisions of commercial courts is routinely being altered, thereby leading to a lack of uniformity in judgements. The second issue therein is that even when the purposes of the Commercial Courts Act have been put to effect by restricting unnecessary appeals, the route to the High Courts under Articles 226[7] and 227 of the Indian Constitution[8] has been made rather simple to tread for the petitioners, meaning that the exclusivity and efficiency of the commercial courts is effectively lost. In this piece, these two defects are put to analysis with an attempt to reconcile conflicting outlooks with an emphasis on the purpose and intent behind the legislation.

There is justifiable merit in both, the narrow as well as the wide interpretation of Section 13 and the Proviso therein. To begin with, it may be interpreted strictly to be creating an *exception* to the generality of Section 13(1A) to the effect that, despite the absence of any express restrictive words used in the Proviso, it has a restrictive connotation such that no other orders with the exception of those that fall under Order XLIII of the Code of Civil Procedure[9] or Section 37 of the Arbitration and Conciliation Act[10] would be subject to appeal. This would be a very narrow interpretation but one that conforms to the general rule of looking at the function of a Proviso, which is to add an exception or a qualification[11].

Alternatively, given the absence of restrictive terminology contained in the Proviso, it may be interpreted as merely an optional 'appendix' of sorts, so as to clarify to us that appeals from orders other than those covered under Order XLIII of the Code (as amended by the 2015 Act) and Section 37 of the 1996 Act would *also* lie. It would appear that the effect of this interpretation is quite extensive as it does not create any exceptions to the generality of Section 13(1A). It would also be deviating from the 'normal' function of a Proviso, strictly speaking, but is also a recognized function nevertheless.

The interpretation that limits the scope of the Proviso would be plausible not only because of the general rules of interpretation, but also because it would greatly aid the speedy disposal of commercial cases, which is the primary object of the Commercial Courts Act. The

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[7] The Constitution of India, art 226.
[8] The Constitution of India, art 227.
[9] The Code of Civil Procedure 1908.
[10] The Arbitration and Conciliation Act 1996, s 37.
[11] *Shah Bojraj Kuverji Oil Mills v. Subbash Chandra Yograj Sinha* (1962) 2 SCR 159.

interpretation that broadens the scope would be plausible as it could be argued that words which expressly qualify the Section cannot be 'read into' the provision. Moreover, the argument of the Proviso being merely clarificatory does has some merit to it – Section 37 itself was amended by the Arbitration Amendment Act, 2015[12] which came into force on the same day as the Commercial Courts Act in accordance with which an additional category was added to the list appealable orders. Hence, it is not far-fetched to aver that the Parliament may have deemed it prudent to emphasise that the amended Section 37 would have precedence over the general provision contained in Section 13(1) of the 2015 Act. Additionally, the Parliament has, in the Schedule, introduced various new provisions in the Code or, alternatively, omitted or substituted certain other provisions of the Code. These include, amongst others, insertion of Order XIII-A (Summary Judgment) and Order XV-A (Case Management Hearing), on the one hand, and amendment of Order XVIII (Hearing of the Suit and Examination of Witnesses) and Order XIX (Affidavits), on the other. However, Order XLIII (Appeals from Orders) remains untouched, suggesting that, within its scope, no appeal lies against orders, decisions, or judgments of a Commercial Court or Commercial Division of a High Court concerning matters introduced or amended through the Schedule, despite these changes being significant. This restricted scope of Order XLIII, especially given that the 2015 Act takes away recourse to other laws for the time being in force or the Letters Patent for purposes of filing an appeal from an order or decree of a Commercial Division or Commercial Court, makes the argument that Section 13(1A) should receive a wider construction and not be limited to or constrained by the proviso more compelling. The ultimate conclusion, however, is that both the interpretations are quite plausible in the context of the Commercial Courts Act and there continues to loom an air of uncertainty and ambiguity around the application of the provision.

