

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13118 OF 2025

Sudhir Joshi s/o Shri Suresh Joshi ...Petitioner

Versus

1. Rajesh Khandelwal ...Respondents
2. TATA Capital Financial Services Limited
3. Shubhankar Marketing Private Limited

AND

WRIT PETITION NO. 13383 OF 2025

Sudhir Joshi s/o Shri Suresh Joshi ...Petitioner

Versus

1. Rajesh Khandelwal ...Respondents
2. TATA Capital Financial Services Limited
3. Shubhankar Marketing Private Limited

AND

WRIT PETITION NO. 13288 OF 2025

Sudhir Joshi s/o Shri Suresh Joshi ...Petitioner

Versus

1. Rajesh Khandelwal ...Respondents
2. TATA Capital Financial Services Limited
3. Shubhankar Marketing Private Limited

AND

WRIT PETITION NO. 13384 OF 2025

Sudhir Joshi s/o Shri Suresh Joshi ...Petitioner

Versus

1. Rajesh Khandelwal ...Respondents
2. TATA Capital Financial Services Limited
3. Shubhankar Marketing Private Limited

Mr. Kezar Kharawala, a/w Mr. Pradosh Patil, i/by Lex Juris, for
the Petitioner in all WP.

Mr. Aseem Naphade, a/w Mr. Nikhil Mehta, i/by KMC Legal
Venture, for Respondent No.2.

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CORAM: N. J. JAMADAR, J.
RESERVED ON: 15th OCTOBER, 2025
PRONOUNCED ON: 16th DECEMBER, 2025

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. The challenge in these petitions is to identical orders passed by the learned Sole Arbitrator on applications in Arbitration Proceedings, under Section 16 of the Arbitration and Conciliation Act, 1996 (“the Act of 1996”).

3. There is a prelude to these petitions:

3.1 Shubankar Marketing Private Limited (R3) had availed financial facilities from TATA Capital Financial Services Limited (R2). The petitioner claimed that he was a nominal Director of R3. Alleging default in repayment, R2 had invoked arbitration, purportedly without serving the notice of invocation of arbitration upon the petitioner. Mr. Anis Ahmed, the learned Arbitrator, passed awards on 19th April, 2015.

3.2 The petitioner filed petitions before this Court assailing the said awards. On 10th May, 2024 in Arbitration Petition No. (S)35084/2023 and the connecting petitions, Minutes of Order were executed and the arbitration petitions were disposed in

accordance with the terms of the Minutes of Order signed and tendered by the parties. Under the said Minutes of Order, the parties agreed that the arbitration awards arising out of different loan agreements, as indicated in the table below, be set aside:

Arbitration Case No.	Loan Agreement No.	Loan Agreement Date	Arbitration Award Date
4150/2014	7000172460	31.12.2012	19.04.2016
4151/2014	700072462	31.12.2012	19.04.2016
TCFSL/16817/2014	7000193654	30.06.2013	30.11.2015
4212/2014	7000172468	31.12.2012	30.12.2015
4213/2014	7000172469	31.12.2012	30.12.2015
4152/2014	7000172464	31.12.2012	19.04.2016
16761/2014	7000152644	04.07.2012	09.04.2015

3.3 The parties further agreed that Mr. Rajesh Khandelwal (R1) be appointed as the Sole Arbitrator to adjudicate the disputes between the parties. The issue of limitation was expressly kept open. The learned Arbitrator, after filing the respective pleadings, would first consider the issue of limitation and invocation of the arbitration proceedings relating to each of the claims as enlisted in the table extracted above as a preliminary issue and, thereupon, decide the claims depending on the outcome of the said preliminary issue.

3.4 Arbitration proceedings commenced before the learned Arbitrator. The petitioner filed first application under Section 16 of the Act of 1996 raising the grounds, *inter alia*, that the

petitioner was a nominal Director of R3 Company and had no control over the affairs or day to day activities of R3, and the petitioner had not received any notice invoking the arbitration. The said application came to be rejected by the sole Arbitrator.

4. While the said first application was awaiting adjudication, the petitioner filed his written statement and, simultaneously, filed an application seeking leave of the Tribunal to file the second application under Section 16 of the Act of 1996, as recorded by the learned Arbitrator in the minutes of the arbitral meeting held on 8th February, 2025.

