



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## Case Commentary : Amazon.com NV Investment Holdings LLC v Future Retail Ltd & Ors.

~ *Pari Shreya Maligonda*

Case Name	Amazon.com NV Investment Holdings LLC versus Future Retail Ltd & Ors.
Citation	(2022) 1 SCC 209, Civil Appeal No. 4492 of 2021
Court	Supreme Court of India
Decided on	6 August, 2021
Legislation	Arbitration & Conciliation Act 1996
Forum	SIAC Rules 2016 (Emergency Arbitration)

## INTRODUCTION

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The Supreme Court judgement Amazon.com NV Investment Holdings LLC v. Future Retail Ltd & Ors. is one of the most consequential arbitral decisions in the Indian history of arbitration. This case settled a crucial question : whether an emergency arbitrator appointed under the international arbitration rules can issue binding interim orders that Indian courts must implement under the Arbitration & Conciliation Act 1996. The Supreme Court through Justice Nariman and Gokhale answered positively in this question and confirmed the validity of Emergency Arbitration [1].

The issue was not only a disagreement to arbitration alone. It rose from a complex business deal involving digitally signed investment contracts and contractual control rules. They were meanwhile involved in parallel proceedings in the Indian courts. In which one party attempted to weaken the effect of the international arbitration agreement [2]. Hence, the case gained significance in different areas of law like emergency arbitration, judicial intervention under Section 9 of the Arbitration Act, enforcement of foreign arbitral awards under the New York Convention and recognition of digitally signed agreements under Section 7 of the Act.

This commentary inspects the facts of the case, the reasoning of the Supreme Court and the wider implications of the judgment. It also evaluates the impact of the ruling on future disputes involving technology-based and AI-driven commercial agreements under the Indian and international arbitration regimes.

## FACTS

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In the year 2019, The Future Coupons Private Limited and Amazon.com signed a shareholder agreement and Amazon acquired 49% stake in the company. The deal had a lot of rules that did not allow Future Group companies, including Future Retail Limited to sell or give away

retail assets without getting permission from Amazon [3]. The deal was based on law and any problems were to be solved by a special meeting also known as arbitration under the rules of the Singapore International Arbitration Centre with Singapore as the place where this meeting would happen.

In August 2020 Future Retail said it was going to make a deal worth ₹24,713 crore to give its retail, wholesale and logistics businesses to Reliance Retail Ventures Limited. Future Retail was going to do this transfer and it was a major move for Future Retail. The deal involved Future Retail and Reliance Retail Ventures Limited [4].

Later, Amazon invoked emergency arbitration provisions under SIAC Rules. Future Retail was restrained by an interim order dated 25 October 2020 by Emergency Arbitrator V.K. Rajah from going ahead with the Reliance deal [5].

Future Retail flouted the order and went ahead with the transaction. Amazon went to the Delhi High Court because they wanted the court to make sure the Emergency Arbitrators decision was followed. They did this under Section 17(2) of the Arbitration and Conciliation Act from 1996. Amazon wanted the court to treat the Emergency Arbitrators decision like it was a court order.

Future Retail did not agree with this. They said that the Emergency Arbitrator is not really a tribunal under the Act. Future Retail also said that there was an order, under Section 9 of the Act. This order meant that Amazon could not get help under Section 17.

## ISSUES

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The Supreme Court consolidated all the appeals and considered three major legal issues in this case :

- a) What happens when an Emergency Arbitrator is appointed under the SIAC Rules? Is this Emergency Arbitrator considered a tribunal, under the Arbitration and Conciliation Act of 1996 specifically under Section 2(1)(d) and Section 17 ?

- b) Can this party still ask for the Emergency Arbitrators decision to be enforced under Section 17(2) of the Arbitration and Conciliation Act after getting that initial help. The Emergency Arbitrators award is what we are talking about here. The party wants to know if they can get it enforced.
  
- c) Whether Indian courts were right in the course of action they took in permitting Future Retail to continue raising its objections to the Reliance deal despite the presence of a valid international arbitration agreement between the parties.

### **RATIO DECIDENDI - Reasoning given by Supreme Court**

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Justice Nariman, for the Supreme Court, on the main issue, held that an Emergency Arbitrator appointed under the rules of institutional arbitration, is part of the “arbitral tribunal” under Section 17 of the Arbitration and Conciliation Act, 1996 [6].

The Court’s reasoning is based on three considerations:

#### 1. The arbitration agreement incorporated SIAC Rules

The Court ruled that the SIAC Rules 2016 (including the provisions on Emergency Arbitration) had been incorporated in the arbitration agreement itself. Therefore these rules were incorporated in the written agreement under Section 7 of the Act. This meant that the powers of the Emergency Arbitrator were directly based on the parties’ consent and contractual agreement [7].

#### 2. A broad interpretation of "arbitral tribunal"

The Court asserts that in Section 17, "arbitral tribunal" cannot be interpreted in a limited fashion. In such cases, the exclusion of Emergency Arbitrators would support the view that emergency arbitration provides a temporary solution for immediate relief before the full arbitral tribunal is set up.

