



Indian lawyers to face off in Singapore court

24 November 2017

Laura Roddy



Two Indian counsel will come head to head in the Singaporean courts in a challenge to a US\$550 million ICC award, after India's former solicitor general **Gopal Subramaniam SA** won permission to appear opposite his compatriot **Harish Salve SA**.

Subramaniam, now a barrister at 3 Verulam Buildings in London, was granted permission on 22 November to defend the award held by Japanese pharmaceutical company Daiichi Sankyo in the Singaporean courts.

The two will be the first foreign lawyers outside the English bar to be granted permission to appear before Singapore's courts under the city-state's regime for admitting foreign senior counsel with "special qualifications or experience" to argue cases.

Salve was admitted just [last month](#) for the set-aside, where he is representing a group of 20 companies and individuals, including Indian brothers Malvinder and Shivinder Mohan Singh.

India's [Economic Times](#) broke the news that Subramaniam will be defending the award. As yet, the Singapore High Court has not issued reasoning for its decision. The attorney general of Singapore and the Singapore Law Society have both indicated that they did not raise any objection to his admittance for the case.

In [April last year](#), a Singaporean-seated tribunal chaired by local arbitrator **Laurence Boo** and including Skadden Arps Slate Meagher & Flom partner **Karyl Nairn QC** and former chief justice of India **Aziz Mushabber Ahmadi** as co-arbitrators issued an award directing the group to pay US\$550 million in damages to Daiichi Sankyo.

The tribunal majority found that the group was liable for fraudulently misrepresenting or concealing the extent of regulatory problems which beset its company – Ranbaxy Laboratories – when it sold a stake in the company to Daiichi Sankyo.

At the time of the sale it was under investigation by the US Food and Drug Administration and Department of Justice. In 2013, Ranbaxy's US subsidiary paid a US\$150 million criminal fine after pleading guilty to felony charges relating to the manufacture and distribution of adulterated drugs from two of its manufacturing plants in India. It also paid US\$350 million to settle related civil claims.

Daiichi Sankyo was represented by Simpson Thatcher & Bartlett and Stamford Law Corporation in the arbitration, though Stamford Law ceased its involvement in the case before the final award. The Japanese company will now use Oon & Bazul in the set-aside proceedings.

The sellers, all represented by Drew & Napier and Paul Hastings in the arbitration, have divided into two groups to challenge the award before the Singaporean courts. Five of the sellers, who are minors, will be represented by Rajah & Tann. The adult and corporate sellers – believed to include the Mohan Singh brothers – have retained Wong Partnership.

Under Singapore's legal profession act, non-Singaporean practitioners holding a QC or equivalent rank can appear before the city-state's courts if they have "special qualifications or experience" relevant to the case when no suitable local counsel is available.

Such admittances are rare. Last year Essex Court Chambers' **Samuel Wordsworth QC** [was admitted](#) to appear on behalf of Lesotho in its efforts to set aside an award in favour of a family of South African mining investors under a multilateral investment treaty.

In 2012 English silks **David Joseph QC** and **Toby Landau QC** both [won permission](#) to appear before the courts in the *Astro v Lippo* case, which has gone down as a landmark in Singapore's jurisprudence on enforcement. That situation appears set to be repeated in the Ranbaxy case, with two lawyers from the same country granted permission to appear opposite one another on a case.

But in 2016, shortly after admitting Wordsworth, Singapore's high court [denied](#) Landau's request to appear again, this time for a Chinese client seeking to set aside a US\$149 million ICC award in a commercial dispute.

In May, Landau became the first English QC to [be admitted](#) to the Singapore bar, which means he can appear before the Singapore Courts without requiring special permission.

Before the Singapore Court of Appeal

Counsel to Harish Salve

- WongPartnership (representing the adult and corporate sellers)

Smitha Menon, Stephanie Yeo and Doralyn Chan in Singapore

- Rajah & Tann (representing the minors)

Kelvin Poon, Alyssa Leong and Matthew Koh in Singapore

Counsel to Daiichi Sankyo

- Oon & Bazul

Suresh Divyanathan, Aaron Leong and Victoria Choo

Counsel to the Singapore Law Society

- Advocatus Law

Christopher Anand Daniel and Harjean KaurCounsel to the Singapore Attorney-General

- **Jeyendran Jeyapal, Elaine Liew and May Ng** of the Attorney-General's Chambers

Daiichi Sankyo v RHC Holding Pvt Ltd, Oscar Investments Ltd and others (ICC arbitration)

Tribunal

- **Laurence Boo** (Singapore) (Chair)
- **Karyl Nairn QC** (UK) (appointed by Daiichi Sankyo)
- **Aziz Mushabber Ahmadi** (India) (appointed by the Mohan Singh group)

Counsel to Daiichi Sankyo

- Simpson Thacher & Bartlett

Partners **Robert Smit, Noah Leibowitz and Hank Gutman**, and associates **Katherine Helm, Joshua Slocum, Jordan Botjer, Robert Arnay, Emma Lindsay*** and **Jeffery Ding**** in New York; partner **Tyler Robinson** in London

*Now counsel at Bryan Cave

**Left Simpson Thacher Bartlett in December 2015

- Stamford Law Corporation*

Tan Chuan Thye and Timothy Cooke**

* *Stamford Law ceased to be involved in the case before the final award. The firm has since merged with Morgan Lewis*

** *Moved to Rajah & Tann in April 2015*

Counsel to the Mohan Singh group (the sellers)

- Paul Hastings

Partner **Eric Sussman** and counsel **Terra Reynolds** in Chicago

- Drew & Napier

Directors **Davinder Singh** and **Jaikanth Shankar** in Singapore

Copyright © 2017 Law Business Research Ltd. All rights reserved. | <http://www.lbresearch.com>
87 Lancaster Road, London, W11 1QQ, UK | Tel: +44 207 908 1188 / Fax: +44 207 229 6910
<http://www.globcompetitionreview.com> | editorial@globalcompetitionreview.com