

Local courts have no say in arbitration proceedings overseas: Supreme Court

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MUMBAI: The [Supreme Court](#) has ruled that domestic courts have no jurisdiction to pass interim orders in disputes when there's an arbitration proceeding going on in an overseas location.

"In a foreign-seated international commercial arbitration, no application for interim relief would be maintainable under Section 9 or any other provision," said a five-judge constitutional bench overruling a judgement in [Bhatia International vs Bulk Trading SA](#).

The order for this case came in 2002. The latest ruling said the applicability of the Arbitration Act, 1996, is limited to all arbitrations. Hence, no suit for interim injunction would be maintainable in India on the basis of an international commercial arbitration with a seat outside India.

A constitutional bench delivered judgment in [Bharat Aluminium Co vs Kaiser Aluminium Technical Services](#) overruling the doctrine laid down in 2002 by the same court. This ruling of the five-judge constitutional bench headed by chief justice SH Kapadia will be a relief for international companies who get entangled in the Indian judicial system where disputes drag on for years.

"This judgement restores the original intent of the [arbitration act](#) and restricts the judicial interference from domestic courts when the seat of arbitration is outside India," says [Sanjeev Kapoor](#), partner, dispute resolution practice, Khaitan & Co.

"The judgment is expected to equip the parties with renewed confidence that once having chosen an arbitration seat outside India, the arbitration proceedings will be conducted swiftly and will reach the Indian courts only at the stage of enforcement," said Kapoor.

The judgment may lead to many companies choosing arbitration as a preferred mode of dispute resolution in [international commercial transactions](#). "The Supreme Court has clarified that Bhatia International judgment was not a good law.

However, it will still be applicable to all existing disputes and also to disputes arising in future under the existing arbitration agreements," said Vyapak Desai, head, international litigation and dispute resolution practice at Nishith Desai & Associates.