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IN CONVERSATION WITH MR. KARAN JOSEPH

MR. KARAN JOSEPH
PARTNER, SHARDUL AMARCHAND MANGALDAS CO.

Editor's Note: Mr. Karan Joseph is a Partner with the Dispute Resolution Practice at Shardul Amarchand Mangaldas & Co.. He specialises in litigation, arbitration, and strategic advisory and has a diverse practice that spans commercial, civil, employment, and constitutional law.

Mr. Joseph regularly appears before the High Court of Karnataka, Trial Courts, and Tribunals in Bengaluru. Besides representing private clients, he appears on behalf of Central and State Government Undertakings before the High Court of Karnataka, Trial Courts and in Arbitrations. His contribution to commercial litigation and arbitration has been recognised by the *Benchmark Litigation Awards,* 2025, in the 'Top 40 Under 40' category.

Additionally, Mr. Joseph's scholarly inputs in reputed journals, blogs, and our Magazine have played an essential role in the development of the field. In the following interview, he shares his valuable insights on topics such as practising arbitration and litigation both as a partner at a law firm and as an independent lawyer, as well as recent key developments in arbitration and commercial litigation.

Disclaimer: The views expressed are personal opinions and do not reflect those of Shardul Amarchand Mangaldas & Co., or any other organisation.

Editorial Board ["**EB**"]**: Before joining Shardul Amarchand Mangaldas & Co.** ["**SAM**"]**, you had run your own chambers. From your experience, how does practising in a law chamber compare with that in a law firm? What unique opportunities and challenges does each environment present, professionally and personally?**

Mr. Karan Joseph ["**KJ**"]: The general perception is that a chamber practice tends to be more hands-on in the sense that you know your way around a Court better (and I don't mean that in the geographical sense), have more appearances and do more drafting. These opportunities were thought to make you a better lawyer and give you a slight advantage over your peers at a traditional law firm, where drafting and appearances were not prioritised.

That said, in recent years, the landscape has evolved. Many firms that previously focused on corporate practice are investing heavily in their litigation teams. Most now have very competent litigation teams, with more opportunities for handling matters in-house rather than outsourcing or depending on outside counsel.

In my own experience, my team and I have been fortunate. We have retained much of the same freedom and hands-on involvement. We continue to handle appearances and drafting just as actively as before.

In terms of opportunities, both settings offer valuable experiences. While I wouldn't say that the quality of work in a Chamber is lower, being at a firm does give you access to larger, more complex and sometimes more high-profile matters. I've been fortunate to act for clients and work on unique regulatory issues that I might not have been exposed to in an independent setting. In that sense, the move has validated my decision—I feel vindicated.

The common challenge in both environments is that you must work extremely hard and consistently bring in work. It's a competitive field regardless of where you practice. Most practices go through lean periods, and that's something every practitioner needs to navigate, irrespective of the setting you find yourself in.

EB: Having pursued your LL.M. at Columbia Law School, how did that experience shape your perspective on dispute resolution, and in what ways do you find the international exposure influencing your day-to-day practice in India?

KJ: Honestly, my decision to pursue the LL.M. stemmed from a misplaced sense of boredom. Fortunately, I had a steady flow of good work during the COVID period. However, after about 11 or 12 years of practice, I felt the need to do something different. You could say I was a bit jaded, or maybe just looking for a new perspective. A quarter-life crisis, assuming that I live long enough to call it that!

I cannot say that the experience directly transformed my perspective on dispute resolution. What it gave me was something intangible. It was a superb experience overall, and it helped in no small measure by the fact that my cohort was filled with a bunch of mid-career lawyers who were

incredibly accomplished. The exposure, apart from being cultural, was also intellectual. The teaching style at Columbia was very different from what I was used to in that it was far more engaging and analytical. The LL.M. broadened the way I think and analyse problems, and has made me a well-rounded lawyer overall.

EB: The Karnataka government had recently passed a State amendment to the Code of Civil Procedure, 1908, to introduce case management hearings in civil trials. Based on your experience before the Karnataka High Court, how practical are such reforms, and what more can be done to ensure timely resolution?

KJ: The recent amendment is similar to the Commercial Courts Act regarding case management hearings. It is not something of which the members of the Bar are unaware. Several lawyers in Bengaluru have matters before the commercial courts and therefore have experience dealing with the timelines and procedure prescribed by the recent State amendment.

I think this amendment is both timely and a move in the right direction. As for its practicality, that depends on the Bar, myself included. Its effectiveness hinges on how seriously we, as lawyers, commit to them. The provisions themselves are in place, but it's up to us to ensure that cases aren't dragged out unnecessarily.

While it's still early to judge the long-term impact, studying the Commercial Courts context would be insightful. To my knowledge, the system has worked quite efficiently, particularly in Bengaluru, where you can now reasonably expect commercial cases to be resolved within 18 to 24 months, which is a significant improvement. Extending that efficiency to regular civil cases through these reforms is a welcome move. If implemented in the right spirit, it could go a long way toward improving the pace of civil litigation.

