



INSIGNIA

DISTINCT DETAILS DELIVERED

JULY LAW UPDATES



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Dear Readers,

We present to you the July 2025 edition of our newsletter, highlighting key legal and regulatory developments along with our client success stories, firm updates, media coverage, and insights from our Knowledge Hub.

INSIGNIA is our initiative to keep you informed about changing laws, recent judgments, and regulatory updates.

We at MAHESHWARI & CO. are a full-service law firm representing clients in complex and high-value transactions across diverse sectors. Our team brings deep expertise and extensive experience in Intellectual Property Rights, Mergers and Acquisitions, Taxation, Litigation and Arbitration, Insolvency and Bankruptcy. We are committed to delivering strategic, business-driven legal solutions with precision and integrity.

We hope you find this edition helpful. If you have thoughts or feedback, feel free to write to us at info@maheshwariandco.com

Warmly,

Vipul Maheshwari

Managing Partner

MAHESHWARI & CO.

Favourable Outcome Secured

Strategic Win for UCO Bank in NI Act Proceedings Amid Insolvency Claim

MAHESHWARI & CO. represented UCO Bank in a case where the accused directors tried to stop cheque bounce proceedings by citing insolvency under Section 96 of the IBC. We argued that the IBC moratorium does not apply to criminal cases under Section 138 of the NI Act.

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Section 96 of the Insolvency and Bankruptcy Code, 2016

The Court agreed and dismissed the application. Relying on the Supreme Court's ruling in Rakesh Bhanot v. Gurdas Agro Pvt. Ltd., the Court held that directors cannot claim protection under Section 96 when prosecuted for dishonoured cheques.



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Maheshwari & Co. Secures Landmark Win in ₹57.38 Lakh NBFC Recovery Suit

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Non-verification and communication of information about fund transfer to depositor company by NBFC held to be a breach of its obligations under RBI Act



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MAHESHWARI & CO. secured a significant win for M/s BKR Capital Pvt. Ltd., an NBFC, in a ₹57.38 lakh recovery suit involving the unauthorized transfer of company funds by a director of M/s Majestic Buildcon Pvt. Ltd. The court accepted our arguments that the director acted without board approval or co-director knowledge and held him personally liable. Our team successfully protected the client from counterclaims, established the lack of basis for lifting the corporate veil, and ensured recovery of ₹46.55 lakhs with interest.

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Events

Parul University Hosts Guest Lecture by Mr. Akhand Chauhan and Mr. Namanveer Singh Sodhi



We're pleased to share that Mr. Akhand Chauhan, Partner, and Mr. Namanveer Sodhi, Associate, at MAHESHWARI & CO., recently delivered a guest lecture at Parul University, Vadodara. Mr. Chauhan spoke on Career Incentives and Company Law, offering valuable industry insights, while Mr. Sodhi presented on Land Due Diligence, addressing both the legal framework and its practical applications.

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Media Mentions

Legal 500 Publication: Article by Mr. Akhand Pratap Singh Chauhan (Partner) and Mr. Sachin Sharma on the Air India Flight 171 Crash



Mr. Akhand Pratap Singh Chauhan (Partner) has co-authored an article for Legal 500 titled “Deadly Descent: Legal Ramifications of the Air India Flight 171 Disaster.”

The article examines the recent Air India Flight 171 crash near Ahmedabad, which claimed nearly 300 lives and caused extensive damage to life and property.

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Insights on Recent Legal Developments

Analysing The Judicial Bar Under Sections 34 And 17 And The Due Diligence Obligations Of Banks

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Interplay Between Civil Court Jurisdiction And SARFAESI Remedies: Analysing The Judicial Bar Under Sections 34 And 17 And The Due Diligence Obligations Of Banks

The relationship between sections 17 and 34 of the SARFAESI Act has been the subject of extensive judicial interpretation.

These provisions, while appearing to restrict access to civil courts, are not intended to oust jurisdiction in every circumstance.

Instead, they establish a clear demarcation between matters that must be adjudicated by the Debt Recovery Tribunal (DRT) and those that rightfully remain within the jurisdiction of civil courts.

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Overriding Effect Of Special Laws Over General Laws

In *M/s Harcharan Dass Gupta v. Union of India*, the Supreme Court held that the MSMED Act, 2006 overrides the Arbitration and Conciliation Act, 1996 in disputes involving registered MSMEs.

By prioritizing the dispute resolution mechanism under the MSMED Act over the general provisions of the Arbitration and Conciliation Act 1996, the Hon'ble Court has ensured that MSMEs can access statutory remedies without being limited by private agreements.

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The Overriding Effect Of Special Laws Over General Laws

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Insights on Recent Legal Developments

ESG framework for Debt Securities

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ESG framework for Debt Securities

SEBI's July 2025 circular introduces a new regulatory framework for ESG-labelled debt securities, covering social, sustainability, and sustainability-linked bonds. It mandates detailed disclosures, ESG impact tracking, and alignment with global standards such as ICMA and ASEAN guidelines. Social and sustainability bonds must be linked to specific projects, while SLBs are tied to issuer-level sustainability targets. However, compliance may be challenging due to high data requirements and the gap between global standards and India-specific priorities.

