

Law, provides for the enforcement of arbitral awards that are not covered under the ambit of either the New York or the Geneva Conventions. Part II of the Act is in tune with the provisions of the New York Convention. As per Section 46 of the Act, the provisions of Part II applies if the arbitral award is in pursuance of arbitration agreement under the Convention and the award is made in those States or in within the territorial limits of such place that has been notified by the Government of India.

An award can be challenged and set aside only by way of an application under Section 36 of the Act and only the basis of the circumstances listed under it. An application for setting aside an award must be made within three months of receipt of the award by the applicant subject to a further extension of 30 days on sufficient cause being shown. An application beyond this period is time-barred and further delay cannot be condoned.

### STAY OF ACTION

The multiplicity of suits sometimes results in injustice and inconvenience the domestic law of the country lay down rules for stay of actions pending before it or for restraining a party proceeding from further with his action that he had filed in foreign country.

#### **Lis alibi Pendens**

The court has jurisdiction to stay an action in England or to restrain by injunction the institution or continuance of proceeding in a foreign court to prevent simultaneous legal proceeding in different countries regarding the same cause of action. In such a situation the defendant in the English action may arise the plea of lis alibi pendens (suit pending elsewhere).

The question may arise in two different situations:-

- (a) The plaintiff in England is also the plaintiff in the foreign proceedings.

Here the court may stay the England proceeding or injunct the plaintiff not to proceed with foreign proceeding. The court can also require the plaintiff to elect between the two proceedings. If the plaintiff disobeys

# Law Inccident Report Not Filed Continuance

**S Ben Porath**



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