The conflicting interpretations of the Section and the general lack of consistency therein has been a topic of judicial discourse, with a multitude of cases grappling with this issue. Among the earliest of these cases was ***Shah Babulal Khimji v. Jayaben D. Kania***[13], in 1981, wherein the Supreme Court, rather questionably, referred to the status of the term 'judgement' under Clause 15 of the Letters Patent, ruling it to be wider than the definition of the same in the Code of Civil Procedure. Applying this broad import of the term, the Court deduced that orders which weren't covered by Order XLIII of the Code of Civil Procedure or Section 37 of the Arbitration and Conciliation Act for that matter, but which possessed "the characteristics and trappings of

[12] The Arbitration and Conciliation (Amendment) Act 2015.
[13] *Shah Babulal Khimji v. Jayaben D. Kania* (1981) 4 SCC 8.

finality" could nevertheless be appealed under Clause 15. The next prominent case transpired almost four decades later when the Bombay High Court, in 2016, in ***Hubtown Limited v. IDBI Trusteeship Service Limited***[14], acknowledged that Section 13(1) uses the terms 'decision', 'judgement' and 'order' as opposed to the Proviso wherein only the latter is referred to. In this backdrop, it was of the opinion that the ambit of the main body of the provision must be broader than the Proviso and applied ***Shah Babulal Khimji*** to say that the Section would cover appeals arising out of orders other than the limited categories of orders falling under Order XLIII of the Code, and that an appeal against an order which has a tinge or colour of a 'judgment', in the Letters Patent context, would be maintainable under Section 13(1). However, the methodology adopted by the courts in producing these two judgements must be called into question as, on the face of it, they appear to be flawed on primarily two grounds. First, the explicit definition of 'judgement' under the Code of Civil Procedure is made to give way for an interpretation of the same in the context of the Letters Patent. This is a step in the wrong direction as not only has it been made clear, through Section 2(2)[15] of the Commercial Courts Act, that terms not expressly defined in the Act (judgement being one of them) will have the same meaning as assigned to them in the Code of Civil Procedure but also as the application of the Letters Patent of High Courts has been expressly barred by Section 13(2) of the Commercial Courts Act. The second level of fallacy in the courts' reasoning is that by looking at the wide import of 'judgement' under the Letters Patent and allowing appeals from orders beyond Order XLIII of the Code, it has brought several 'orders' within the garb of the term 'judgement'. This, however, seems to be counterintuitive to the intent of the legislators who have used the two terms disjunctively in the Commercial Courts Act by using the phrase 'judgement or order'.

This criticism of the judgements was subsequently brought to the fore by the Bombay High Court in ***Sushila Singhania v. Bharat Hari Singhania***[16] in 2017, wherein they equated the term 'decision' as used in the main provision to merely a 'decree' and expressly disagreed with the Letters Patent interpretation of 'judgement' as espoused in ***Shah Babulal Khimji*** as the same was in contravention with Section 13(2) of the Commercial Courts Act. This decision was agreed with by the Delhi High Court in the same year in ***HPL (India) Ltd. v. QRG Enterprises***[17]. The court effectively dismissed the stance in ***Hubtown Limited*** and affirmed

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[14] *Hubtown Limited v. IDBI Trusteeship Service Limited* (2017) 4 BomCR 10.
[15] The Commercial Courts Act, s 2(2).
[16] *Sushila Singhania & Ors. V. Bharat Hari Singhania* (2017) 4 BomCR 348.
[17] *HPL (India) Ltd. v. QLG Enterprises* (2017) 238 DLT 123.

Sushila Singhania, and also went on to opine that 'judgement' as used in the Section is a mere misnomer and means nothing but a 'decree', given that the Code of Civil Procedure does not provide for appeals against judgments, but only against decrees and orders.