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Serious Fraud Office vs Enforcement Directorate: Key Differences You Should Understand

The UK's Serious Fraud Office (SFO) and India's Enforcement Directorate (ED) both tackle financial crimes but differ in structure, powers, and procedures. The SFO follows a prosecution-led model with strong judicial oversight, while the ED functions primarily as an investigative agency under PMLA and FEMA.

The SFO engages extensively in cross-border cooperation, whereas the ED faces procedural and political challenges internationally. ED's wide powers have sparked constitutional debates, while the SFO is seen as more structurally accountable. Understanding these differences is crucial for navigating cross-border compliance and legal strategy.

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Serious Fraud Office vs Enforcement Directorate: Key Differences You Should Understand

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Key Judgments

Use of “May” in Clause Does Not Constitute Arbitration Agreement Under Section 7

In BGM and M-RPL-JMCT (JV) vs. Eastern Coalfields Ltd. (2025 INSC 874), the key issue was whether Clause 13 in the contract amounted to a valid arbitration agreement. The clause stated disputes “may be sought through Arbitration,” which the Court found vague and non-mandatory. It held that such language does not satisfy Section 7 of the Arbitration Act. Clear and unconditional consent to arbitrate is required. The Supreme Court upheld the High Court’s refusal to appoint an arbitrator.

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Limitation Act does NOT apply to conciliation under Section 18(2) of the MSMED Act

In M/s. Sonali Power Equipments Pvt. Ltd. vs. Chairman, Maharashtra State Electricity Board, the Supreme Court held that the Limitation Act does not apply to conciliation proceedings under Section 18(2) of the MSMED Act. The Court clarified that conciliation is a non-adjudicatory process, and even time-barred claims may be entertained. However, it upheld that limitation does apply to arbitration under Section 18(3), as arbitration is adjudicatory in nature. The Court also noted that the phrase “amount due” excludes time-barred claims for the purpose of arbitration.

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Unexplained Omission of Lawful Heir Renders Will Invalid

In Gurdial Singh (D) through LRs vs. Jagir Kaur (D) and Anr., the Supreme Court upheld the High Court's finding that the Will dated 16.05.1991 was surrounded by suspicious circumstances. The Will omitted Maya Singh’s wife, Jagir Kaur, without any explanation, raising doubts about the testator’s free disposing mind. The Court held that mere formal execution is not sufficient unless the Will is proved beyond reasonable doubt. It affirmed that unexplained exclusion of close family members weakens the Will’s validity. Jagir Kaur was declared the rightful owner of the land.

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Key Judgments

Contractual Obligations to Supply Free Power Remain Valid Despite Tariff Caps

In *JSW Hydro Energy Ltd. vs. State of Himachal Pradesh*, the Supreme Court held that the 13% cap under the CERC Tariff Regulations, 2019 applies only for tariff determination and does not override contractual obligations. JSW's commitment to supply 18% free power under the Implementation Agreement remained binding. The Court emphasized that statutory regulations cannot be used to escape voluntarily assumed contractual duties. It also ruled that the High Court erred in entertaining the writ petition, as such matters fall within the exclusive jurisdiction of the CERC. The appeal by the State was allowed.

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Completion of Ten Years of Service Not a Precondition for Family Pension

In *Mala Devi vs. Union of India & Ors.*, the Supreme Court held that the widow of a railway employee was entitled to family pension, despite his service falling short of 10 years. The deceased had served for 9 years, 8 months, and 26 days as a substitute, cleared the screening test, and was deputed to another post. These factors met the requirements under the Railway Service (Pension) Rules, 1993, granting him the status of a temporary railway servant. The Court set aside the High Court's order and awarded Rs. 5,00,000 as ex gratia under Article 142.

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Regulatory Roundup

Amendments to the Aadhaar (Enrolment and Update) Regulations, 2016



On 2 July 2025, UIDAI notified amendments to the Aadhaar (Enrolment and Update) Regulations, 2016 to strengthen identity verification and simplify procedures. The changes authorise UIDAI to cancel duplicate Aadhaar numbers and mandate verification of active Aadhaar status during e-KYC or authentication. An updated list of acceptable documents for enrolment and updates has been provided. These amendments aim to ensure the accuracy and legal clarity of Aadhaar-based identification.

Companies (Accounts) Second Amendment Rules, 2025



The MCA notified the Companies (Accounts) Second Amendment Rules, 2025 on 30 May 2025, effective from 14 July 2025. A new sub-rule to Rule 12 requires filing extracts of the Board Report and Auditor's Reports.

The Board's Report must now also disclose sexual harassment complaint data, including pending cases beyond 90 days. These changes align with the MCA's digitalisation efforts under the V3 MCA21 portal.

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