

**In arbitration proceedings initiated before the 2015 Amendments to the Arbitration and Conciliation Act, 1996, a party could not later challenge the existence and validity of the arbitration clause before the arbitral tribunal or a court under Section 34, after having accepted a Section 11 order appointing an arbitrator**

The **Supreme Court** in the case of **Eminent Colonizers Private Limited vs Rajasthan Housing Board [Civil Appeal No. 753 of 2026]** dated **February 04, 2026**, has held that under the pre-2015 amendment regime, once a party consents to a court order appointing an arbitrator, they cannot subsequently challenge the existence or validity of the arbitration clause before the arbitral tribunal or in proceedings under Section 34 of the Arbitration and Conciliation Act, 1996.

The Court reiterated that under the Pre-2015 Amendment regime, the Chief Justice or designated judge under Section 11 performed a judicial function and was obliged to decide on jurisdictional issues, including the existence and validity of the arbitration agreement. This decision was final and binding on the parties under Section 11(7). It was impermissible to challenge the existence and validity of the arbitration clause before the arbitral tribunal or a court under Section 34, after having accepted a Section 11 order appointing an arbitrator.

The Court observed that the 2015 Arbitration Amendment has introduced Section 11(6A), specifying the limits of the referral courts to only see the prima facie existence of the arbitration agreement while deciding the application seeking an appointment of an arbitrator. The Court therefore, held that, in arbitration proceedings initiated before the 2015 Amendments to the Arbitration and Conciliation Act, 1996, a party could not later challenge the existence and validity of the arbitration clause before the arbitral tribunal or a court under Section 34, after having accepted a Section 11 order appointing an arbitrator.