The present-day state of affairs with respect to Section 13 and its application has been given some semblance of finality through the judgement of the Apex court in the 2018 case of ***Kandla Export Corporation & Anr. v. M/s OCI Corporation & Anr.***[18] wherein the Court, while deliberating on the exclusivity of Section 50 of the Arbitration and Conciliation Act[19], held that the Proviso to Section 13 limits the scope of the main provision such that only appeals from orders enlisted under Order XLIII Code of Civil Procedure and Section 37 of Arbitration and Conciliation Act were maintainable under Section. This decision effectively meant that the current interpretation of Section 13 adopted by the highest court in the land, one with precedential value over all other courts in the country, is the narrow and restrictive one. Despite this, however, there have been departures from this position of the Supreme Court by several high courts, one notable example being the judgement of the Delhi High Court in 2020 in ***D&H India Ltd. v. Superson Schweisstechnik India***[20], where the two-judge bench looked at the Proviso as an enabling, rather than qualifying, provision and allowed for appeals from orders not enumerated in Order XLIII of the Code of Civil Procedure under Section 13(1A).

In the same year as ***Kandla Export Corporation***, an important amendment to Section 13 was put into effect and the term "decision" as mentioned in the main provision was replaced with the phrase "judgement or order" and the erstwhile Section 13(1) turned into Section 13(1A). This change gave a degree of uniformity to the section such that the phrase 'judgement or order' was used consistently throughout and closed any door for the misinterpretation of 'decision'. However, it failed to overturn and rid commercial law of the flaws of ***Shah Babulal Khimji*** as, by failing to either omit the word 'judgement' or replace it with 'decree', it gave room to the Letters Patent interpretation to stay well cemented in Indian legal discourse. This is epitomised by the unqualified application of ***Shah Babulal Khimji*** even post the amendment in ***Raju & Ors. v. Neelam & Ors.***[21], a Delhi High Court case. In this context, it is a pressing need, even today, for the legislature to provide clarity on the term 'judgement' within Section 13 and replace it with the 'decree' as the Code of Civil Procedure and by extension, the Commercial

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[18] *Kandla Export Corporation & Anr. v. M/s OCI Corporation & Anr.* (2018) 1 SCR 915.
[19] The Arbitration and Conciliation Act 1996, s 50.
[20] *D&H India Ltd. v. Superson Schweisstechnik India* AIROnline 2020 Del 463.
[21] *Raju & Ors. v. Neelam & Ors.* CM(M) 1109/2018 Del HC.

Courts Act, only allows appeals from decrees and orders. Additionally, doing so would be in line with logic as the term 'decree' also finds a mention in the heading of the Section, which can certainly be an indication of "the general drift of the clause and afford a key to a better understanding of its meaning."[22]

From these cases, as things stand, it would appear that appeals under Section 13 of the Commercial Courts Act are indeed quite restricted if ***Kandla Export Corporation*** is to be followed, but there still exists a considerable degree of dichotomy with respect to the application of the Section owing to High Court judgements like ***D&H India Ltd.*** which have departed from the Apex Court's interpretation. However, such departures not only create inconsistency but also invite potential misuse by litigants seeking to prolong proceedings or exploit divergent interpretations across jurisdictions. This undermines the uniformity and certainty that are foundational to the objectives of the Commercial Courts Act. Along this line of reasoning, it is deductible that the stand taken in judgements that differ from ***Kandla Export Corporation***, for example in ***Shah Babulal Khimji***, are premised on the expansion of the scope of the Section beyond what is envisaged by the Commercial Courts Act as well as the Code to widen the array of appeals, a rationale which defeats the object and intent behind Section 13(1).

In addition to this, the judgement in ***Ambalal Sarabhai v. K.S. Infraspace***[23] is pertinent, as the Supreme Court explicitly advised against a liberal interpretation of the Commercial Courts Act and propagated a purposive and narrow interpretation so as to give effect to the intent of the Act, being the "early and speedy" resolution of commercial disputes. Therefore, all things considered, the stand taken in ***Kandla Export Corporation*** seems to be the most sound logically and legally given that it is harmonious with Section 13, as well as the corresponding dicta of the Supreme Court.

