



THIRD PARTY LITIGATION FINANCE

An emerging asset class in India

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WHO WE ARE

LitiCap is one of India's first third-party litigation finance and management firm with a demonstrated track record of success, having managed several high-value litigation claims.

\$173m

Claims Under Management

\$158m

Awarded Claims

“

Most litigation financiers treat TPLF as a transaction, whereas LitiCap treats it as a partnership, taking ownership of process and outcomes, as a total solution provider. This is why we are the preferred partners for Litigants.

”

ANOOP GUPTA

Managing Director

“

LitiCap not just financed our litigation against a foreign government to recover our dues, but also helped refine our strategy and submissions to strengthen the contractual basis of our claims, navigate local judicial hurdles. We were looking for finance, as a first-timer to litigation, but in LitiCap we found an understanding partner in our journey way beyond litigation. The much needed operational cashflow was also streamlined by them infusing more equity to enable growth and profitability during this period.

”

M. HARIHARAN

Managing Director,
Hicommands Tech & LitiCap Client

BACKGROUND

LitiCap is a part of Concept Group. Concept was founded in 1998 by Anoop Gupta to assist Indian and foreign businesses in turnaround, India entry and growth.

Over the last 23yrs Concept has assisted and partnered with businesses in diverse domains across advertising, construction, infrastructure, hospitality, metal, manufacturing, logistics, pharma, power, plastics, printing, real estate, seed, shipping, steel, sugar and toll sectors.

Concept has evolved from a strategic consulting firm into a Holding Co. with a range of interests in Real Estate, Infrastructure, Defense and more. It is now focused on long-term, value-add partnerships that go beyond capital infusion, leveraging Concept's experience and strategic expertise across industries and borders, to produce returns far greater than traditional capital investment.

Concept has played an influential strategic role, whether as a consulting partner or equity stakeholder, in some of the most compelling turnaround and growth stories in India.

OUR APPROACH

Stringent selection process

We are extremely selective with the cases we finance and thoroughly analyse the merits of each claim before investing

Contractual claims

We exclusively finance claimants that have delivered on their contractual obligations, where the respondent is shunning the payment obligation due to red tape or inaction from Government entities

Claims against Governments

As of now, we exclusively finance litigations where the claims are payable by the Government agencies, so our portfolio is largely free of the risk of bankruptcy of the debtor.

Waterfall model

LitiCap and its investors are the first recipient in the waterfall mechanism. This means that we receive the money before other parties upon recovery of dues.

Third Party Litigation Financing in India

TPLF LANDSCAPE IN INDIA

The Indian TPLF market brings a factor of greater predictability than most others in the world. The majority of commercial disputes in India are a violation of contractual agreements between the government and a business, unlike speculative litigations in the U.S. Early movers like LitiCap, operate in an effective buyers market with numerous low-risk opportunities, many of which are awarded claims.

TPLF is already a mature product worldwide; global market was valued at \$11bn in 2020 with expected CAGR of 8.3%.

\$5.16bn¹

The legal expenses of listed Indian companies in FY 20

\$12bn²

Outstanding claims against a single entity - National Highways Authority of India

¹Source - Economic Times

²Source - NHAI Annual Report

EARLY MOVER ADVANTAGE IN INDIA

The Indian litigation and arbitration landscape are ripe for disruption by Third-Party Litigation Finance due to a combination of improved policy frameworks for arbitration, lower risk claims against Government entities, and the establishment of greater legal precedent for TPLF.

LitiCap offers the chance to partner early with one of India's first Third-Party Litigation Financiers & Managers. Unlike most other countries, lawyers in India are legally prohibited to charge contingency fees, leaving TPLF as the only alternative to self-funding - this means financiers like LitiCap are essential partners to law firms, as opposed to competitors.

CLEAR LEGAL GROUNDING

In India, lawyers are not permitted to charge contingency fees. However, the Supreme Court in Bar Council of *India v. AK Balaji (2015)*, has clarified the legal permissibility of TPF in litigation.