5. The substance of the second application was that in the statement of claim filed in the respective proceedings by the claimants – R2, it was asserted that the claimant had issued sanction letter and a Master Loan-cum-Hypothecation-cum-Guarantee Agreement, qua each of the transactions. However, no such agreement was annexed to the statement of claim. What was annexed was the Master Loan-cum-Hypothecation-cum-Guarantee Agreement No.7000172460 pertaining to Arbitration No.A1. No separate sanction letter was annexed with the statement of claim in each of the proceedings. The sanction letter was the same as was annexed with the claim in

Arbitration Proceeding No.A1. The petitioner, thus, asserted that there was no arbitration agreement as such and, therefore, the arbitral proceeding was not tenable.

6. The Claimant – R2 resisted the application by filing reply. It was, *inter alia*, contended that the application was not tenable as it was barred by limitation. Thereupon, the petitioner filed an application for condonation of delay of 124 days in filing the second application.

7. By the impugned order, the learned Arbitrator was persuaded to dismiss the applications. The learned Arbitrator was of the view that, the issue of absence of separate sanction letter and agreement containing the arbitration clause, in respect of each of the transactions, was a mixed question of law and fact and, therefore, warranted adjudication after the parties adduced evidence. It was, *inter alia*, observed that the petitioner did not dispute the execution of the Master Loan-cum-Hypothecation-cum-Guarantee Agreement in the capacity of a guarantor. At no point of time, the petitioner had denied the execution of the transaction documents and the Master Loan-cum-Hypothecation-cum-Guarantee Agreement dated 31st December, 2012. The learned Arbitrator, thus, while dismissing the second application under Section 16 of the Act of 1996, gave

liberty to the petitioner to raise the issues, that were raised in the said application, at an appropriate stage in the arbitral proceedings.

8. Being aggrieved, the petitioner has invoked the writ jurisdiction.

9. I have heard Mr. Kezer Kharawala, the learned Counsel for the petitioner, and Mr. Aseem Naphade, the learned Counsel for Respondent No.2 – claimant, in all petitions. The learned Counsel took the Court through the pleadings and material on record including the orders passed by the learned Arbitrator.

10. Mr. Kharawala, the learned Counsel for the petitioner, submitted that the learned Arbitrator committed grave jurisdictional error in returning a finding that the issue of jurisdiction was required to be determined after the parties adduced evidence. Laying emphasis on the provisions contained in Section 16 of the Act of 1996, Mr. Kharawala would urge that it empowers the Arbitral Tribunal to rule on its own jurisdiction. The objection in regard to the existence of an Arbitration Agreement is required to be determined by the Arbitral Tribunal, when its jurisdiction is questioned on the count of absence of Arbitration Agreement, either way. Without arriving at a positive finding that, the Arbitral Tribunal has the jurisdiction, the

learned Arbitrator could not have side stepped the issue by observing that the issue raised by the petitioner warranted adjudication after the parties adduced evidence. The impugned order is, thus, patently perverse. Therefore, this Court can legitimately intervene in exercise of the supervisory jurisdiction lest, the petitioner would be rendered remediless and made to undergo the arbitral proceedings when *ex facie* there is no Arbitration Agreement between the parties, in respect of the transactions in question.

11. Mr. Kharawala laid emphasis on the fact that the sanction letter qua each of the transactions in question and the purported agreement containing the arbitration clause are not annexed. In the absence thereof, the arbitration proceedings is simply not properly constituted. In the face of such incontrovertible facts, the learned Arbitrator could not have assumed jurisdiction where none exists.

12. To lend support to aforesaid submissions, Mr. Kharawala placed strong reliance on the judgment in the case of *Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, in RE¹*, wherein it was emphasised that the Arbitration Act is a self-contained

1 (2024) 6 Supreme Court Cases 1.

code, *inter alia*, with respect to matters dealing with appointment of arbitrators, commencement of arbitration, making of an award and challenges to the arbitral award, as well as execution of such awards. And that, the Arbitral Tribunal is obligated to decide on the challenge to its jurisdiction.

13. Mr. Kharawala would further urge that there is an essential distinction between the jurisdictional and admissibility issues. The Arbitrator lost sight of this essential distinction. The petitioner was questioning the jurisdiction of the Arbitral Tribunal to continue with the arbitral proceeding for want of arbitration agreement and had not raised the issue of admissibility of the documents. Thus, the learned Arbitrator could not have held that the issues raised by the petitioner warranted adjudication after the parties adduced evidence as if the petitioner had raised admissibility issues. To lend support to these submissions, a very strong reliance was placed by Mr. Kharawala on the judgment of the Supreme Court in the case of ***Bharat Sanchar Nigam Limited and another vs. Nortel Networks India Private Limited***², wherein the Supreme Court elucidated the distinction between the jurisdictional and admissibility issues.

2 2021(5) SCC 738.

