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‘NFTS AND THE ENIGMATIC SCENARIO OF ITS LAW IN INDIA’

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Abstract

This piece is a critical analysis of the emerging legal scenario regarding Non-Fungible Tokens (NFTs) in India, which highlights the ambiguities and challenges generated by the lack of specific legislation. NFTs, as unique digital assets, have transformed industries by enabling secure, decentralized ownership and transfer of digital property. Their quick boost in popularity in India is seen through the emergence of entities such as WazirX, BeyondLife, and Rario, which have facilitated high-profile sales and celebrity collaborations. But this increased growth is not helped by the current legislation of the country, leaving way too much legal uncertainty for consumers, creators, and platforms alike.

The article explains how, in the lack of laws specifically, stakeholders are then forced to get redressal through an almost perplexive use of available legislation. This patchy approach is illustrated through the landmark case of Digital Collectibles Pte. Ltd. & Ors. v. Galactus Funware Technology Pvt. Ltd. & Anr.², where the court was compelled to apply intellectual property and constitutional principles to resolve a dispute over the unauthorized use of player NFTs in fantasy sports. The article concludes by laying stress on the urgent need to bring legislation specific to NFTs into force and to create a special tribunal to settle NFT-related disputes.

Introduction

The current article addresses the modern legal situation of NFTs and the accompanying legal provisions. The digital revolution has profoundly changed the manner in which society produces and trades value. One of the most revolutionary innovations of the last decade is the emergence of non-fungible tokens (NFTs), a blockchain technology that facilitates the creation, verification, and transfer of unique digital assets. These have quickly gained popularity

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² (Digital Collectibles Pte. Ltd. & Ors. v. Galactus Funware Technology Pvt. Ltd. 2796 DHC, 2023)

worldwide, revolutionizing specially the art, music, gaming, and collectibles industries by creating a framework for ownership in the digital space.

But what exactly are NFTs? It is an acronym for '**non-fungible token**'. To define the word 'non-fungible', it is something that is distinctive and can't be exchanged. Cash we hold is fungible; shares we purchase are fungible, meaning they can be exchanged or swapped with each other. NFTs are all virtual assets and can be photographs, videos, sound files or some other kind of digital material. They contain a value established by the marketplace basically being dependent on its demand and supply and may be traded and sold exactly as physical assets.³

We know they are distinct from physical assets and there are various reasons as to why these are an upgrade from their physical counterparts. To cite some, firstly, NFTs use decentralized blockchain technology, making them secure against censorship, fraud, and unauthorized alterations.⁴

Second, by tokenizing assets and recording transactions on a blockchain, NFTs streamline processes and eliminate the need for intermediaries in markets such as art, real estate, and supply chains.⁵ Also, each NFT is distinct, encoded with unique metadata, so no two tokens can be the same and cannot be counterfeited or replicated.⁶

In India, the NFT market has seen exponential growth, with online platforms like WazirX, BeyondLife, and Rario hosting high-profile sales and celebrity collaborations involving artists, athletes, and entertainers. Indian artists, collectors, and investors have warmly adopted NFTs as a way to monetize digital art and connect with worldwide audiences. However, the legal landscape surrounding NFTs in India remains fragmented and uncertain. The actual dispute about the legality of NFTs began on April 6, 2018, when India's central bank and regulatory agency, RBI, published a circular directing banks not to participate in virtual currency transactions.⁷ The absence of NFT-specific legislation, coupled with the application of scarcely related existing laws such as the Consumer Protection Act, 2019, and the Income Tax Act,

³ (Kaspersky, 2025)

⁴ (Metana, 2024)

⁵ (Investopedia, 2025)

⁶ (Learnsignal, 2024)

⁷ (Reserve Bank of India, 2018)

1961, has led to significant ambiguities.

The primary motive of this research is to examine the current legal framework, identify the key challenges facing stakeholders, and discuss potential legislative reforms to address the hindrances.

Legal Framework for NFTs in India

The world of NFTs is barred from its specific laws at least until the very making of this paper, but there are some legislations that cover it partly.

