

Run By Shorthand Dictation Legal Matters

Since 2005

(Sir Isaac Pitman's Shorthand)

Krishna Shorthand Institute

कृष्णा आशुलिपिक संस्थान

(English Only) By. A.V. Kushwaha

(For Govt. Jobs, SSC (Group D & C), Supreme Court, High Court, District Courts, ASRB, CRPF, Railway, CBSC & all other departments requiring "English Stenographer/Personal Assistant/Private Secretary")

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

Note: You will get following:

- 1. Passage (in two parts)**
- 2. Important Outlines**
- 3. Important Vocabulary**
- 4. Accuracy Building Tips etc.**

NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Non-Maintainability of Section 34 Petitions Against Foreign Awards

Volume 1: Dictation No. 18

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Mr. Mukherjee, learned counsel appearing for the appellant further submitted that Article 22 of the agreement between the parties provided that the agreement will be governed by the prevailing law of India and, therefore, parties to the agreement have chosen the prevailing law of India as the law governing the rights of the parties. He submitted that since the substantive rights of the parties to the agreement are to be governed by the law prevailing in India, even though the arbitration has taken place and the awards have been made in England can be challenged in a Court in India by an application under Section 34 of the Indian Act. He submitted that in the case of Bhatia International vs. Bulk Trading (supra), the Supreme Court has laid

down the test that if a Court has jurisdiction to entertain an application under Section 9 of the Indian Act, it would also have jurisdiction to entertain an application under Section 34 of the Indian Act to set aside an award made by the arbitrator. He argued that in the present case since the cause of action in connection with the subject matter of the jurisdiction arose within the jurisdiction of the District Judge at Bilaspur. The District Judge at Bilaspur had the jurisdiction to entertain the application under Section 9 of the Indian Act and accordingly also under Section 34 of the Indian Act to set aside the award. He submitted that Part-II of the Indian Act provides for enforcement of certain foreign awards and Section 48 therein stipulates the conditions for enforcement of the foreign awards. He submitted that it will be clear from Section 48(1)(e) of the Indian Act that a foreign award can be set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made and hence a foreign award can be set aside or suspended not only by the competent authority of the country in which the award is made but also by a competent authority of the country under the law of which the award was made. He vehemently submitted that since it is the law of India which governs the agreement between the parties, the awards have been made under the law of India and the competent authority in India can under Section

48(1)(e) of the Indian Act also set aside or suspend the awards in the present case though the same have been made in England. In support of his submission, he relied on the decision of the Division Bench of Calcutta High Court in White Industries Australia Limited vs. Coal India Limited, reported in 2004 (2) Calcutta LJ 197 in which it has been held that where the express choice of the parties with regard to the law of the contract is Indian Law and the contract was signed in India and was performed in India, there is no reason for the Court to hold that the expression 'under the laws of which that award was made' in Section 48(1)(e) of the Indian Act would mean nothing but Indian Law.

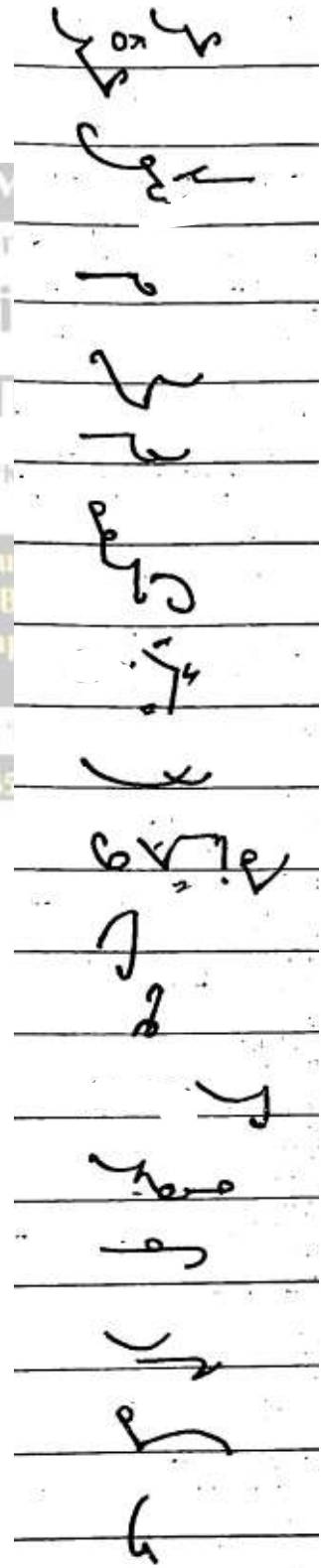
Thus, where parties to the agreement have subjected the agreement only to the Indian law and do not indicate in the agreement that the English Law will apply in case of arbitration, then the expression 'the law to which the parties have subjected' the agreement in Section 48(1)(a) of the Indian Act and the expression 'under the law of which the award is made'. We have, therefore, no doubt in our mind that the applications of the appellant under Section 34 of the Indian Act before the learned District Judge, Bilaspur for setting aside the two awards dated 10.11.2002 and 12.11.2003 which were made under the English Act were not maintainable and the two appeals filed by the appellant are liable to be dismissed.