The Court stated that by not including Emergency Arbitrators, parties could avoid the arbitration agreement by quickly moving to the domestic court before the tribunal is formally set up [8].

### 3. Differentiating Section 9 from Section 17

The Court also noted that if a party seeks a relief under Section 9, that party is not precluded from seeking to enforce the Emergency Arbitrator's order by making an application under Section 17(2).

- Section 9 gives the courts the power to provide interim relief.
- Section 17 enables the arbitral tribunal to provide interim relief, which can then be enforced by the courts.

Because the two provisions are meant for different purposes, they can indeed coexist. The Court said that the enforceability of an arbitral order is not dependent on the court application being made at a certain point in time [9].

## CRITICAL ANALYSIS

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The Supreme Court made a decision that people like because it was fair to arbitration and made sense. The Court did the thing when it said that if we follow Section 17 too closely it would not be fair. If people choose to use SIAC Emergency Arbitration, pay for it and do what they are supposed to do, it would be weird if the decision could not be enforced in India, where the money and things are. This would go against what the Arbitration and Conciliation Act's trying to do which is based on the UNCITRAL Model Law [10].

The Supreme Court judgment also brings up two things to think about.

#### 1. The possibility of courts getting too involved

By saying that Emergency Arbitrator decisions can be enforced under Section 17 the Court is basically saying that Indian courts can look at whether the emergency arbitration was fair.

This could lead to courts looking at the details of arbitration decisions when they are being enforced.

This could make arbitration less efficient and independent which is not what the Arbitration Act changes in 2015 and 2019 were trying to do. The Arbitration Act changes were supposed to stop courts from getting too involved in things they do not need to. The Supreme Court judgment and the Arbitration Act are related to SIAC Emergency Arbitration and people are watching to see what happens next, with the Supreme Court judgment and the Arbitration Act [11].

## 2. Limited Discussion about agreements

The Court made a decision based on the idea that the SIAC Rules were part of the arbitration agreement.. The agreement was signed digitally. The Court did not really look at whether the electronic documents met the need for an agreement to be in writing as stated in Section 7(4)(b) of the Act. This rule also applies to messages sent electronically.

The Court just assumed that the digital agreement was okay without thinking about it. This could be a problem in the future when there are disputes about contracts that are more complex, like smart contracts or agreements that use artificial intelligence. In these cases it might be harder to figure out if the electronic arbitration agreements are valid and were formed correctly. The digital agreements may cause problems because the Court did not fully understand the agreements [12].

## **CONCLUSION**

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The Supreme Court decision in the case of Amazon.com NV Investment Holdings LLC versus Future Retail Ltd has upheld the international arbitration agreements and acknowledged emergency arbitration in India. Agreements with institutional rules that were digitally signed were also approved. The ruling highlights upcoming issues with artificial intelligence, smart contracts, and automated transactions while demonstrating how Indian law is adjusting to contemporary corporate practices.

S.no	Citation - Bluebook 20th Edition	Section
1	Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India) [hereinafter A&C Act].	I — Introduction
2	Amazon.com NV Inv. Holdings LLC v. Future Retail Ltd., (2022) 1 SCC 209, 3–9 (India).	I — Introduction
3	Id. 3–5 (describing the terms of the shareholder agreement and negative covenants).	II — Facts
4	Id. 8; see also Future Retail Ltd., Notice Under Reg. 30 of SEBI (LODR) Regulations, 2015 (Aug. 29, 2020) (describing the Reliance Retail transaction).	II — Facts
5	Amazon.com NV Inv. Holdings, (2022) 1 SCC 209, 10 (recording the Emergency Arbitrator's order of 25 October 2020).	II — Facts
6	Id. 47–62 (ratio on Section 17 and emergency arbitrator as 'arbitral tribunal').	IV — Ratio
7	SIAC Arbitration Rules, Sch. 1 (Emergency Arbitration) (2016), <a href="https://www.siac.org.sg/our-rules/rules/siac-rules-2016">https://www.siac.org.sg/our-rules/rules/siac-rules-2016</a> ; Amazon.com NV Inv. Holdings, (2022) 1 SCC 209, 50–53.	IV — Ratio
8	Amazon.com NV Inv. Holdings, (2022) 1 SCC 209, 57 (purposive construction of 'arbitral tribunal').	IV — Ratio
9	Id. 63–71 (Section 9 and Section 17 not mutually exclusive).	IV — Ratio
10	UNCITRAL Model Law on International Commercial Arbitration art. 17, G.A. Res. 40/72, U.N. Doc. A/40/17 annex I (Dec. 11, 1985), as amended, G.A. Res. 61/33 (Dec. 4, 2006).	V — Critique
11	A&C Act, supra note 1, 34(2)(a)(iii) (setting aside on grounds of inability to present case); cf.	V — Critique

	id. § 17(2) (enforcement of tribunal orders).	
12	Amazon.com NV Inv. Holdings, (2022) 1 SCC 209, 50–52 (incorporation of SIAC Rules).	V — Critique