Third-party financing is also expressly recognised in the context of civil suits in States such as Maharashtra, Gujarat, Madhya Pradesh and Uttar Pradesh.

“

There appears to be no restriction on third parties (non-lawyers) funding the litigation and getting repaid after the outcome of the litigation.

”

Supreme Court in Bar Council of *India v. AK Balaji (2015)*,³

³[Source - Bloomberg](#)

IMPROVED ARBITRATION FRAMEWORK

TPLF is an attractive investment asset class in India more than ever due to recent amendments that limit the timelines of commercial dispute resolution and increase the predictability of outcomes.

“

A vibrant ecosystem for institutional arbitration is one of the Government's priorities.

”

- PM Narendra Modi

at the Global Conference on Strengthening
Arbitration and Enforcement in India 2016⁴

⁴[Source - LiveMint](#)

An emerging international hub for arbitration

India is set to try and become an international hub for arbitration along the lines of Singapore and Hong Kong.

The set-up of the Mumbai Centre for International Arbitration (MCIA) in October 2016 and the recent promulgation of the New Delhi International Arbitration Centre (NDIAC) Ordinance 2019 are steps in this direction.

IMPROVED ARBITRATION FRAMEWORK

Key legal provisions that help improve predictability of outcomes

Delays in the conduct of onshore arbitration have been addressed by providing that all Indian-seated arbitral tribunals must render their award within 12 months from the date of appointment.

Only a six month period has been provided for submission of pleadings

The 'automatic stay' previously applied, which prevented enforcement while an onshore award is subject to appeal in a court, has been removed. Further in case of challenge to an award, 75% of the award amount may be required to be deposited with Court. In October 2021, government has instructed public authorities to refrain from “routinely” appealing against arbitration / court award.

12 month time limit has been set for the decision on a challenge application, which is likely to reduce the number of awards being challenged in the Indian courts.¹

¹[Source - Herbert Smith FreeHills](#)

Why LitiCap?

LITIGATION EXPERIENCE

We have first-hand entrepreneurial experience of dealing with dispute resolution in India from start to finish.

Since 2016, LitiCap has single-handedly led two arbitrations in its own investments, with claims totaling \$125 million. Both have reached an advanced stage, crossing critical milestones of Arbitral proceedings, High Court and Supreme Court intervention. One has resulted in an Award and is awaiting monetisation / settlement.

We also have experience of resolving disputes prior to commencement of arbitration proceedings.

LitiCap is uniquely poised to add value to litigation claims as a partner with a demonstrated track record of entrepreneurial leadership in commercial dispute management and resolution.

HANDS-ON, HOLISTIC APPROACH

LitiCap has a unique approach combining finance, strategic expertise and litigation management experience to help clients establish their rightful claims and achieve favourable outcomes.

LitiCap brings the expertise and experience of

Selection and working with the right lawyers,
dealing with jurisdiction issues

Strategic contributions in written submissions
to improve predictability and increasing claim
amount,

Selection and appointment of arbitrators and
setting up tribunal

Coordination with various service providers,
anticipating and avoiding bureaucratic and
judicial delays,

Assisting with capital management strategy

LOW FAILURE RISK AND GOOD PREDICTABILITY

LitiCap is the first recipient of claims recovered in the waterfall model.
LitiCap and its investors will receive their dues before any other party.

Reduced outcome risk

We finance litigation extremely selectively and focus on claims where the terms of dispute are pre-determined within the contract, rendering judgment and the award a question of 'when' as opposed to 'if'.

Reduced time risk

With an improved litigation framework now in place in India, the average life cycle of litigation is becoming shorter with each passing year, resulting in quicker monetisation of claims. The lifecycle of arbitration in India is typically 36 to 72 months. Any delay in recovery of dues is compensated with interest.

Reduced recovery risk

LitiCap primarily finances commercial disputes between businesses and government entities. Unlike litigation between private parties, where bankruptcy poses a recovery risk, claims against government do not bear that risk.