Total Words: 643

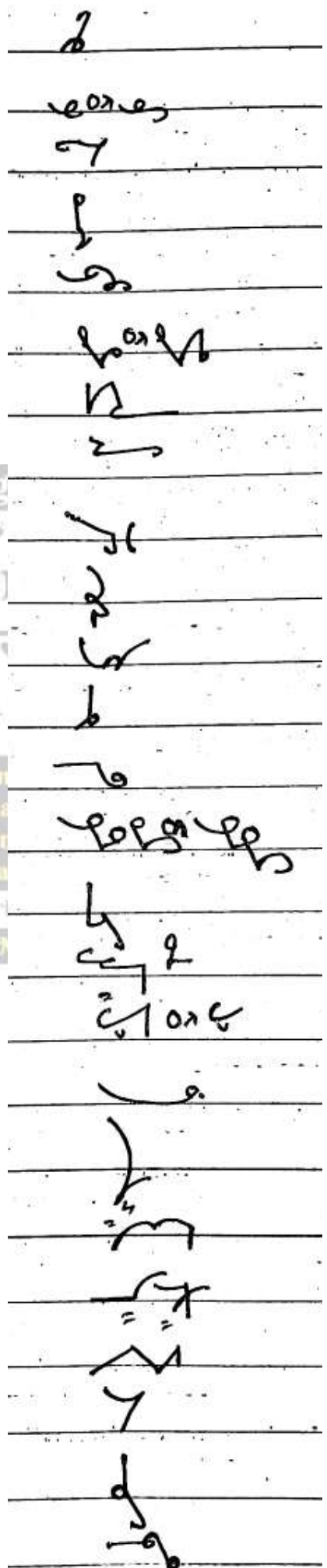
Total 601+634=1235

Outlines of all highlighted words and phrases.
Adopt only those outlines which are better
than yours.

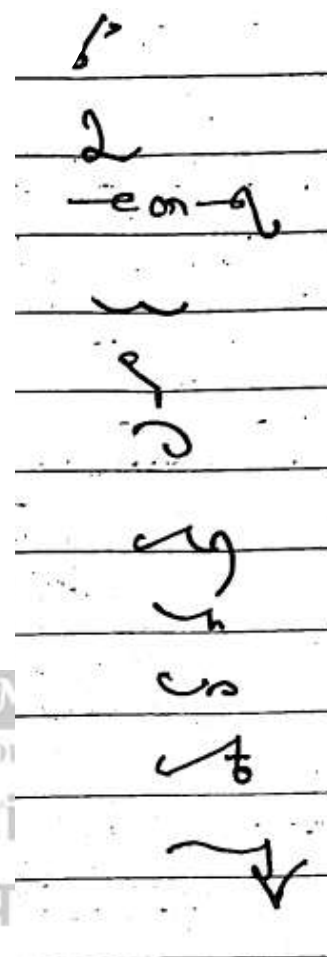
for the appellant
further submitted that
Article
governed
prevailing
governing
substantive
arbitration
Bhatia
International
v. Bulk Trading (supra),
laid down
jurisdiction
entertain
in the present case
cause of action
in connection with the
subject matter
within the



jurisdiction
under Section
accordingly
set aside the
enforcement
stipulates
it will be clear
of the country
competent authority
suspended
vehemently
it is the
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in support of his submission
Division Bench
Calcutta High Court
White
industries
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Limited
Coal India Limited
reported
in which
it has been
express



choice
there is no
expression
nothing
subjected
arbitration
we have, therefore
no doubt
in our mind
awards dated
maintainable



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(Increase your vocabulary:

Learn New and Important Words of the
Matter)

Keep revising all new words learned.

Legal/General Matter

1. **Article vs. article:** In legal writing, "Article" is capitalized when referring to a specific numbered section of Constitution (e.g., "Article 22 of the Constitution/Agreement"), while "article" remains lowercase when used as a common noun.

Examples:

- **Capitalized:** "under Article 356 of the Constitution, President's Rule can be imposed."
- **Lowercase:** "This is an article of clothing" or "I read an interesting article in the newspaper."

