



Kingshuk Banerjee

Partner

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Kingshuk Banerjee is a Partner in the Dispute Resolution practice group at Khaitan & Co. He is currently based in Mumbai, India.

Kingshuk acts for and advises clients in a variety of commercial, corporate and contractual disputes. He has represented clients in complex disputes across sectors arising out of M&A transactions, shareholders' and joint venture agreements, transactions in the financial services space, maritime transactions, international trade, insurance claims, construction contracts as well as large real-estate transactions.

Kingshuk primarily focusses on arbitrations and related proceedings in Indian and foreign courts. He regularly appears before domestic and international arbitral tribunals. He has led and appeared in arbitrations administered under the rules of SIAC, ICC, MCIA, LCIA, SCMA, LMAA as well as ad-hoc arbitrations.

Kingshuk is regarded as a leading arbitration practitioner in India. Most recently, Kingshuk was recognized by Lexology and WLL in their Thoughts Leaders – Global Elite Report (Partners, under 45 category). He is recognized as a 'Litigation Star' by Benchmark Litigation. He is also ranked and recommended by Chambers & Partners Asia Pacific and Legal 500 Asia Pacific. In 2021 and 2022, Kingshuk received the Lexology Client Choice Awards for his arbitration practice.

Representative Matters

In his area of practice expertise, Kingshuk has represented and advised clients in the following cases:

International Arbitrations

- **A Singapore seated international arbitration administered by and under the rules of SIAC:** The clients were founders and promoters of India's leading manufacturer of industrial packaging tapes. The dispute arose out of a share purchase agreement under which the business was sold to a competing entity based in North America. The dispute related to the alleged breach of certain representations and warranties and indemnity claims. The claim was successfully defended and ultimately dismissed by the Tribunal.
- **A Singapore seated international arbitration administered by and under the rules of SIAC:** The client is a Singapore based group in the financial services sector. The dispute arose out of an investment agreement entered with a Hong Kong registered entity promoted by two Indian residents. The client's claims were allowed.

Practices:

Dispute Resolution

Education:

BLS., LL.B., Government Law
College, Mumbai (2009)

Professional Affiliations:

Bar Council of Maharashtra &
Goa
Bombay Incorporated Law
Society
Bombay Bar Association
Commercial Bar Association
(COMBAR)
International Council for
Commercial Arbitration (ICCA)
International Bar Association
(IBA)
Regional Lead, YSIAC Council

Sectors:

Energy, Infrastructure and
Renewables
Financial Services
Food, Beverages & Drugs
Gaming, Media, and
Entertainment
Information technology
International Trade
Insurance
Ports
Retail
Real Estate
Shipping

Recognitions & Accomplishments:

- Ranked in the 2024 Thoughts Leaders – Global Elite Report published by Lexology and WWL
- Ranked “Litigation Star” by Benchmark Litigation
- Ranked by Chambers & Partners for arbitration and dispute resolution
- Recommended lawyer by Legal 500 for arbitration and dispute resolution
- Ranked as Distinguished Practitioner by Asia Law
- Winner of the 2021 and 2022 Lexology Client Choice Awards for Arbitration and ADR in India – October 2021 and 2022
- **A Singapore seated international arbitration administered by SIAC under the LCIA Rules:** The client is an Indian entity known for hydro mechanical equipment and turnkey solutions for hydropower and irrigation projects. The dispute related to an irrigation project in Rwanda. The substance of the dispute was governed by Rwandan law. Though LCIA Rules applied, SIAC administered the arbitration based on the parties’ agreement. The claims were successfully defended, and parties eventually reached a settlement.
- **A Singapore seated international arbitration administered by and under the rules of SIAC:** The client was the Insolvency Administrator of two European entities in the financial services sector, defending claims filed by an Indian joint venture partner. The claim was eventually dismissed on jurisdictional grounds.
- **A London seated international arbitration administered by and under the rules of LCIA:** The client was one of India’s leading retail and fashion conglomerates and the counter party, a leading footwear manufacturer based out of North America. The dispute arose out of a Joint Venture Agreement between the parties and related to a contested expert determination process. The claims were settled in the course of the arbitration process.
- **A Singapore seated international arbitration administered by and under the rules ICC:** The client is a high-net-worth Indian Industrialist who was defending a claim filed by a SEBI registered foreign venture capital investor based out of Mauritius. The claim was successfully defended and ultimately dismissed, in full, by the Tribunal;
- **An India seated ad-hoc international arbitration:** The client is one of the leading shipping companies in Singapore. The dispute related to a joint venture agreement between the client and an Indian entity, also well known in the shipping industry. After securing two successful interlocutory orders, our client reached a settlement with the counterparty.
- **An India seated ad-hoc international arbitration:** The client is a French luxury fashion house who is defending a claim in arbitration on the ground of the Tribunal’s lack of jurisdiction.
- **A Singapore seated international arbitration administered by SIAC Rules:** The dispute relates to an investment by our client (FPI based in Singapore) in a SEBI regulated Alternate Investment Fund (AIF). Our client is seeking damages for breach by the investment manager and sponsor of various contractual undertakings and obligations in connection with the assets of the AIF.
- **Singapore seated international arbitration administered by SIAC Rules:** The clients are part of a large Indian conglomerate who are defending a claim by a foreign investor. The dispute involves complex questions of Indian law, including applicability of regulations framed under the Foreign Exchange Management Act 1999.
- **India seated international arbitration administered by ICA Rules:** The client is an international naval ship building company who has a claim against an Indian public sector undertaking for wrongful termination of a ship-building contract.
- **A London seated LMAA arbitration:** Advising and representing a leading Indian cement manufacturer in a mis-delivery claim in a London seated LMAA arbitration.

