



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B.

Semester: VIII

SUBJECT: Alternative Dispute

Resolution

SUBJECT CODE: BAL803

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Lecture-16



LECTURE 16: Court Assistance in taking evidence in Arbitral Proceedings and Termination of Arbitral Tribunal

Court Assistance:-

Section-27 Court assistance in taking evidence

(1) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.

(2) The application shall specify –

(a) the names and addresses of the parties and the arbitrators,

(b) the general nature of the claim and the relief sought –

(c) the evidence to be obtained, in particular –

(i) the name and addresses of any person to be heard as witness or expert witness and a statement of the subject-matter of the testimony required;

(ii) the description of any document to be produced or property to be inspected.

(3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.

(4) The Court may, while making an order under sub-section (3), issue the same processes to witnesses as it may issue in suits tried before it.

(5) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitral tribunal during the conduct of arbitral proceedings, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitral tribunal as they would for the like offences in suits tried before the Court.

(6) In this section the expression “Processes” includes summonses and commissions for the examination of witnesses and summonses to produce documents.

Termination of Arbitral Proceedings:-

The arbitral proceedings are terminated either by the final arbitral award or by an order of the arbitral tribunal terminating the arbitral proceedings.

The arbitral tribunal terminates the arbitral proceedings in any of these cases where:

1. the claimant withdraws the claim and respondent does not object to it,
2. both parties are in consensus and agree to terminate the arbitral proceedings, or

3. the continuation of the arbitral proceedings has become impossible or irrelevant considering the present facts of the case.

Also, the termination of the arbitral proceedings terminates the mandate of the arbitral tribunal and the arbitral tribunal becomes *functus officio*. The term “*functus officio*” means no longer holding office or having official authority once a decision is rendered.

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