WHO WE ARE



Anoop Gupta

Founder & CEO, Anoop, is an entrepreneur with 37 years of experience in strategy consulting, turnaround, and global business leadership. Anoop has worked overseas with KPMG, Arthur Andersen, Hewlett-Packard, Credit Agricole (Bank) and as a board member of a \$400 million conglomerate.

He founded Concept Management Consulting in 1998 to assist Indian businesses in turnaround and growth. Ever since Concept has transitioned from a consulting firm to a hold co. with interests in a range of businesses. Concept has also been a preferred India-entry partner to foreign businesses looking for world class business leadership with on-ground expertise and experience in India. A subsidiary, Concept International Business Consulting was founded to cater exclusively to this growing market.

In India, Anoop has been a board member on number of listed and unlisted businesses, ranging from construction, pharmaceutical, real estate, power transmission, PET recycling, toll concession, seed and sugar, having played a critical strategic role in some of the most compelling start-up, growth and turnaround stories in India. Anoop is driven by a fierce passion to build businesses, especially in uncontested market spaces, and devising unique solutions to deal with exceptional challenges in business growth and profitability.

WHO WE ARE



Praveen Sood

Praveen brings more than 30 years of experience in financial leadership with India's leading EPC firm, Hindustan Construction Company with diverse interests in finance, real estate and education as well.

Having begun his career at Raymond Synthetics, Praveen spent 22 years with HCC as Group CFO for most part, in a period of unprecedented growth, handholding the company from loss-making to market leadership, streamlining verticals and improving financial discipline. Praveen has not only watched infrastructure in India evolve from a birds-eye view, but been on the forefront of successful nation-building projects with HCC, such as the Bandra-Worli Sea Link in Mumbai. Praveen has an influential network within institutions and the experience of navigating complex political, social and bureaucratic obstacles in India, to remain profitable. Having concluded his stint at HCC as Group CFO and CEO of Lavasa Corp., Praveen is bringing his invaluable insight, experience and network to develop LitiCap's portfolio, with a special focus on infrastructure.

WHO WE ARE



Rishi Kohli

Rishi has over 20 years' experience in Indian financial markets, heading both sell-side and buy-side businesses in public equity markets. He has many market firsts to his credit. He was the pioneer in options strategies and managed futures research in his institutional broking days. Rishi started and ran India's first quantitative hedge fund, ProAlpha, where his investors ranged from large global institutional investors to the biggest Indian family offices, with a peak AUM of \$200mn and has received awards for running the Best New Asian Fund and Best Managed Futures Fund in Asia. He is currently the Managing Director & CIO at Avendus Capital Public Markets.

Rishi, an alumnus of IIT Kanpur and IIM Lucknow, has been invited to speak at some of the largest quant/hedge funds conference globally and India like Quant Invest in Paris, Hedge Funds Asia in Hong Kong, MFA Conference in Miami, VCCircle's PE/VC Summit in Mumbai and AIWMI's Alternatives Summit in Mumbai. His views are regularly featured on leading TV platforms such as CNBC, ET Now and print media like Economic Times, Business Line, Outlook Money and Business India.

As part of the Advisory Board, Rishi brings his pioneering spirit and market influence to create awareness for the burgeoning litigation financing asset class, and related opportunities in the LitiCap portfolio, especially among institutional and Indian family office investors.

WHO WE ARE



Saurav Agrawal

Saurav is an 'arbitration specialist'; an advocate with 17 years of experience across sectors, having arbitrated in several disputes in London, San Francisco, New Delhi and Mumbai. He has also been appointed as an Expert Witness on several matters of Indian law in international arbitrations at Singapore and Dubai.

Saurav began his career working with the Attorney General of India, contributing to critical constitutional and commercial issues for the Government of India (GoI). He also worked with the Additional Solicitor General of India, defending GoI and numerous Public Sector Undertakings in several cases.

