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Functioning of Courts in India and Abroad during Covid-19 Pandemic

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Health and safety are everyone's priority today as COVID-19's unprecedented impact continues to grow each day. Needless to say, the outbreak of Covid-19 has left its impact on litigation and arbitration in various ways, ranging from an increased use of remote hearings to general court closures, depending on the countries and institutions concerned. With a view to ensure minimal disruptions, Courts around the world have swiftly embraced technology, including mandatory electronic filing, restricting hearings to only critical cases and conducting them through video conferencing. Although it may necessitate the creation of a specialized advisory vertical focused on guiding businesses in navigating various challenges that will come up- both in the long term, and the short term; the proactive steps taken by Courts, both in India and abroad, have made it comparatively easier to effectively strategize and manage Litigation. In particular, after the order passed by the Government of India imposing a complete nation-wide lockdown for 21 days beginning 25th March, 2020, the Supreme Court as well as various High Courts have passed various orders on the judicial side as well as on the administrative side to minimize as much as possible, the impact of the unprecedented Covid-19 lockdown for Litigants and their lawyers. The same was necessitated in view of closure of all Courts across the country till at least 14th April 2020.

A brief overview of such various measures is as under:

Supreme Court of India: Exercising inherent powers under Article 141 and 142 of the Constitution of India, a full bench of the Supreme Court has, vide its order dated 23rd March 2020, extended the limitation for filing petitions/applications/suits/appeals/all other proceedings before all Courts, Tribunals and authorities across the country w.e.f. 15th March, 2020 till further orders. In other words, the period beginning 15th March 2020 till further orders shall be excluded while calculating limitation.

High Court of Delhi: A full bench of the Delhi High Court by an order dated 25th March, 2020, while deciding a suo moto writ petition, has directed that interim orders subsisting as on 16th March, 2020 and expired or expiring thereafter, shall stand automatically extended till 15th May, 2020 or until further orders, except where any orders to the contrary have been passed by the Supreme Court in any particular matter, during the intervening period; liberty has been given to the affected parties to apply for vacating or variation of such orders.

National Company Law Appellate Tribunal (“NCLAT”): The NCLAT vide its administrative order dated March 24th, 2020, has given liberty to litigants/lawyers to telephonically mention urgent matters before the Registrar prior to 1st April 2020. Apart from that the limitation for filing has also been extended in terms of the order passed by the Supreme Court.

High Court of Judicature at Allahabad: In exercise of its powers under Article 226 and 227 of the Constitution of India, vide its order dated 26th March 2020, the High Court of Allahabad has passed the following directions:

1. All interim orders passed by the High Court, all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial Tribunals and all other Tribunals in the State, which have expired subsequent to 19th March, 2020 or are due to expire within a period of one month from 26th March, 2020, will continue to operate upto 26th April, 2020.
2. All Bail/anticipatory bail orders which are likely to expire in one month from 26th March 2020 will stand extended for a period of one month
3. All eviction, dispossession or demolition orders already passed by the High Court, District or Civil Courts shall remain in abeyance for a period of one month.

Further, vide notice of even date, the Administrative Committee of the High Court has directed all Courts subordinate to it, including all Commercial Courts, Motor Accident Claim Tribunals, and Land Acquisition and Rehabilitation Authorities across the state of UP shall remain closed till further orders. Further, the High Court has clarified that imminently emergent and urgent cases before it would be heard by the designated Bench with prior approval of the Chief Justice or the Senior Judge, Lucknow, as the case maybe.

High Court of Kerala: A full bench of High Court of Kerala has extended all interim orders that are likely to expire in the next 21 days to 14th April 2020 vide its order dated 25th March 2020. In addition, Bail applications will be entertained by a committee constituted as per the directive of the Supreme Court.

