

The Hon'ble Bombay High Court, in the matter of ***BXIN Office Parks India Pvt Ltd vs. Kailasa Urja Pvt Ltd***, and companion petitions, has reaffirmed the settled position in law, that the relief for recovery of possession of licensed premises falls exclusively within the jurisdiction of the Small Cause Court, and is not arbitrable in nature.

The Hon'ble Bombay High Court relying on the full bench judgment in the matter of *Central Warehousing Corporation, Mumbai v. Fortpoint Automotive Pvt Ltd, Mumbai (2010 (1) Mh. L.J.658)* amongst others, opined that:

- ❖ In view of the bar imposed by Section 41(1) of the Presidency Small Cause Act, 1882 ("***PSCC Act***") certain disputes between a licensee and licensor *inter-alia*, for recovery of possession of the licensed premise fall within the exclusive jurisdiction of the Small Cause Court.
- ❖ On the other hand, where a dispute under the leave and licence agreement is purely in nature of a monetary claim and not in relation to the possession of the licenced premises or reliefs incidental thereto, then the arbitral proceedings would be maintainable.
- ❖ As the main relief sought in the petitions under Section 9 of Arbitration and Conciliation Act, 1996 was for recovery of possession of licensed premises, the Court held that it did not have the jurisdiction to entertain a petition in view of the bar imposed under Section 41(1) the PSCC Act.
- ❖ However, while dismissing the petitions, the Court granted the Petitioners liberty to take recourse to other appropriate proceedings as may be available in law including to assert pure monetary claims in arbitral proceedings.

The judgment of the Bombay High Court dated August 20, 2022, can be accessed [here](#).

### *Validity of an arbitration agreement vis-a-vis possession of licensed premises*

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Communications: [Contact@stratage.in](mailto:Contact@stratage.in)