



# Nandini Khaitan

Partner

Kolkata

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## Practices:

Dispute Resolution

## Education:

LL.M., Columbia University, New York (2011)

LL.B., Calcutta University (2004)

B.I.T., Manipal University (2002)

## Professional Affiliations:

Bar Council of West Bengal (2017 dated back to 2004)

Bar Council of Maharashtra and Goa (2004 - 2017)

New York Bar (2014) (NP)

Arbitration Bar of India – Member of Executive Council and Joint Secretary (East)

Columbia Law School Association (Alumni) - Member of the Board of Advisors and serving as the first Vice President from India.

International Chamber of Commerce (ICC – International Court of Arbitration) – National Committee India - Delegate to ICC Commission on Arbitration and ADR

International Centre for Dispute Resolution (ICDR is under the American Arbitration Association) - India Committee Member

Indian Law Institute, West Bengal chapter - Member of the Executive Council

Indian Arbitration Forum -Convener for East India

Incorporated Law Society (Calcutta) – Member. Served on the Governing Council from 2022-2024

Supreme Court Bar Association - Member

Independent Director on Boards of companies.

Nandini Khaitan is a partner with the Dispute Resolution Practice in the Kolkata office. She is a dual qualified lawyer (New York and India) and regularly represents clients before various Indian Courts and Tribunals, including the Supreme Court of India, High Courts, National Company Law Tribunal, National Company Law Appellate Tribunal, National Green Tribunal and District Courts of various states. Nandini has extensive experience in a broad range of complex commercial, environmental, family litigations and arbitrations. Her practice has led her to be recognised as The Economic Times 40 under 40 Business Leader of India. She is also a recommended lawyer by the Legal 500 and Chambers & Partners for her Dispute Resolution practice. Having worked extensively with two chartered High Courts of India (Bombay and Calcutta), she is thorough in the nuances of litigation across Courts and Tribunals. Nandini also represents clients in cross border disputes and international commercial arbitrations where she advises clients on global issues both against private and state parties. She is an executive member of various coveted associations including The Arbitration Bar of India, The Indian Arbitration Forum and Indian Law Institute. She is the first Indian to serve as Vice President on the Columbia Law school Alumni Board.

Nandini also dedicates herself to various social justice issues like legal education for the underprivileged and is the external member of the Internal Complaints Committee set up under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 of organizations. She guest lectures at various institutions from time to time. Nandini is committed to the Firm's DEI initiatives and has recently co-authored a first of its kind Compendium on the Rights of the LGBTQIA+ community.

## REPRESENTATIVE MATTERS

In her area of practice, Nandini has advised and represented several prominent clients including:

## Social / Justice :

External member of the Internal Complaints Committee of various organizations

Member of Board of Advisors of IDIA

Member of EC of All India Initiative on Creative Economy

Legal committee member of Calcutta Cricket & Football Club, Kolkata

## Recognitions & Accomplishments

- Economic Times 40 under 40 business leader, for 2020-2021
- Recommended Lawyer for Dispute Resolution, Litigation - Legal 500
- Ranked Lawyer - Chambers & Partners

## Supreme Court

- **Medima LLC** - in their defense before The Supreme Court of India in Section 11 of The Arbitration & Conciliation, Act, 1996 which was tagged with a Special Leave Petition against Order of The Calcutta High Court refusing an anti-arbitration injunction (in our client's favour). Led the litigation and was responsible for strategy and all aspects of the litigation. The matter had an interesting point of law on parallel arbitration clauses. Medima was successful both in Section 11 and the SLP. The litigation resulted in a landmark decision on the law of Section 11;
- One branch of **Singhania family** (JK group) before The Bombay High Court in challenge to the Award and thereafter execution proceedings for enforcement and execution of the Award before both the Bombay High Court and Supreme Court. The only matter by then for which Supreme Court was first opened on a Sunday to hear arguments. Led the litigation and was responsible for strategy and all aspects of the litigation. The litigation was successful at all stages from the arbitration to the challenge right up to the Supreme Court. Further, this litigation resulted in a rare Order of high costs being imposed on the defendants by the Bombay High Court;
- **Seagate Technology International** in a Section 11 of The Arbitration Act, 1996 proceeding for appointment of an arbitrator in an international commercial arbitration before the Supreme Court of India. Led the litigation in the Supreme Court and was responsible for various aspects of the litigation including strategy and drafting.
- **Dalmia and Dhunseri groups** in their joint challenge to the urgency provisions being invoked in a land acquisition proceeding before The Supreme Court of India. Led the litigation in the Supreme Court and was responsible for various aspects of the litigation including strategy, drafting and presenting arguments. The litigation resulted in the successful withdrawal of the urgency provisions by the State Government;
- A HNI in the highly contested probate proceedings of his mother's will before The Calcutta High Court and The Supreme Court. Led the litigation in the final phase and was responsible for strategy and all aspects of the litigation and mediation proceedings. The litigation resulted in a win before The Calcutta High Court and ultimately a settlement before The Supreme Court through mediation (by the Supreme Court judges themselves).