EB: Beyond courts, arbitration also faces questions of accessibility and efficiency. Justice Sudhanshu Dhulia recently remarked, "*arbitration is a rich man's litigation; the poor don't opt for it*". This trend seems paradoxical to the Arbitration Act's stated objective of cost-effective and timely adjudication. Why do you think small claims and non-business disputes rarely come to arbitration, and how might this perception be changed?

KJ: I firmly believe that arbitration is for all, or at least that was its stated objective. Perhaps the reason that small claims and non-business disputes do not make it to arbitration is fundamentally an access to justice problem. Part of the problem, of course, is exposure and awareness.

Arbitration is almost always contractual, and such clauses are rare in non-commercial matters. Even where they exist, issues like arbitrability, particularly *in rem* versus *in personam* rights, arise as challenges. For example, a land dispute often cannot be referred to arbitration because of its *in rem* implications.

Further, there are cost implications. One of the advantages of arbitration was that one didn't have to pay ad valorem court fees. Parties, however, have to pay arbitrators' fees, which can be significant. Of course, the recent amendments and the Supreme Court's push for standardisation of fees have helped. Another appeal of arbitration was the limited scope of challenge to an award when contrasted with that to a court's decree. Courts are increasingly reluctant to interfere with arbitral awards. Although most awards are challenged, not many are set aside because the grounds of challenge are limited in scope. The strict timelines are another advantage. All of these should naturally mean that all disputes capable of being referred to arbitration should be resolved through arbitration.

Despite these advantages, you are correct that arbitration hasn't percolated to low-value disputes. There appears to be a misconception that arbitration is not suited for disputes of this nature, but this could not be further from the truth. Having disputes resolved through neutral third parties (who are not judges in any formal setting) based on the parties' merits is a concept as old as time itself.

Arbitrations are popular mainly in urban centres for various reasons, including education, awareness and overall exposure to the process. And I think it's important that we acknowledge these challenges. If I'm not mistaken, this is one of the stated goals of the Bengaluru Arbitration Week. They want to spread awareness, make arbitration a viable option for everyone, and ensure that arbitration isn't restricted to big firms, lawyers or clients with deep pockets.

I feel that younger counsels will make phenomenal arbitrators for small-ticket arbitrations where the claim value is below a certain threshold. And because they are young and hungrier, they will be quicker and more efficient, which will, perhaps, lead to arbitration being more cost-effective. It will take time, but with consistent efforts toward decentralisation, education and institutional support, arbitration can move closer to fulfilling its original promise of being an accessible and efficient alternative to litigation.

EB: From a practitioner's viewpoint, how difficult is it to balance a client's preference for familiar arbitrators with the growing emphasis on equality, independence, and disclosure under Sections 18 and 12(5) of the Arbitration Act?

KJ: This is an excellent question, as this is one of, if not the most frequent and challenging questions that come up during an arbitration. Who should we appoint?

Seasoned clients who have been involved in multiple disputes in the past may prefer for who they would like appointed as arbitrators, but most clients rely on their counsels for suggestions. For me, the focus has never been familiarity, but has always been about competence. And all of a sudden, the pool gets limited. By competence, I don't just mean subject-matter expertise; it also includes emotional intelligence. Arbitration is meant to be an alternative to the court system, so it doesn't make sense to bring the trappings of a court into it. An arbitrator with the correct EQ can make the process more efficient, respectful, and ultimately more effective. So, when you say familiar arbitrators, this is the familiarity I would look for.

EB: The Supreme Court recently expressed concern over the ubiquity of pathological arbitration clauses and even suggested that courts might consider holding drafters liable for intentional ill-drafting. Do you think such a proposal is viable, and how might it affect commercial drafting practices in India?

KJ: Pathological arbitration clauses are not uniquely an Indian problem. It is a problem worldwide, and I certainly don't think someone deliberately drafts a pathological arbitration clause. For instance, Korea faced something similar recently. The phrase "midnight clause" gets thrown around at every arbitration conference. Fortunately, courts across jurisdictions look at these pathological arbitration clauses and say, "let's see how we can make this workable". These clauses delay things a fair bit, but more often than not, end up in arbitration.

In terms of holding drafters liable, I think that will be a bit difficult, because first, you have to prove that there was ill intent. Second, the relationship between lawyers and clients is essentially that of personal service. The Supreme Court in *Bar of Indian Lawyers v D.K. Gandhi* clarified that the legal profession is unique and cannot be compared to any other profession. Of course, this was in the context of consumer protection, but I still think it would be difficult to do, particularly where a determination of ill intent is required.

EB: In a recent Constitution Bench ruling, the Supreme Court clarified that Section 34 of the Arbitration Act, traditionally seen as a provision only for setting aside awards, confers a limited power on courts to modify arbitral awards in specific instances. How significant do you think this development is for the finality of arbitral awards, and does it risk opening the door to greater judicial intervention in arbitral proceedings?