Saurav has rich experience & expertise in civil and commercial disputes, insurance, energy, mining and environmental laws, insolvency and bankruptcy proceedings, competition and regulatory laws. He has vast experience appearing before a variety of forums such as the Supreme Court of India, High Courts, and Arbitral Tribunals. Saurav has been retained by LitiCap and brings a nuanced, global perspective on commercial disputes, along with seasoned legal expertise to help select meritorious claims, and execute exhaustive legal strategies.

WHO WE ARE



Ritesh Dudeja

As a Founding Partner and Executive Director of Concept's India-Entry arm, [CIBC](#), Ritesh has more than 23 years' experience in building and operating businesses across India.

With CIBC, Ritesh was an early mover, becoming the preferred partner for global businesses looking to enter India, requiring support of world class, result-oriented professionals with on-ground expertise and experience. Over the last 2 decades he has assisted more than 300 multinationals to set up operations in India, from green-field projects to large acquisitions in Automotive Components, Services, Engineered Products, Pharmaceuticals, Healthcare, Industrial B2B, Specialty Chemicals, Electrical, Electronics, Consumer across OEM, Industry and Retail markets.

Ritesh has deep insight on global markets, across product categories and industry segments, and experience with diverse business cultures, having worked across continents to help businesses design and execute their 'India success stories'. At LitiCap, Ritesh brings his vast network and passion for building businesses to drive Investor Relations and Business Development, with a special focus on strategic partnerships with global leaders.

WHO WE ARE



Saurabh Chhajer

Saurabh is a national top 10 ranking CA with a passion for finance and strategy. He began his journey at the \$48.3 bn Aditya Birla Group in the Finance Leadership Program, part of the Business Review Council strategy and review team that functions across all interests of the group. Here he was responsible for business development, commercial, FP&A and corporate strategy for owned companies, and prospective ventures, spanning finance, natural resources, retail, fashion and more.

In 2019 Saurabh founded Qrate Capital LLP to provide personalised wealth management services to clients in Public Equity Markets. The firm is currently helping more than 100 clients in their wealth creation journey.

At LitiCap, Saurabh works across finance operations, primarily responsible for analysis, evaluation, development and execution of investments in the portfolio.

Our Portfolio

Road Toll Concession Company - Completed Arbitration

Background

Parent company of LitiCap partnered with Malaysian GLC (subsidiary of sovereign wealth fund of Malaysia) and built a toll highway for a Government of Maharashtra undertaking in the Mumbai Metropolitan Region, India with a Foreign Direct Investment of \$90 million. During the construction stage, there were breaches on the part of the project owners. The Concessionaire operated the concession until April 2013, then terminated the concession on the grounds of contract breaches and force majeure events, and initiated arbitration and litigated through the High Court and Supreme Court and received favorable award for \$ 131 million with interest for delayed payment @ ~15% per annum. The monetization is underway,



Road Toll Concession Company - Completed Arbitration

Our Role

Our team designed the dispute resolution strategy:

- LitiCap negotiated with project owners a pre-arbitration settlement, whereby 11 years additional concession period was agreed even before start of arbitration.
- LitiCap steered the entire arbitration process working with lawyers on every single submission, appearing as sole witness for Claimant and provided comprehensive entrepreneurial leadership to entire arbitration and litigation.
- The team has worked with best of Indian arbitration lawyers like Ciccu Mukopadhyaya, law firms like L&L, solicitors like Harish Salve, Dr. A.M. Singhvi, Darius Khambata, and more.

Current Status

Award released for \$131m and accruing interest as per contractual terms. Upon further appeals, defendant may have to deposit 75% of the award amount, which could be withdrawn against BG.



Digital Education Content Company – International Arbitration

Background

An Indian Digital Education company entered into a Build Operate Transfer contract with an African State for providing software and hardware for education. Upon completion of delivery, the project owner did not pay the contractual dues and also did not cooperate in the last-mile execution of the contract i.e. installation in 480 of the 500 schools. The Contractor initiated an arbitration for a claim of \$3.8 million. The initial arbitration had to be discontinued due to a paucity of litigation funding and a weak litigation strategy.