## High Courts

- **Medima LLC** - before The Calcutta High Court in 1) an anti-arbitration injunction application. This was a strongly contested litigation to injunct the ICC arbitration commenced in UK by our client. Led the litigation and was responsible for overall strategy, drafting, arguments. The litigation resulted in the Court declining to give a stay to the ICC proceedings both before the Single Bench and the Division Bench; 2) a post foreign award Section 9 Proceeding - resulted in Section 9 proceeding being held maintainable;

- **Medima LLC** - before the Calcutta High Court in an application under S.9 of The Arbitration Act for interim reliefs post the passing of Award (the Award was passed in an ICC proceeding seated in London as discussed above). The Calcutta High Court was called upon to discuss the maintainability of the Section 9 application and thereafter assess the grounds for the grant of reliefs claimed. The Calcutta High Court was pleased to hold, for the first time, that a Section 9 application in a post- foreign Award case was maintainable and granted the interim relief that was prayed for. The Court also directed the counterparty to secure the award by making a cash deposit of the awarded amount. Led the litigation and responsible for the strategy to get a cash deposit, which was crucial given that all assets of the counterparty were encumbered and the possibility of recovery upon the ultimate execution of the Award being permitted would be cumbersome without the cash deposit;
- **Interglobe Aviation** – before The Calcutta High Court in a quashing application of a criminal proceeding. The matter was of an urgent nature as there were allegations made against senior management of the company. Led the litigation and was responsible for strategy and all aspects of the litigation. The litigation resulted in the stay of the criminal proceeding;
- **Usha Martin Limited**- before the Jharkhand High Court in a writ petition against two incorrect demand notices pursuant to which the client had to pay very high sums of money. Led the litigation and was responsible for final strategy, briefing senior counsels and arguments. Resultantly, the State authority was directed to refund the entire amount together with interest to the client.
- **Unitech Developers and Projects Limited/ Candor Gurgaon Two Developers & Projects Pvt. Ltd.** before The Calcutta High Court in section 9, 34 and 37 proceedings. Was responsible for leading the Kolkata leg of the matter in both the arbitration and the Court. The arbitration and following litigations under Section 34, 37 and SLP were decided in favour of the clients;
- **Uber India Technology Pvt Ltd** before The Calcutta High Court, challenging the regulations of the state government which was preventing the company from carrying on business in the state. Led the litigation and was responsible for strategy and all aspects of the litigation. The litigation resulted in a stay (pending final adjudication) of the regulations;
- **Glenmark Pharmaceuticals Limited** before the Tripura High Court in a criminal revision petition as well as multiple labour matters. Led the litigation and was responsible for strategy and all aspects of the litigation. The matter is pending final adjudication;
- **Reliance Commercial Finance Limited and Reliance Capital Limited** before The Calcutta High Court in a quashing application of criminal proceeding. The matter was urgent as the promoters had been impleaded. Led the litigation and was responsible for strategy and all aspects of the litigation. The litigation resulted in the stay of the criminal proceeding;

- **Abu Dhabi Commercial Bank** before The High Court of Calcutta in an injunction application filed for the purpose of stopping of enforcement of an inter bank, bank guarantee. We were briefed after the injunction was granted ex parte against the banks. Led the matter and was responsible for all aspects there on. The litigation resulted in the injunction being vacated within a short time and on the strength of arguments only;
- **Linde India Limited** before The Calcutta High Court on 18 quashing applications (each for multiple years) of criminal proceedings. Was responsible for strategy and arguments. The quashing application which was pending for years was finally heard and allowed within a short time of the matter being entrusted. 13 of the 18 matters were quashed. Multiple years in the remaining 5 petitions were also quashed;
- **Indus Towers Ltd** before The Calcutta High Court in their appeal proceedings against an order which resulted in dismissing the Company's challenge to the levy of a tax that is unconstitutional. Led the matter in the appeal stage and was responsible for all aspects of the matter. The litigation resulted in the stay of the impugned Order. The final adjudication of the appeal is pending;
- **Nandos International Ltd** (International restaurant chain) before The Bombay High Court on their trademark litigation. Was responsible for drafting pleadings, briefing senior counsels and the strategy based on a comparative law research and analysis. The litigation resulted in a landmark decision of the Bombay High Court in favor of the client; and
- **Jindal Steel & Power Ltd.** before The Calcutta High Court in their defense for contractual damages. Led the litigation for the client and was in charge of strategy, drafting and appearing. The matter resulted in 2 of the 3 Defendants being dropped from the suit in an extremely timely manner without having to face trial and one defendant being referred to arbitration. In effect the Suit was rendered infructuous.

