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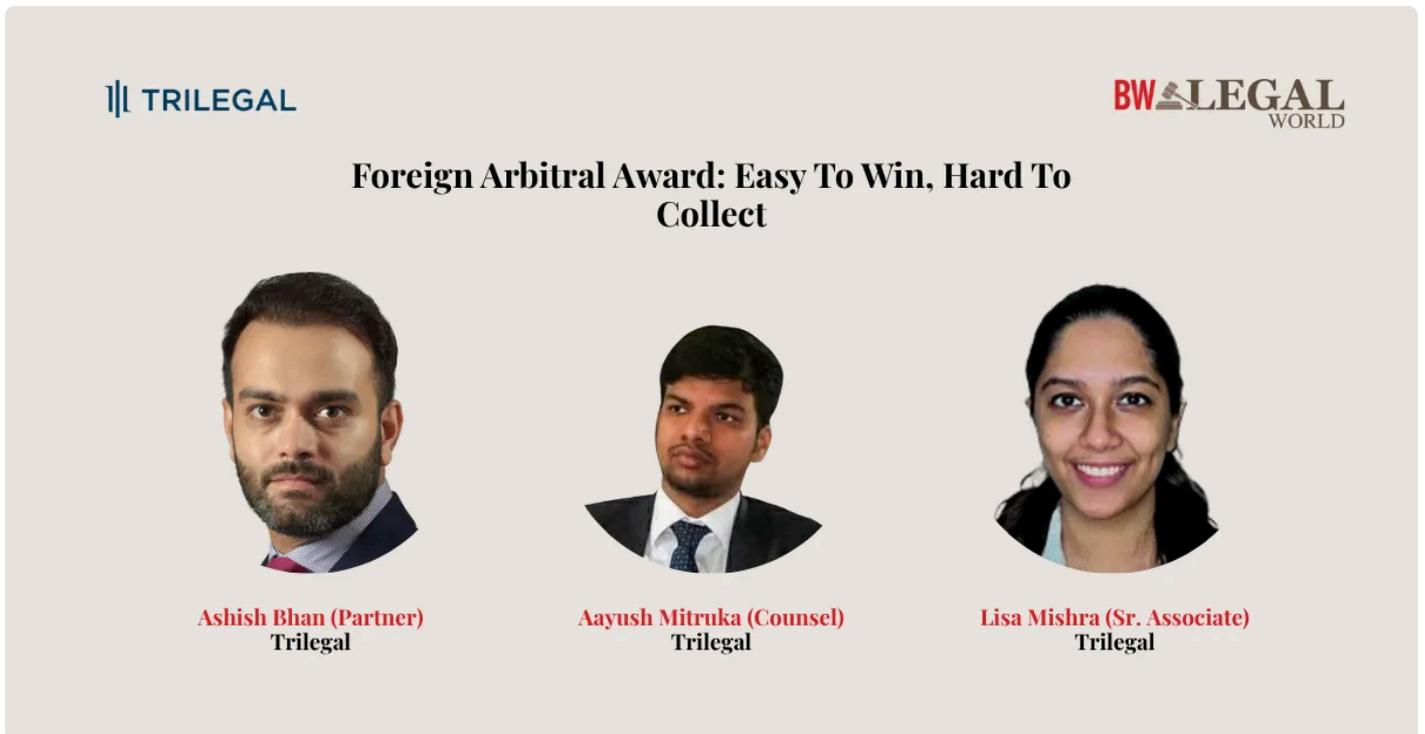
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Foreign Arbitral Award: Easy To Win, Hard To Collect

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foreign arbitral award # enforcement in India # arbitration law # New York Convention # High Courts # investment arbitration # legal delays # dispute resolution
commercial arbitration

Enforcement delays continue to undermine arbitration's promise of speed and finality in India



You have just won a multimillion-dollar arbitration abroad. The arbitral tribunal rules firmly in your favour and you expect payment to follow. The award debtor predictably sits tight and refuses to pay. If the debtor's assets are in India, you are then forced to approach an Indian High Court to enforce the award and begin recovery. What should have been the end of the dispute quickly turns into another long and bruising legal battle, where the adage 'litigation begins after judgment' remains painfully apt.

The Numbers Tell a Story of Delay

Our review of over 100 judgments across key Indian High Courts reveals a clear pattern. Indian courts are overwhelmingly pro-enforcement, ultimately recognising and enforcing more than 85 per cent of foreign awards that are brought before Indian High Courts. The catch? The average time to get there could take few years.

In Delhi and Bombay, the average enforcement journey takes three years. In Calcutta, it's faster—about a year—but that is the exception, not the rule. In Madras, it usually takes over two years.

The reality is that award holders often find themselves in a multi-year slog, a pace that contradicts the very essence of arbitration's promise of speed and finality.

By contrast, jurisdictions like Singapore, London, and Paris have a far more efficient and pro-enforcement legal systems, which lead to a relatively short timeline for the enforcement of foreign arbitral awards. While the exact time can vary depending on whether the enforcement is contested, the process is generally measured in months rather than years. In India, unpredictability remains the theme.

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Promise vs. Reality

India is a signatory to the New York Convention, which promises speedy enforcement, but the process in practice is far more daunting. Enforcement involves a two-step process: recognition and execution.

First, the award holder is required to approach the jurisdictional High Court for 'recognition' of the award. The law provides narrow grounds for resisting a foreign award, yet debtors weaponise every opportunity. From our analysis, a familiar pattern emerges. Objections based on public policy, violation of principles of natural justice or fraud are recycled endlessly, not with any real hope of success, but to bleed award holders of time and resources. What follows is a judicial game of cat-and-mouse, where delay is the true victory.

Once an award is recognised, it is deemed to be a decree of the High Court and can be executed against the debtor's assets. In practice, this stage, too, is riddled with procedural delays and creative objections. Award debtors will exploit every procedural opportunity, dragging the process into months, sometimes years.

Business impact

For global investors and businesses, the message is troubling. Arbitration is supposed to guarantee speedy resolution and certainty. But if enforcement in India drags out for years, the entire promise of arbitration rings hollow. This undermines both contractual trust and India's credibility as an investment destination.

It also has a direct financial cost. Legal fees mount, money remains tied up, and balance sheets reflect only paper victories instead of real cash recovery.

India has made notable strides in arbitration reform over the past decade, but unless enforcement becomes swift, predictable, and transparent, the promise of arbitration will fall flat. For now, the finish line of arbitration in India is rarely the end of the race. It is the start of a long marathon.

Some fixes that can make a difference: (i) establish specialised benches within High Courts to hear enforcement cases, ensuring judges develop the expertise to handle these matters with speed; (ii) codified timelines for disposal; (iii) grant of wide and quick interim reliefs; and (iv) real and significant costs for frivolous objections.

If India wants to project itself as a reliable investment destination, it must demonstrate that arbitral awards are not just recognised in principle but enforced in practice—quickly, predictably, and transparently. Until then, arbitration in India will remain an unfinished race. Winning the award may make headlines but recovery will remain the real challenge.

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