Digital Education Content Company – International Arbitration

Our Role

Our team designed the arbitration and litigation strategy as follows

- LitiCap recommenced arbitration in September 2019 with claim of \$12 million.
- LitiCap worked with Kigali International Arbitration Centre for the appointment of an international tribunal with European, Asian and African representation on tribunal, and prepared all major submissions in-house.
- The defendant made 2 attempts to drive our client to bankruptcy by raising claims of close to \$1 million, thereby attempting to render the contract terminated, along with our client's claims therein.
- In the first attempt, the Creditor Bank raised a claim of \$500,000 under a receivable securitization contract. LitiCap successfully upheld an auction of delivered goods in a local court, thereby settling banks dues, circumventing any payments, and raising additional claims of \$1.5 million against defendant for damages.
- In the second attempt, Defendant called upon the performance guarantee of our client. LitiCap successfully thwarted this attempt by obtaining 4 procedural orders from the tribunal, compelling defendant to commit in writing not to seize the guarantee till the conclusion of the arbitration.
- Aside from litigation expenses, LitiCap has made available top-notch legal talent from its network of world-class arbitration specialists. LitiCap has also provided significant entrepreneurial and strategic support to help manage business cash flows and growth efforts while insulating the operations from the burden of litigation.

Current Status

Award released for \$14.6m and accruing interest as per contractual terms. The Award amount may increase by \$900k as a correction application has been filed to rectify a computational/clerical error in the computation of the Award amount.



Real Estate Company – Dispute Resolution Through Consent

Background

The parent company of LitiCap also has a real estate company, which invested \$3 million in a transaction with a landowner (“LO”), who breached the contract. The Real Estate company moved the Mumbai High Court and brought an injunction within one week even during the COVID-19 lockdown, and later initiated an arbitration for the financial claim. The process started in early June 2020, arbitration concluded in September 2021, and the award is scheduled to be pronounced on January 24, 2022.



Real Estate Company - Dispute Resolution Through Consent

Our Role

Our team designed the complete litigation and recovery strategy:

- With mounting pressure on the real estate company's cash flows, time was of utmost essence. With an unwilling debtor, LitiCap's key priority was to gain an injunction, compelling the debtor to negotiate terms.
- LitiCap appointed a relevant legal team and worked with them for preparation of the court petition and notices.
- We continued amicable negotiations with the debtor to push for pre-arbitration settlement

Current Status

The arbitration concluded in September 2021, and the award is awaited scheduled to be pronounced on January 24, 2022.



Power Transmission Line Builder - Government Contract Dispute

Background

An Indian EPC contractor (Contracting Co) entered a dispute and initiated arbitration with a State Government of Odisha undertaking ("GOU") because of the GOU short closing three contracts. During the course of proceedings, Contracting Co. defaulted on bank borrowings which led to the appointment of a liquidator.



Power Transmission Line Builder - Government Contract Dispute

Our Role

LitiCap entered after commencement of arbitration which had been through significant delays in proceedings due to a weak litigation strategy.

LitiCap redesigned the dispute resolution strategy.

- The most critical step was to successfully secure any dues from arbitration from the purview of liquidation. LitiCap managed to identify and enforce legal entitlements that have completely eliminated any claim on arbitration and related dues from the Liquidator.
- LitiCap has taken over management of the entire arbitration, bringing new relevant legal representation with experience in similar arbitration, focusing on strengthening basis of claims.
- The Bank Creditor is a PSU, and payment defaults occurred due to non-payment on GOU's part. LitiCap proceeded to arbitration with the bank creditor over recovery, to arrive at settlement on Contracting Co's preferred terms, while arbitration against GOU continues to move towards a favourable conclusion.

Current Status

Application for extension of arbitration time is moved to Odisha High Court and a hearing is awaited



Contact Us



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