

Jagdish Chander Gupta v. Kajaria Traders (India) Ltd., (1964) 8 SCR 50, a five-Judge Bench had to decide as to whether the expression “or other proceeding” occurring in Section 69(3) of the Indian Partnership Act, 1932 would include a proceeding to appoint an arbitrator under Section 8(2) of the Arbitration Act, 1940. This Court held:

“It remains, however, to consider whether by reason of the fact that the words “other proceeding” stand opposed to the words “a claim of set-off” any limitation in their meaning was contemplated. It is on this aspect of the case that the learned Judges have seriously differed. When in a statute particular classes are mentioned by name and then are followed by general words, the general words are sometimes construed ejusdem generis i.e. limited to the same category or genus comprehended by the particular words but it is not necessary that this rule must always apply. The nature of the special words and the general words must be considered before the rule is applied. In Allen v. Emersons [(1944) IKB 362] Asquith, J., gave interesting examples of particular words followed by general words where the principle of ejusdem generis might or might not apply. We think that the following illustration will clear any difficulty. In the expression “books, pamphlets, newspapers and other documents” private letters may not be held included if “other documents” be interpreted ejusdem generis with what goes before. But in a provision which reads “newspapers or other document likely to convey secrets to the enemy”, the words “other document” would include document of any kind and would not take their colour from “newspapers”. It follows, therefore, that interpretation ejusdem generis or noscitur a sociis need not always be made when words showing particular classes are followed by general words. Before the general words can be so interpreted there must be a genus constituted or a category disclosed with reference to which the general words can and are intended to be restricted.

Here the expression “claim of set-off” does not disclose a category or a genus. Set-offs are of two kinds — legal and equitable — and both are already comprehended and it is difficult to think of any right “arising from a contract” which is of the same nature as a claim of set-off and can be raised by a defendant in a suit. Mr B.C. Misra, whom we invited to give us examples, admitted frankly that it was impossible for him to think of any proceeding of the nature of a claim of set-off other than a claim of set-off which could be raised in a suit such as is described in the second sub-section. In respect of the first sub-section he could give only two examples. They are (i) a claim by a pledger of goods-with an unregistered firm whose good are attached and who has to make an objection under Order 21 Rule 58 of the Code of Civil Procedure and (ii) proving a debt before a liquidator. The latter is not raised as a defence and cannot belong to the same genus as a “claim of set-off”. The former can be made to fit but by a stretch of some considerable imagination. It is difficult for us to accept that the legislature was thinking of such far-fetched things when it spoke of “other proceeding” ejusdem generis with a claim of set-off.”(at pages 56-57)

“In our judgment, the words “other proceeding” in sub- section (3) must receive their full meaning untrammelled by the words “a claim of set-off”. The latter words neither intend nor can be construed to cut down the generality of the words “other proceeding”. The sub-section provides for the application of the provisions of sub-sections (1) and (2) to claims of set-off and also to other proceedings of any kind which can properly be said to be for

enforcement of any right arising from [contract](#) except those expressly mentioned as exceptions in sub-section (3) and sub-section (4).”(at page 60)