It is at this juncture that an additional burden crops up. The ultimate consequence of the restricted interpretation is that as a matter of fact, recourse will necessarily be taken to Articles 226 and 227 of the Indian Constitution. The High Courts, under Article 226, are empowered to issue a writ of *Certiorari* quashing any order passed by an 'inferior court, tribunal or quasi-judicial authority' whereas Article 227 speaks about the supervisory jurisdiction of the High Courts over all such courts and tribunals in relation to which it exercises jurisdiction. Naturally,

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[22] *Union of India v. Raman Iron Foundry* (1974) 2 SCC 231.
[23] *Ambalal Sarabhai v. K.S. Infraspace* AIR 2020 SC 307.

any decision of the commercial courts will be challenged, by the party against whom it has been ruled, as being erroneous in law by invoking the jurisdiction of the High Courts under these articles. Additionally, a fillip to this recourse is the well-established holding that Section 8 of the Commercial Courts Act, which limits appeals against interlocutory orders, cannot bar recourse to Constitutional provisions, and hence, such appeals are maintainable.[24] This Section thereto reads thus,

"8. Bar against revision application or petition against an interlocutory order –

Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court."[25]

Even otherwise, the word 'petitions' used in Section 8 of Commercial Courts Act refers to revision petitions and not writ petitions under Article 226 and/or petitions under Article 227, meaning that a remedy under these articles is well within the ambit of the law. This is where the issue lies, in that availing such a remedy disallows commercial cases to be disposed of early and in the process renders ineffective the entire crux of the matter which the Commercial Courts Act aimed to resolve. However, there also exists a more overarching issue here which is the unsuitability of such petitions under the said articles in the context of the Commercial Courts Act, such that both articles have been repeatedly invoked by parties rather wrongly with the courts paying a needless amount of heed to these petitions.

As far as the application of Article 226 is concerned, the writ in the nature of *Certiorari* pertains to the quashing of only those orders which are passed by an "*inferior Court or tribunal or authority*". However, as laid down by the Supreme Court in ***T.C. Basappa v. T. Nagappa & Anr.***[26] and ***Radhey Shyam v. Chhabi Nath***[27], it is well-settled that the expression "inferior Court" applies only to tribunals or quasi-judicial authorities. Thus, although the civil courts like those instated by the Commercial Courts Act, are 'subordinate' to the High Courts, they

[24] *State of Gujarat v. Union of India* C/SCA/737/2018 Guj HC.
[25] The Commercial Courts Act, s 8.
[26] *T.C. Basappa v. T. Nagappa & Anr.* AIR 1954 SC 440.
[27] *Radhey Shyam v. Chhabi Nath* (2015) 5 SCC 423.

are not "inferior Courts" for the purposes of Article 226 and therefore not amenable to a Writ in the nature of *Certiorari*. This renders the application of Article 226 infructuous and leaves a plea to the High Courts' supervisory jurisdiction under Article 227 as the only real medium to set aside the order of the commercial court in question. This power of the High Court too, which must be used very sparingly, has nevertheless been appealed to in a manner wider than it allows for. Through a host of judgements, it has been established that the order of a lower court may be challenged under Article 227 "only if the order passed is so perverse that the only possible conclusion is that there is a patent lack of jurisdiction"[28] and it is "limited to overseeing that an inferior court functions within the limits of its authority and it is not meant to correct an error, even if apparent on the face of the record"[29]. It is, therefore, clear that the extent to which the supervisory jurisdiction of a High Court can be invoked to set aside an order of a lower court is extremely limited and the repeated usage of Article 227 against orders of commercial courts under the Commercial Courts Act must be checked within the strict criteria of perversity imposed by courts throughout the years. However, the difficulty arises when the ambiguity surrounding phrases like "procedural or jurisdictional error"[30] and "manifest injustice"[31] is considered which results in the Court delving into the merits of petitions and claims under Article 227 before dismissing it, a process which is burdensome and time-consuming. While Courts have elaborately dealt with the requirements for the successful invocation of Article 227 generally, a similar analysis in specific respect of the Commercial Courts Act is absent. A way out of this conundrum thus could be for Courts to clearly delineate the scope and ambit of the criterion to invoke Article 227 in the context of commercial disputes and thereafter reject petitions which do not meet the criterion on the face of it. Given the increasing instances of parties, aggrieved by pronouncements of Commercial Courts, this approach is imperative to ensure that caution is exercised on various levels.