Consumer Protection Act, 2019: The act accompanied with the Consumer Protection (E-Commerce) Rules, 2020, is designed to safeguard the interests of consumers in digital transactions as well. Indian NFT marketplaces are also governed by these regulations, being subject to the same provisions which mandate explicit disclosure of product characteristics and sale terms.

But enforcement is further complicated by the complex nature of blockchain transactions, the global reach of NFT platforms, and the lack of standardized terms and conditions. While consumers can report complaints to regulatory bodies or consumer courts, the realities of identifying sellers, determining jurisdiction, and obtaining remedies remain daunting.

Taxation: Taxation of NFTs in India has been a point of much debate and uncertainty. In 2022, the Indian government updated the Income Tax Act, 1961, to include a 30% tax on earnings from virtual digital assets (VDAs), which include cryptocurrencies and NFTs, under Section 115BBH.

Although, the excessive tax rate has been questioned for suppressing creativity and deterring small investors from engaging in the NFT market, the issue remains out of the scope of this paper.

Digital Collectibles Pte. Ltd. and Ors. vs Galactus Funware Technology Private Limited⁸

The case of Digital Collectibles Pte Ltd & Ors. v. Galactus Funware Technology Pvt. Ltd. arose from a dispute in India's fast-growing online fantasy sports (OFS) market, where Rario (the plaintiff), an NFT-based cricket collectibles platform, sued Galactus Funware (MPL) and its Striker platform for using digital player cards (NFTs) featuring Indian cricketers without authorization. Rario, which had acquired exclusive rights from a number of cricketers (the plaintiff has invested a huge amount of money, to the tune of Rs.1,48,32,35,589/- in the last year alone, to procure such exclusive licenses and authorizations), alleged that Striker's use of player names, images, and statistics on NFT-enabled cards amounted to unfair competition, unjust enrichment, tortious or unlawful interference with economic interest of the plaintiffs, and breach of personality rights.

By the facts of the case, Rario discovered Striker's allegedly infringing activities and sought an interim injunction to restrain them, along with the relief of rendition of accounts and damages. Defendants responded that their use of player identifiers was standard industry practice and that the NFT cards were an entry requirement to play the OFS game, relying only on public domain information, and asserted that such use was protected commercial speech under Article 19(1)(a) of the Indian Constitution.

Plaintiff had depended on the Indian case '**D.M. Entertainment Pvt. Ltd. v. Baby Gift House**'⁹ which established a right of publicity but restricted it to cases where unauthorized use was to create a false endorsement or to mislead consumers. But the defendants contended that the Indian law protects the right of publicity of a celebrity to commercially exploit their personal traits only to the extent of preventing false endorsements and advertisements. The right does not apply to facts or information about the celebrity that are not personal and private, and that freedom of speech supersedes the restraint.

Defendants have quoted the U.S case '**C.B.C. Distrib. & Mktg. v. Major League Baseball Advanced**'¹⁰, where C.B.C. brought an action for declaratory judgment against Major League Baseball players to determine its right to utilize, without license, the names and data of the

⁸ (Digital Collectibles Pte. Ltd. & Ors. v. Galactus Funware Technology Pvt. Ltd. 2796 DHC, 2023)

⁹ (D.M. Entertainment Pvt. Ltd. v. Baby Gift House and Ors. 2043 Del HC, 2010)

¹⁰ (C.B.C. Distrib. & Mktg. v. Major League Baseball Advanced 505 F.3d 818, 2007)

Major League Baseball players in relation to its fantasy baseball products. The court held that using player names and stats in fantasy sports does not violate publicity rights, especially when the information is public and there is no suggestion of endorsement. The court, in holding in favour of C.B.C, noted that the information utilized in C.B.C's fantasy baseball games is easily accessible in the public domain and was available to be used by all. The court also noted that such use would not lead to consumers being deceived because fantasy baseball games rely on inclusion of all the players and there cannot be any impression being created that only a specific player is promoting C.B.C's products.