14. Mr. Kharawala further submitted that in the peculiar facts of the case an exceptional situation has arisen. And, therefore, this Court would be justified in interdicting the arbitral proceedings. Reliance was placed on a Division Bench judgment of this Court in the case of *Hindustan Petroleum Corporation Limited vs. Om Construction*³, wherein this Court, after an elaborate analysis of the previous precedents, expounded the scope of interference in arbitral proceedings under Articles 226 and 227 of the Constitution of India.

15. Per contra, Mr. Naphade, the learned Counsel for R2 – claimant, would submit that the instant second application under Section 16 before the learned Arbitrator was filed with an oblique motive to delay the disposal of the arbitration proceedings. After having obtained an order, albeit by consent, of quashing and setting aside the earlier awards on an express understanding that each of the arbitration proceedings would be taken to its logical conclusion, save and except the issue of limitation and invocation of arbitration on which the learned Arbitrator was to rule, it was not open to the petitioner to again file an application under Section 16 of the Act of 1996, especially, when the first application was sub-judice.

3 2023 SCC Online Bom 2219.

16. Mr. Naphade would urge that the first application questioning the jurisdiction of the Arbitral Tribunal was dismissed by the learned Arbitrator and the said order has not been challenged. The instant second application was also devoid of substance as the transaction documents executed by the petitioner in each of the transactions contained a clause that the borrower and guarantor confirmed that the terms and conditions of the Master Loan-cum-Hypothecation-cum-Guarantee Agreement would be applicable to the loan facility granted pursuant to the application in each of the transactions. Master Loan-cum-Hypothecation-cum-Guarantee Agreement, in turn, contains the arbitration clause to resolve all the disputes. The said Master Loan-cum-Hypothecation-cum-Guarantee Agreement governed each of the distinct loan agreements. Therefore, the learned Arbitrator was wholly within his rights in dismissing the applications which were apparently misconceived and, *mala fide*, submitted Mr. Naphade.

17. To start with, it is necessary to note that, the execution as such of the Master Loan-cum-Hypothecation-cum-Guarantee Agreement is not in dispute. The Schedule-A appended to the said Master Loan-cum-Hypothecation-cum-Guarantee Agreement, *inter alia*, provided that the facility amount not

exceeding Rs.77,15,000/- was to be extended thereunder. Incontrovertibly the petitioner had signed the said Master Loan-cum-Hypothecation-cum-Guarantee Agreement, along with another Director of R3. The Master Loan-cum-Hypothecation-cum-Guarantee Agreement contains the following dispute resolution mechanism:

“23. ARBITRATION:

All disputes, differences and/or claims arising out of this Loan Agreement or as to the construction, meaning or effect hereof or as to the rights and liabilities shall be settled by arbitration to be held in Mumbai in accordance with the Arbitration in and Conciliation Act 1996, or any statutory of the parties parties hereunder shall amendments thereof and shall be referred to a person to be appointed by the Lender. In the event of death, refusal, neglect, Inability, or incapability of the person so appointed to act as an Arbitrator, the Lender may appoint a new arbitrator. The award of the arbitrator shall be final and binding on all parties concerned.

24. JURISDICTION:

Subject to the provisions of clause 23 above, any suit, petition, inference or other filing permitted or required to be made pursuant to the Arbitration and Conciliation Act, 1996 in respect of the matters arising out of this Agr Agreement including, without limitation, a petition for appointment of an arbitrator of arbitrators under section 11 of the Arbitration and Conciliation Act, 1996 shall be instituted only in competent courts at Mumbal.”

18. It would be contextually relevant to note, at this stage itself, the stipulation in the Loan-cum-Hypothecation-cum-Guarantee Agreement;

“We confirm that the terms and condition of the Master Agreement would be applicable to the loan facility granted pursuant to this application. We further confirm that the Assets mentioned in this application shall be deemed to be hypothecated in favour of the Lender in accordance with the

Master Agreement. The Guarantor also hereby confirms that the Loan Facility if granted under this application shall be guaranteed by the Guarantor on the terms of the Master Agreement.”

19. Incontrovertibly, the aforesaid transactional documents in each of the cases for a loan amount of Rs.15,43,000/-, each, aggregating to Rs.77,15,000/- (as stipulated in the Master Loan-cum-Hypothecation-cum Guarantee Agreement) has been executed by the petitioner.

20. In the backdrop of the aforesaid facts, it is necessary to keep in view of the remit of the jurisdiction to interdict the arbitral proceedings. Under the provisions of Section 16 of the Act of 1996, the Arbitral Tribunal is empowered to rule on its own jurisdiction. Section 16 of the Act of 1996 reads as under:

“Section 16. Competence of arbitral tribunal to rule on its jurisdiction.— (1) The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose,—

(a) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and

(b) a decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence; however, a party shall not be precluded from raising such a plea merely because that he has appointed, or participated in the appointment of, an arbitrator.