The second problem with the usage of this article in the said manner lies in its facilitation of increased delay in the administration of commercial cases, effectively serving as an antithesis to the status of the commercial courts as a distinct and independent framework for commercial disputes. Similar to Section 13 of the Commercial Courts Act is Section 37 of the Arbitration and Conciliation Act, which restricts appealable arbitral orders to the ones mentioned

[28] *Punjab State Power Corporation Limited v. EMTA Coal Limited & Anr.* (2020) 17 SCC 93.
[29] *Black Diamond Trackparts v. Black Diamond Motors* AIROnline 2021 Del 896.
[30] *Pravinchandra v. Hemant Kumar* W.P. No. 2099/2023 Bom HC.
[31] *Gourav Samsukha v. M/S Raj Plastic* CM APPL. 45725/2023 Del HC.

thereunder. Recognising the provision's purpose of minimising judicial intervention, the Supreme Court, in ***SBP & Co. v. Patel Engineering Ltd.***[32], acknowledged that allowing an approach to the High Courts under Article 226 or 227 against every arbitral order would be in stark contradiction to this purpose. Along the same lines, Section 13 also places limits on appeals from orders of Commercial Courts with the same purpose of minimising judicial intervention and, thus, warrants an equally high degree of aversion from the High Courts' interference. Further, the unqualified filing of petitions under these articles would effectively derail the entire process of deciding commercial cases speedily and it "would not come to fruition for many years".[33] This, in turn, undermines the very purpose of establishing specialized commercial courts, which is to provide quick, efficient, and final resolutions to complex commercial disputes. The Indian judiciary, already burdened with an increasing number of cases, will only continue to face an immense backlog if commercial cases are delayed due to excessive intervention.

This also has broader detrimental ramifications, considering the importance of commercial cases to the country's economic growth. Commercial Courts, touted to ensure quick enforcement of contracts, facilitate easy recovery of monetary claims and the award of just compensation for damage, are thus instrumental in enhancing the ease of doing business in India and encouraging investors to transact in India. A protracted and unpredictable process of disposing commercial disputes will run contrary to this by damaging the confidence of domestic as well as foreign investors, and substantially decrease the attractiveness of India as a destination for business and investment.

The application and interpretation of Section 13 of the Commercial Courts Act, thus, hangs in the balance with an air of uncertainty surrounding it almost every time a matter pertaining to it is deliberated upon. Emerging through numerous conflicting judgements was ***Kandla Export Corporation*** which tried to put an end to the dichotomy by giving the Section a narrow interpretation, albeit unsuccessfully as the decision was digressed from in a few notable judgements thereafter. While a case could be made for either outlook, the one that gives the Section a narrower applicability seems to be the one most in line with not just logic and the

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[32] *SBP & Co. v. Patel Engineering Limited* (2005) 8 SCC 618.
[33] *Deep Industries v. ONGC* (2019) SCC Online SC 1602.

rules of interpretation, but more importantly also with the intent and purpose underlying the legislation in the first place.

Even if the quandary over the interpretation of the Section were to be solved thoroughly, there materialises another difficulty in the easy route against orders of the commercial courts to the Constitution through Articles 226 and 227. While the inappropriateness of the commercial courts to fall within the definition of 'inferior courts' for the purpose of the writ of *Certiorari* to be invoked under Article 226 does away with any possible recourse to it, the layered qualifications and criterion to be met before invoking Article 227 certainly place most of the orders which have been appealed under the Article to date, out of the jurisdiction of the High Courts thereunder. It is important for the courts to, sooner rather than later, take cognizance of the manner in which they are being misled with parties seeking to drive them into exercising powers that they may not possess or which they should sparingly exercise only in exceptional circumstances.

Therefore, the best way forward for all stakeholders involved would be for the legislature and/or the judiciary to give a full, consistent, and uniform effect to the narrow interpretation of Section 13 and subsequently prevent the misuse of Articles 226 and 227, all in an effort to protect the purpose of the Commercial Courts Act from being defeated and facilitate the quick and speedy resolution of commercial cases, as envisioned by the Statement of Objects and Reasons.