Finally, in its judgment, the court dismissed Rario's plea for an injunction, holding that Striker's use of player names and artistic depictions was for identification in a fantasy sports scenario and did not imply endorsement.

The absence of specific NFT regulations forced the court to rely on existing intellectual property (IP) and constitutional principles. This regulatory gap not only forced the court to apply principles of intellectual property and constitutional law in resolving the dispute but also complicated the adjudication. In a system of law where there is already a plethora of cases pending and where there is no perceivable end to such accumulation, this absence only adds to the problem. As there is no legislation, the citizens of country start to fall prey to the shortcomings and then they consequently would start losing their trust in the system.

This ad hoc application of laws risks inconsistent interpretations, as NFTs straddle multiple legal domains without clear guidance on ownership rights, or infringement liabilities.

Current Challenges in Regulating NFTs

As can be observed, the challenges are evident. To name a few of them:

Consumer Awareness: As there is no specific regulation specifying the scope of ownership, many NFT purchasers are left in the dark and misinterpret ownership rights, often believing they purchased commercial use rights to the asset. Existing consumer protection laws under the Consumer Protection Act, 2019 address fraud but fail to clarify NFT-specific rights and leave such buyers vulnerable.

Regulatory Ambiguity: There is a great deal of regulatory uncertainty around NFTs in India, mainly due to the fact that there are no specific laws or detailed legal frameworks that

specifically speak to their creation, sale, or use. This lack of clarity means that NFT platforms, creators, as well as consumers are subjected to a legislation that was never made for these digital assets. Consequently, there is a general misunderstanding of the law relating to NFTs, what rights are actually transferred in an NFT transaction, and what obligations parties may have under existing laws. This uncertainty can lead to inconsistent practices, increased risk of fraud, and a lack of accountability in the marketplace, and that would lead to difficulties for stakeholders to protect their interests or seek redress in case of disputes.

Current Needs

Current Indian copyright law does not explicitly address NFTs, leading to ambiguity about whether purchasing an NFT transfers ownership of the underlying content or merely the token itself. To name one, there is a prompt need to address the scope of **intermediary liability** recognised under the Information Technology Act, 2000. Under Section 79 of the act, NFT platforms enjoy safe harbour protection as passive intermediaries if they lack knowledge of infringing content. However, this immunity is at risk if platforms actively profit from or promote infringing NFTs.

Further, NFT platforms often operate globally, and this raises jurisdictional challenges for the courts. For instance, an NFT minted in India but sold on a U.S.-based platform may trigger conflicting claims over infringement liability or ownership rights. Indian courts could assert jurisdiction if the creator resides domestically but that doesn't answer the bigger issue. This way, enforcement remains complex without international treaties.

There is a proper and asking need for the country to have specific law that regulates these tokens, but the next need to it is establishing a dedicated tribunal to handle NFT-related disputes. This would address gaps in the current system which would reduce ambiguity, speed up case resolution, and offer clearer guidance to both consumers and platforms. These reforms would ultimately foster greater trust and legal certainty in this rapidly evolving NFT ecosystem.

Conclusion

Through the medium of this project, it can be inferred that the legal ambit of non-fungible tokens is one that is marked by significant ambiguity and fragmentation, as highlighted throughout this analysis. While NFTs have rapidly gained traction and revolutionized the way digital assets

are owned and traded, the absence of specific legislation has left all affected and quite frankly, hapless. The reliance on other statutes has proven insufficient, as these frameworks do not adequately clarify the rights and obligations associated with NFT transactions. This approach risks inconsistent interpretations and fails to provide clear guidance on issues that were discussed throughout the paper. Given these challenges, there is a pressing need for India to enact comprehensive, NFT-specific legislation that clearly defines the rights, obligations, and liabilities of all stakeholders. Establishing a dedicated tribunal for NFT-related disputes would further help in addressing the technical and legal complexities of this space, ensuring efficient and consistent resolution of cases. India has seen an enormous rise in virtual assets and if the law of the country fails to acknowledge the boom in the near future, the problems will only start to exponentiate.

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