## District Courts

- **Quickheal Technologies Ltd.** before the District Court at Serampore, West Bengal in a suit for infringement and damages. Led the litigation from inception, strategizing and advising from time to time. Successfully obstructed passing of an ex-parte order against client at time when client was on the verge of closing its IPO process;
- **Nutec Bickley** before the Alipore Court, Kolkata in a suit for damages against the client. Led the litigation and was responsible for strategy and all aspects of the litigation. The plaintiff had not disclosed the company was under insolvency and as we kept a watch on all developments around the company/plaintiff were able to bring this suppression to the Court and the lack of locus of the promoters to continue as plaintiffs. We were successful in having the suit filed by the Plaintiff dismissed;

- **Johnsons Controls (India) Private Limited** before the Alipore Court, Kolkata in a suit for damages against the client. Led the litigation and was responsible for strategy and all aspects of the litigation. Was successful in preventing any interim orders from being passed against the Client and was instrumental in getting the matter settled before proceeding for a full-fledged trial;
- **Volkswagen Group Sales India Private Limited** before the Alipore Court against a leading car dealership agency, in a civil suit. The agency had obtained an *ex parte ad interim* injunction preventing our client from giving effect to the termination notice. We were successful in getting the termination vacated and the suit was later dismissed. Co led the litigation and was responsible for strategy and all aspects of the litigation;
- **PETNET Radiopharmaceutical Solutions Private Limited**, a leading manufacturer of positron emission tomography (PET) radiopharmaceuticals, against Eko Diagnostics Private Limited, before the Commercial Court, Rajarhat (Calcutta). Led the matter in the appeal stage and was responsible for all aspects of the matter. The Clients were successful in obtaining stay of the termination notice issued by counter party in a pre-arbitration proceeding for interim reliefs under Section 9 of the Arbitration & Conciliation Act, 1996; and
- Various individuals in their matrimonial disputes both at the district court and High Court in Mumbai and Kolkata;

## Arbitration

- **Promoters of one of the largest logistics companies of India** in a family arbitration. Was responsible for all aspects of the arbitration including strategy, drafting pleadings, briefing senior and negotiating a settlement for the client;
- **Unitech Developers and Projects Limited/ Candor Gurgaon Two Developers & Projects Pvt. Ltd** in an arbitration involving a contractual dispute arising out non-repayment of loan taken under three separate ICD agreements. Led the matter in Kolkata along with Delhi team advising on overall strategy;
- **One of the largest MNCs** in the world in an arbitration involving a commercial dispute with their joint venture partner in India. Leading the arbitration and responsible for strategy and all aspects of the Arbitration. Have been successful in section 9 and Section 17 applications. Was also successful in resisting the application of the Respondent in trying to rope in a group company to the arbitration;
- International Commercial Arbitration: Successfully co-represented one of the largest Indian infrastructure companies involving a construction contract against a foreign government company in an Arbitration based outside India; and
- International Commercial Arbitration: One of the largest data storage technology and infrastructure companies in relation to various

guarantees and agreements entered into between multi-national parties to settle multiple cross border disputes, litigations. The said case involves an inter-play of various foreign judgments passed by courts in reciprocating and non-reciprocating territories and their binding nature in India and on the disputes raised in the arbitration and where the claim is over USD 1 Billion. Was successful in getting a large part of the claim disallowed by successfully filing and arguing a Section 16 application on jurisdiction.

### National Company Law Tribunal / NCLAT

- **Contemporary Brokers Pvt. Ltd.** before the National Company Law Tribunal, Kolkata Bench. Successfully led the matter in an application under Section 7, IBC, 2016 resulting in an order of admission despite the corporate debtor claiming disputes. An issue of whether the claim was operational or financial was also settled in the client's favor;
- **A promoter of one of the largest media groups** in an ongoing highly contested litigation before the NCLT, Kolkata for control over the family company. Leading the litigation and is responsible for strategy, drafting and all aspects of the litigation; and
- **Various financial institutions** in their insolvency proceedings as financial creditors.

