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Delhi High Court Upholds Finality of Alternative Dispute Resolution Methods and Terminates CCI Proceedings

On 14 August 2024, a Bench comprising of Justice Prathiba Singh and Justice Amit Sharma of the Delhi High Court issued its judgment in *JCB India and Another v. Competition Commission of India and Another*. We set out below a summary of the Delhi High Court's judgment.

Background

The case arises out of an intellectual property (**IP**) dispute between JCB India Limited and its parent company, JC Bamford Excavators Limited (collectively, **JCB**) on the one hand and Bull Machines Private Limited (**Bull Machines**) on the other. JCB and Bull Machines both manufacture heavy equipment vehicles (backhoe loaders) that are used for road construction.

While JCB and Bull Machines were engaged in settlement negotiations on the IP dispute, Bull Machines approached the Competition Commission of India (**CCI**) to seek intervention under the Competition Act, 2002 (**Competition Act**). Bull Machines alleged that JCB was engaged in bad faith litigation, and that this amounted to denial of market access in contravention of the abuse of dominance provisions of the Competition Act.

The CCI found *prima facie* merit in the allegations made by Bull Machines, observing that predatory litigation was a growing threat to competition in India and agreed that it might amount to denial of market access. In 2014 the CCI directed a detailed investigation into the matter.

However, the investigation was delayed on account of due process challenges by JCB. JCB challenged the initiation of an investigation into allegations of bad faith litigation without

there being any final decision on such litigation in the first place. JCB argued that, before the merits of the underlying dispute had been decided, the CCI could not consider it as sham or predatory litigation. JCB also challenged the scope of search and seizure in connection with a dawn raid it had been subject to.

While the due process challenges were pending before the Delhi High Court, JCB and Bull Machines participated in a court mandated mediation in relation to the underlying IP dispute. The mediation was successful and led to a settlement between them in 2021. In view of the terms of settlement, the Supreme Court of India disposed of all pending cases relating to the IP dispute and directed the parties to approach the Delhi High Court to decide the writ petitions challenging the CCI investigation as quickly as possible.

The Delhi High Court's latest judgment related to the CCI proceedings and the writ petitions.

Arguments and the Delhi High Court's findings

JCB and Bull Machines argued that the initiation of an investigation by the CCI in 2014 was premature since it could not be established whether JCB's litigation was abusive / predatory. The CCI argued against the closure of the pending investigation. Its primary contention was that the terms of the settlement could be unfair and anti-competitive, just as litigation could be abusive / predatory.

The Delhi High Court did not agree with the CCI. Likening the threat of CCI intervention to the *Sword of Damocles*, it reasoned that allowing the CCI's investigation into the terms of the





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settlement would affect the sanctity of the settlement process. It observed that there was a need to promote alternative dispute mechanisms which were not only faster and more cost effective for businesses, but also relieved pressure on the judicial system. Following precedent, the Delhi High Court held that the terms of the settlement were final and could not be interfered with. It therefore concluded that the CCI investigation could not be permitted to continue.

The Delhi High Court was also concerned about the CCI potentially reviewing the terms of the settlement and held that this would be outside the CCI's jurisdiction. Acknowledging the importance

of IP rights in promoting innovation, the judgment urged the CCI to ensure that it exercised its powers in a manner which complemented other regulatory bodies. It also discouraged the CCI from investigating allegations of abuse of dominance through sham or predatory litigation, especially when courts were still seized of the underlying IP dispute. It clarified that the CCI's intervention would be appropriate only after the underlying dispute had been found to be frivolous.

The Delhi High Court set aside the CCI's *prima facie* order which directed an investigation to be conducted and terminated the pending CCI proceedings.

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