Arbitration related Court litigations

- An NBFC of India's leading motor vehicles manufacturer who are primarily lend to dealers and lenders of motor vehicles;
- A **Malaysian entity** active in the waste management sector. Reliefs sought and successfully obtained were in aid of an international arbitration seated in Singapore;
- A **leading Indian steel manufacturer** in connection with disputes arising out of multiple cross border sales contract;
- The **owners of leading Shipping Company** in disputes relating to recovery of debt from a Singapore based maritime contractor;
- A **Spanish pharma company** in disputes against an Indian distributor. Applications for interim reliefs were successfully opposed;
- A **French fashion house** in disputes arising out of a franchisee agreement; and
- A **Singaporean shipping company** in disputes arising out of a joint venture.

Domestic arbitrations

- A Container Terminal Operator, in an arbitration against a Port in Gujarat
- A leading real estate developer in India in an arbitration against a joint venture partner, also a Mumbai based developer;
- Former promoters of a leading Indian chemical manufacturing company in a M&A dispute against acquirers of the business.
- A leading Mumbai based beverage manufacture in arbitrations against franchisee partners and sub-contractors;
- The owner of leading chain of multiplexes in an arbitration against a government owned insurance company. The dispute stems from a 'loss of revenue' claim;
- A Baroda based manufacturer of cryogenic tanks in an arbitration against a Public Sector Undertaking;
- An NBFC in proceedings which related to recovery of debt from a large Indian conglomerate. The dispute was successfully resolved pending the proceedings; and
- Several Indian NBFCs in arbitrations as well as interim proceedings before various Indian courts in aid of debt recovery and attachment of securities.

Other litigations

- Representing two DeBeers Group entities in an ongoing litigation in Surat;
- Successfully represented Invesco Developing Markets Fund in a litigation against Zee Entertainment Enterprises Limited before the

Bombay High Court. The litigation concluded with Bombay High Court's landmark decision settling vexed questions of Indian company law;

- Representing companies forming part of the Baba Kalyani Group in various litigations;
- Representing D-vois group in a shareholder dispute before the National Company Law Tribunal;
- The owner of a leading chain of multiplexes in India in a writ petition before the Bombay High Court concerning an insurance matter. The petition was disposed of at the first hearing with the counter party agreeing to comply with the reliefs sought;
- A leading real estate developer in a writ petition filed before the Bombay High Court against a local municipal water supplying authority. interim reliefs were secured on the first day of hearing. The dispute was ultimately amicably resolved;
- A client in a writ petition filed against the Collector and Administrator of Daman impugning actions taken under the Daman Land Revenue Code. interim reliefs were secured on the first day of hearing. The petition was subsequently disposed of with the key impugned notices and orders set aside unopposed;
- Several Corporates in the financial and real estate sector in writ petitions before various Indian courts relating to regulatory disputes;
- A UK based multinational bank in recovery proceedings against an Indian Public Sector Undertaking and an insurance company; and
- Various financial creditors and resolution applicants before the National Company Law Tribunals in insolvency proceedings under the provisions of the Insolvency and Bankruptcy Code 2016;
- An international real investor PE Fund in proceedings to specifically enforce a contract for the sale of a large property in Mumbai.

Publications and Presentations:

Kingshuk has authored the following contributions:

- The Group of Companies Doctrine in India – Antithetical to Free Consent? Co author: Nidhi Kulkarni
<https://www.scconline.com/blog/post/2023/03/23/the-group-of-companies-doctrine-in-india-antithetical-to-free-consent/>
- "Non-arbitrable disputes – the Law in India" –
<https://www.ibanet.org/nonarbdisputesindia> (May 2021 year);
- "Does a Right to a Physical Hearing Exist in International Arbitration? The Indian position" Co author: Ritvik Kulkarni - Does a Right to a Physical Hearing Exist in International Arbitration? | ICCA (arbitration-icca.org) (January 2021);
- "Force Majeure Clauses and MAC clauses and 'outs' from commercial contracts" Co-authors: Nikhil Narayanan and Zacarias Joseph
<http://114.143.193.164/ergo/ImpactofCovid19oncontractsOutsunderIndiancontactlaw.pdf> (July 2020);

- "No second go around for the same arbitration" Co-author: Zacarias Joseph published by Mondaq (March 2020);
- "Plea of Adverse Possession- A shield as well as a sword, clarifies Supreme Court of India" Co-author: Radhika Gupta published by Mondaq (September 2019);
- "Supreme Court Strikes Down Clause Mandating Payment of Deposit As Pre-Condition To Invoking Arbitration" Co authors: Radhika Gupta and Preeti Sahai published by Mondaq (April 2019);
- "Force majeure – simplified" published in the journal of Chambers of Tax Consultants – India (September 2020);
- "Reconsidering the Arbitrability of Tenancy Disputes in India" - Co-author – Ritvik Kulkarni published by Bar & Bench (April 2019);
- "Insufficiently stamped agreements: can parties still seek interim relief in support of India-seated arbitrations?" Co-author – Ritvik Kulkarni published by Lexology (February 2020).