### National Green Tribunal

- **JSW Utkal Steel Limited** before the National Green Tribunal, Kolkata in their environment litigation filed challenging the Environmental Clearance to the company. Successfully led the litigation and was responsible for strategy and all aspects of the litigation. The litigation resulted in the quashing of the appeal at the threshold;
- **Dhunseri Petrochem & Tea Ltd** (one of the largest petrochemicals and tea companies of India) before the National Green Tribunal, Delhi in their environment litigation. Led the litigation and was responsible for strategy and all aspects of the litigation. The litigation resulted in the quashing of the closure notice of the company's petrochemical plant;
- **Football Sports Development Ltd** before the National Green Tribunal, Kolkata in an environment PIL filed against them and other parties for the purpose of stopping ISL matches from being held at an eco-sensitive area. Involved in devising a successful strategy to meet the concerns of the PIL and securing permission to continue with the matches; and
- **Riga Sugar Ltd.** before the National Green Tribunal, Delhi in their environment litigation. Involved in strategizing and all other aspects of the litigation. The litigation resulted in the quashing of the closure notice of the company's sugar and distillery;

### PUBLICATIONS AND PRESENTATIONS

Nandini has authored the following contributions:

- **Compendium on LGBTQIA+ Rights**
- **Fraud and Arbitration – An Attempt to Deconstruct the Russel Principles** Published with the Supreme Court Cases - Citation (2021) 5 SCC J-39
- **The Firm Women: A Perspective on Indian Women working in Law Firms** published Indian Advocate (Volume XLII, Women and Law Issue, 2018) and republished with permission by Bar & Bench –  
  
<https://www.barandbench.com/columns/the-firm-women-a-perspective-on-indian-women-working-in-law-firms>
- **Patent illegality: Supreme Court travels a long road to tame a herd of unruly horses** - Published with The International Law Office, July, 2020;
- **Supreme Court Clears The Air On Coparcenary Rights Of Daughters Under The Hindu Succession (Amendment) Act, 2005** –  
  
<https://www.mondaq.com/india/trials-appeals-compensation/977352/supreme-court-clears-the-air-on-coparcenary-rights-of-daughters-under-the-hindu-succession-amendment-act-2005> ;
- Op ed piece – **Shamnad Basheer: How an affable, erudite professor influenced everyone around him** –  
<https://indianexpress.com/profile/columnist/nandini-khaitan/> ; and
- **“Debit and Credit Card Data Theft in India: Manifestation of Data Privacy and Data Protection”** published by India Law News (Volume 9, Issue 2, 2017) (August 2017)

### Continuing Legal Education/Panel discussions:

- Guest faculty at the WB National University of Juridical Sciences, Kolkata (NUJS) in 2014. Taught a credit course on Arbitration; Have guest lectured from time to time at NUJS, Symbiosis Law College, Nagpur and other colleges.

### Panel Discussions

- Panelist on Surrogacy Laws at Commonwealth Law Conference, Goa, 2023
- Panelist on Same Sex Equality at LawAsia, Bangalore, 2023
- Panelist at Celebrating 100 years of Women in Law – organized by Harvard Women in Law Alumni Network
- Panelist on International Arbitration way forward at The India International Arbitration Centre Launch, September 2023
- Moderator for Arbitration amendments panel at GAR, Mumbai -2023

- Panelist and Moderator on various LGBTQIA+ panels including at CII events
- Panelist on Arbitration Sections 8 & 11 for Nani Palkhiwala
- Panelist for webinar on Time and Cost management in International Commercial Arbitrations. Panel included Mr Gary Born, Mr Stephen Finizio, Mr Sanjeev Kapoor, Mr Kinshuk Banerjee and Ms. Dharshini Prasad <https://youtu.be/-ynoqS8SOeA> ;
- Moderator for webinar on Virtual Courts. The panel consisted of The Hon'ble Mr Justice Sanjib Banerjee, Sr. Advs. S N. Mookherjee and Mr Mukesh Lahiri. <https://www.youtube.com/watch?v=YRewVPsJAeE&t=4267s> ;
- Moderator for webinar on Indian Arbitration Guideline Launch 2.0 by IAF. Panel consisted of The Hon'ble Mr Justice A.K. Patnaik (retd.), The Hon'ble Ms. Justice Maushmi Bhattacharya and Sr. Adv Mr S.N.Mookherjee <https://www.youtube.com/watch?v=QKihayGQUng> ;
- Panelist on ODR hosted by BW Legal
- Panelist for webinar on Inclusive Contract Drafting for Indian Chamber of Commerce and Merchant Chamber of Commerce;
- Panelist with the then Additional Solicitor General of India, Ms Pinky Anand for a discussion on "Decode Law 4 Women" organized by YFLO Calcutta;
- Panelist with former MP Priya Dutt and journalist Ms Anubha Bhonsle on Social Justice organized by Ladies Studies Group, Kolkata;