High Court of Judicature, Calcutta: A constitution bench of the High Court of Calcutta has extended till 30th April, 2020 all interim orders that were subsisting as on 16th April, 2020 and which may have expired or which are due to expire on or before 9th April, 2020 or until further orders, with the liberty to the affected parties to apply for vacating or variation of such orders. The order was passed on 25th March, 2020 while hearing a suo moto Writ Petition, and order extends to subordinate courts and the tribunals within the State of West Bengal and Union Territory of Andaman & Nicobar Islands.

High Court of Karnataka: A division bench of the High Court of Karnataka, vide its order dated 24th March, 2020, has directed that all *interim orders passed by it and all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial and other Tribunals in the State over which the Court has power of superintendence, and which are due to expire within a period of one month from 24th March, 2020, will continue to operate for a period of one month. The Court has further directed that all orders of eviction, dispossession or demolition already passed by it, the*

District or Civil Courts, shall also remain in abeyance for a period of one month. On the criminal side, the Court has directed that orders of bail and anticipatory due to expire during the period of lockdown stand automatically extended for one month.

High Court of Telangana: *The High Court of Telangana has passed an order on 27th March, 2020 directing all interim orders passed by the High Court and the Courts subordinate to it, which were subsisting as on 20th March, 2020 that have either expired or will expire thereafter shall stand extended till 7th June, 2020. Further, any orders of an Executing Court passed after 15th February 2020 shall also be kept in abeyance till further orders. In addition, through a separate notification passed on the administrative side, the High Court has directed that it will continue to take up extremely urgent matters on Monday, Wednesday and Friday every week till further orders.*

While various other High Courts in India have already passed administrative orders providing for restricted functioning limited to only urgent matters in view of Covid-19 outbreak, it can be expected that similar general orders extending the validity of interim orders would be passed by all the High Courts in the coming few days to further restrict the number of cases that may be taken up during the 21 day Lock Down till 14th April, 2020 or even thereafter depending on the situation. Similarly, Courts in various Countries have also taken stringent measures to combat the threat of Covid-19, a brief overview of which is as under:

United Kingdom: The Lord Chief Justice has suspended jury trials. However, the Magistrates' Courts will continue to deal with urgent work. The Government's new Coronavirus Bill provides for greater use of video/audio hearings for criminal proceedings and magistrate courts appeals.

In the Business & Property Courts a special protocol will be followed. QB Masters are taking a number of measures, including urging parties to postpone non-urgent hearings and warning of delays with e-filing.

The Supreme Court has issued an update on visits to their building. It makes clear that for now, the court is currently functioning as normal, but this is subject to change.

The Queen's Bench Division has issued a statement announcing a few temporary changes. For example, various counters will be closed to the public. However, for the most part business will continue as usual, subject to the above.

France: On 15th March 2020, the Justice Minister said that only "essential" litigation will proceed. That includes hearings for people in custody, urgent cases pertaining to children and procedures related to the eviction of a violent partner. No procedural and oral hearing will be held until at least 17th April 2020.

Bailiffs are still active in notifying decisions and enforcing them (forced seizure). Other types of enforcement procedure that involve the courts are suspended.

Dubai: All judicial hearings at the three stages of prosecuting (Courts of First Instance, Appeals and Cassation) have been adjourned. Issuance of certificates and personal status documents like marriage and divorce certificates have also been suspended from 22nd March to 16th April 2020.

Hearings of urgent matters, criminal cases and appeals involving inmates and detainees shall continue remotely, as per an order passed by the President of the Dubai Courts.

ICC Court of Arbitration: All hearings scheduled until the end of June 2020 in Paris or an affected area are being postponed or changed to virtual meetings.

On 17th March, 2020, the ICC issued an urgent communication stating that all offices of the Secretariat of the ICC Court and the ICC ADR Centre are operational and that staff members are healthy and working remotely via mobile posts.

SIAC: All filings to be done electronically.

Parties are being encouraged to use the Maxwell Chambers Virtual ADR Services for cases in place of in-person meetings or hearings.

All visitors to the SIAC premises are required to complete a health & travel declaration form and temperature screening upon arrival. Those found to have a temperature of 37.6 °C and above are denied entry.

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