2. **Governed:** (verb) (past participle) to be controlled or regulated by rules or laws; शासित होना, नियंत्रित होना

3. **Prevailing:** (adjective) existing or most common at a particular time; प्रचलित, वर्तमान

4. **Governing:** (verb) (present participle) controlling or regulating according to rules or laws; शासन करना, नियंत्रित करना

5. Substantive: (adjective) relating to the essential or fundamental rights and duties; मूलभूत, सारभूत

6. supra: (adverb) (Latin term) mentioned or cited above in the text; उपर्युक्त, पूर्वोक्त

Accuracy Mantra: When this word comes in the middle of a dictation referring to citation/ruling referred above, it is written within bracket as (**supra**).

7. Laid down: (phrasal verb) (past tense) to establish or formulate a rule or principle; निर्धारित करना, स्थापित करना

8. Jurisdiction: (noun) the official power or authority to make legal decisions; अधिकार क्षेत्र, न्यायाधिकार

9. Entertain: (verb) to give consideration to or deal with (a legal application); विचार करना, सुनवाई करना

10. Cause of action: (noun phrase) the facts that give a person the right to seek judicial relief; वाद कारण, मुकदमे का आधार

11. Subject matter: (noun phrase) the main topic or issue being dealt with; विषय-वस्तु, मुद्दा

12. Set aside: (phrasal verb) to cancel or annul a legal decision or award; रद्द करना, निरस्त करना

13. Enforcement: (noun) the act of compelling observance of or compliance with a law or order; प्रवर्तन, लागू करना

14. Stipulates: (verb) (present tense, third person singular) to specify as a condition or requirement; शर्त लगाना, प्रावधान करना

- 15. Competent authority:** (noun phrase) a body or person having legal authority and qualification to act; सक्षम प्राधिकारी, सक्षम अधिकारी
- 16. Suspended:** (verb) (past participle) to temporarily halt or stop the operation of something; निलंबित करना, स्थगित करना
- 17. Vehemently:** (adverb) in a forceful, passionate, or intense manner; जोरदार ढंग से, प्रबलता से
- 18. Governs:** (verb) (present tense, third person singular) to control or regulate according to rules; शासन करता है, नियंत्रित करता है
- 19. Limited:** (adjective/noun) restricted; or a type of company with limited liability; सीमित; लिमिटेड (कंपनी)
- 20. Reported:** (verb) (past participle) published or officially recorded in law reports; प्रकाशित, रिपोर्ट किया गया
- 21. Expression:** (noun) a particular phrase or term used in legal context; अभिव्यक्ति, शब्द-समूह
- 22. Subjected:** (verb) (past participle) to cause to undergo or experience; अधीन किया गया, निर्भर किया गया
- 23. Maintainable:** (adjective) capable of being sustained or supported in law; ग्रहणीय, स्वीकार्य

Accuracy Builder: Capitalization

Following words to be written in capital letters;

1. Mr. Mukherjee

- **Reason:** Title (Mr.) before a proper noun (name of a person)
- **Rule:** Personal titles and names are always capitalized

2. Article 22

- **Reason:** Specific numbered provision in a legal document
- **Rule:** When referring to a particular clause/section with a number, capitalize

3. India/Indian

- **Reason:** Proper noun - name of a country/adjective derived from country name
- **Rule:** Names of countries and their derivatives are capitalized

4. Indian Act

- **Reason:** Proper noun - official name of legislation (Arbitration and Conciliation Act, 1996)
- **Rule:** Names of specific statutes/acts are capitalized

5. England

- **Reason:** Proper noun - name of a country
- **Rule:** Geographical names are capitalized

6. Court

- **Reason:** Refers to a specific judicial institution

- **Rule:** When referring to a particular court (not courts in general), capitalize

7. Section 34, Section 9, Section 48

- **Reason:** Specific numbered provisions of the statute
- **Rule:** Legislative sections with numbers are capitalized

8. Supreme Court

- **Reason:** Proper noun - official name of the highest judicial body
- **Rule:** Names of specific courts are capitalized

9. Bhatia International vs. Bulk Trading

- **Reason:** Case name/title of legal precedent
- **Rule:** Case names are capitalized (italicized in formal citations)

10. District Judge

- **Reason:** Official title/designation of a judicial officer
- **Rule:** Formal titles of officials are capitalized when referring to specific office

11. Bilaspur

- **Reason:** Proper noun - name of a place/city
- **Rule:** Geographical locations are capitalized

12. Part-II

- **Reason:** Specific division of the legislation
- **Rule:** Numbered parts of statutes are capitalized

13. Division Bench

- **Reason:** Specific judicial formation
- **Rule:** Official court formations are capitalized