KJ: Yes, the judgment opens the door by giving courts the discretion to modify awards. It appears that the Supreme Court felt that the earlier position resulted in awards being set aside and arbitration having to be restarted. It would be important to consider statistics in support of the quantum of arbitral proceedings which had to be re-commenced due to the awards being incapable of modification. I think the arbitration ecosystem in India has taken great pains to showcase the limited scope of challenge in Sections 34 and 37. This judgment essentially sets those efforts at nought. While the judgment does lay down certain safeguards in terms of when courts may modify awards, it does allow for a greater degree of discretion than ever before.

EB: In our previous issue, you wrote about sports dispute resolution. With the recently passed National Sports Governance Bill, 2025, proposing the establishment of a National Sports Tribunal ["**Tribunal**"]**, what role do you see arbitration playing in strengthening sports dispute resolution under this new regime?**

KJ: One of the key points of the article was that sports disputes should not go to court but must go before a more specialised forum. The new regime does that by establishing a Tribunal. The Tribunal is composed of a Supreme Court judge, but crucially, the other two members are to have some specialised knowledge in sports and public administration. This combination ensures that the judge will bring in some semblance of procedure and fairness to the entire process while also allowing for subject matter expertise through the other members of the Tribunal. Qualities and experience that a court, for obvious reasons, would not have.

To me, this is the most compelling factor. If sports disputes are resolved by a specialised body, the outcome may not necessarily be better in a broad sense, but it will almost certainly be better informed. Decisions made by individuals who have been in similar situations or have firsthand exposure to the sport's unique challenges bring a level of invaluable practical insight. Such an understanding is key and will be essential to strengthening sports dispute resolution.

I'm not here to argue that sports disputes should be resolved through arbitration. Many, including myself, have already made that case elsewhere. But what stands out here is the quality of decision-making. It's likely to be more nuanced and grounded in real-world experience. At the end of the day, the sportsperson involved is also likely to feel a greater sense of comfort and confidence knowing that their case is being heard by someone who has truly walked in their shoes.

EB: Artificial Intelligence ["**AI**"] **is rapidly transforming the legal profession. SAM recently partnered with Harvey AI to integrate generative AI into its workflows. How do you**

foresee AI changing legal research, evidence gathering, analysis, and presentation in arbitration and litigation?

KJ: As someone who uses AI extensively, I think it's not only here to stay but will also improve. To quote people worldwide who say this all the time, the only people who would be left behind by AI are those who don't know how to use AI.

I am often asked, especially by non-lawyers, about who is going to be most affected. And the conversation invariably leads to whether young lawyers are going to be the most affected. The answer is both yes and no. If I were to receive a 700-page pleading from the other side, it's far quicker for me to use AI to summarise it than to ask a junior colleague to read and brief me. So in that sense, yes, it does pose a challenge for younger lawyers.

However, if those same young lawyers are adept at using AI, and use it either to deliver insights or efficiency, it then becomes a strength rather than a threat. For me, the key is not the seniority of the lawyer, but their ability to leverage AI. I believe that if you know how to use AI well, you can add value at any stage of your career.

EB: Given your experience across commercial, constitutional, and pro bono practice, what advice would you offer to young lawyers who are just beginning their careers? Should they chart a clear specialisation early on, or embrace diverse opportunities before settling into a practice area?

KJ: As a young lawyer, I don't think that you should chart a course towards a specialisation. I feel like it would be pigeonholing yourself. I would rather you try a whole bunch of things, and then decide what you are interested in or good at. Another reason is that if you pigeonhole yourself to a specific area of law, you are then restricting yourself from a wide variety of work, which has a trickle-down effect on what your practice is going to be. As a young lawyer, you cannot afford to say no to any work. Of course, as you progress through your career, you can specialise because by then, there will be a volume of work that you can get in that particular area of law.

My advice to young lawyers would be to realise that once you graduate from law school, you do not have much practical experience. You must be a sponge that absorbs everything, and honestly, how good you are as a lawyer depends entirely on how eager you are to learn and your humility. Dispute resolution, for instance, is a great leveller, both in court and in arbitration. Beyond a point, it doesn't matter which law school you're from or with whom you interned. Quite often, it doesn't even matter with whom you work. What really matters is the substance that you bring, which is

why, as long as you're willing to be a sponge, you can be a really good lawyer. You can be a topper in class or towards the bottom of your class, but if you put in the effort and time, you will be a good lawyer. How good or bad you were in law school doesn't reflect how good a lawyer you can be.

I'd like to say a little bit about pro bono work. I am conscious that it may not be possible to do pro bono work at the beginning of your career, but I think it's something all lawyers must do. It is deeply satisfying, especially when you are representing people who cannot otherwise to participate in the system. In my experience, these matters throw up socio-economic complexities that one would not have imagined. It grounds you and makes you a better lawyer because it gives you the most important quality a lawyer should develop, i.e., empathy.