14. Calcutta High Court

- **Reason:** Proper noun - name of a specific court
- **Rule:** Names of particular courts are capitalized

15. White Industries Australia Limited vs. Coal India Limited

- **Reason:** Case name with company names
- **Rule:** Case names and company names are capitalized

16. Calcutta LJ (Law Journal)

- **Reason:** Name of a law reporter/publication
- **Rule:** Titles of publications are capitalized

17. English Act/English Law

- **Reason:** Adjective derived from country name + statute/legal system
- **Rule:** National legal systems and their acts are capitalized

18. We (at beginning of sentence)

- **Reason:** First word of a sentence
- **Rule:** Always capitalize the first word of a sentence

By Sir AV Kushwaha,

Principal,

Krishna Shorthand Institute,

via online Telegram Class through 7355504435

Accuracy Builder: Comma (Punctuation)

COMMA USAGE - SIMPLE EXPLANATION

1. Comma after a person's name when describing them

Example: "Mr. Mukherjee, learned counsel appearing for the appellant further submitted..."

Simple Rule: When you give extra information about a person right after their name, put commas around that information.

Easy Example:

- "My teacher, Mrs. Sharma, is very kind."
- "Rahul, my best friend, loves cricket."

2. Commas around connecting words like "therefore," "however," "moreover"

Example: "...of India and, therefore, parties to the agreement..."

Simple Rule: When you use words like "therefore," "however," "moreover" in the middle of a sentence, put commas before and after them.

Easy Example:

- "I studied hard and, therefore, I passed the exam."
 - "It was raining. I, however, still went to school."
-

3. Comma after a long beginning part of a sentence

Example: "Since the substantive rights are to be governed by the law prevailing in India, even though the arbitration has taken place..."

Simple Rule: If your sentence starts with a long phrase (especially with words like "since," "because," "although"), put a comma before starting the main part.

Easy Example:

- "Because it was raining heavily, we stayed at home."
- "After finishing my homework, I played video games."

4. Comma after introductory phrases

Example: "In the case of Bhatia International vs. Bulk Trading (supra), the Supreme Court has laid down..."

Simple Rule: When you start a sentence with phrases like "In the case of," "In support of," "According to," put a comma after them.

Easy Example:

- "In my opinion, pizza is the best food."
 - "According to the weather report, it will rain tomorrow."
-

5. Comma to separate two parts of a sentence

Example : "He submitted that in the present case, since the cause of action arose..."

Simple Rule: Use a comma to separate the introduction from the main information.

Easy Example:

- "In the morning, I always brush my teeth."
 - "During summer vacation, we went to Goa."
-

6. Commas around extra information in the middle

Example: "...in which, or under the law of which, that award was made..."

Simple Rule: When you add extra or alternative information in the middle of a sentence, put commas around it.

Easy Example:

- "My brother, or perhaps my sister, will come with me."
 - "The book, which I bought yesterday, is very interesting."
-

7. Comma before "though," "although," "but" (to show contrast)

Example (SHOULD BE): "...in the present case, though the same have been made in England."

Simple Rule: When you want to show opposite or contrasting ideas, use a comma before words like "though," "although," "but."

Easy Example:

- "I wanted to go out, but it was raining."
 - "She is young, though very intelligent."
-

8. Comma after "In support of," "In conclusion," etc.

Example: "In support of his submission, he relied on the decision..."

Simple Rule: After phrases that start with "In...", put a comma.

Easy Example:

- "In conclusion, we should protect the environment."
 - "In addition, I also play the guitar."
-

9. Comma before extra details about something

Example: "White Industries Australia Limited vs. Coal India Limited, reported in 2004..."

Simple Rule: When you add extra details that are not essential to understand the sentence, put a comma before them.

Easy Example:

- "My dog, a golden retriever, loves to play fetch."
 - "Delhi, the capital of India, is a big city."
-

10. Comma before the conclusion after a long opening

Example: "The contract was signed in India and was performed in India, there is no reason..."

Simple Rule: After a very long opening part with many details, put a comma before starting your conclusion.

Easy Example:

- "After I woke up, brushed my teeth, ate breakfast, and got dressed, I left for school."
- "Because he studied hard, attended all classes, and did his homework regularly, he got first rank."

REMEMBER THESE 5 MAIN COMMA RULES:

1. **After introductions** → "In the morning, I went to school."
2. **Around extra information** → "My friend, who lives nearby, came over."
3. **Before contrasting words** → "I tried hard, but I failed."
4. **Around interrupting words** → "I am, however, very happy."

5. After long beginnings → "Because it was my birthday, everyone came to my party."

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