(3) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.

(4) The arbitral tribunal may, in either of the cases referred to in sub-section (2) or sub-section (3), admit a later plea if it considers the delay justified.

(5) The arbitral tribunal shall decide on a plea referred to in sub-section (2) or sub-section (3) and, where the arbitral tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an arbitral award.

(6) A party aggrieved by such an arbitral award may make an application for setting aside such an arbitral award in accordance with section 34.”

21. When the Arbitral Tribunal accepts the plea referred to in sub-clause (2) or sub-clause (3) of Section 16 of the Act of 1996 and holds that it has no jurisdiction, an appeal is provided under Section 37 of the Act of 1996. Conversely, where the Arbitral Tribunal repels the objections to its jurisdiction, it shall continue with the arbitral proceedings and make an arbitral award. A party aggrieved by such an arbitral award has the remedy of filing an application to set aside such an arbitral award in accordance with Section 34 of the Act of 1996.

22. At this juncture, it is necessary to note the foundational principle of minimal interference enshrined in Section 5 of the Act of 1996. It provides that notwithstanding anything contained in any other law, for the time in force in matters

covered by Part-I, no judicial authority shall intervene except as provided in Part-I.

23. Keeping in view the aforesaid provisions, the scope of interference in exercise of writ jurisdiction is required to be appreciated. The legal regime enshrined by the Act of 1996 was directed towards the consolidation of the law governing the Arbitration. The Act of 1996 is thus a self-contained code. In order to achieve the object of speedy disposal of the arbitration matters by the Arbitral Tribunals, which are the forums of the dispute redressal chosen by the parties, the Act of 1996 prescribes time limits for the disposal of such matters and even the Applications and Appeals preferred against the orders passed thereunder.

24. The minimal judicial intervention is emphasized by incorporating a *non-obstante* clause in Section 5 of the Act of 1996, which provides that notwithstanding anything contained in any other law for the time being in force, in matters governed by Part -I of the Act of 1996, no judicial authority shall intervene except where so provided in the said Part. Section 37 of the Act of 1996 provides a limited right of Appeal against specified judgments and orders only. The legislative intent becomes more clear in Sub-section (3) of Section 37, which interdicts a Second

Appeal against an order passed under Section 37 of the Act of 1996. Thus, the determination under Section 16 of the Act of 1996 by the Arbitrator, has to follow the discipline envisaged by the said section, which provides a mechanism of challenge under Section 34 of the Act of 1996.

25. This brings to the fore the limits of exercise of the writ jurisdiction, premised on the pristine proposition that the legal regime under an enactment cannot override the constitutional guarantee and right. The question was elaborately considered by a Three Judge Bench of the Supreme Court in the case of **Deep Industries Limited Vs Oil and Natural Gas Corporation Limited & Anr**,⁴ wherein the Supreme Court after adverting to the relevant provisions of the Act of 1996 and the previous pronouncements including the Seven Judge Bench Judgment of the Supreme Court in the case of **SBP & Co Vs Patel Engineering Ltd And Anr**,⁵ expounded the legal position as under:

“17. This being the case, there is no doubt whatsoever that if petitions were to be filed under Articles 226/227 of the Constitution against orders passed in appeals under Section 37, the entire arbitral process would be derailed and would not come to fruition for many years. At the same time, we cannot forget that Article 227 is a constitutional provision which remains untouched by the non-obstante clause of Section 5 of the Act. In these circumstances, what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under Section

4 (2020) 15 SCC 706.

5 (2005) 8 SCC 618.

37 of the Act, yet the High Court would be extremely circumspect in interfering with the same, taking into account the statutory policy as adumbrated by us herein above so that interference is restricted to orders that are passed which are patently lacking in inherent jurisdiction.

18.

19.

20. While the learned Additional Solicitor General is correct in stating that this statement of the law does not directly apply on the facts of the present case, yet it is important to notice that the seven-Judge Bench has referred to the object of the Act being that of minimizing judicial intervention and that this important object should always be kept in the forefront when a 227 petition is being disposed of against proceedings that are decided under the Act.

21.

22. One other feature of this case is of some importance. As stated herein above, on 09.05.2018, a Section 16 application had been dismissed by the learned Arbitrator in which substantially the same contention which found favour with the High Court was taken up. The drill of Section 16 of the Act is that where a Section 16 application is dismissed, no appeal is provided and the challenge to the Section 16 application being dismissed must await the passing of a final award at which stage it may be raised under Section 34. What the High Court has done in the present case is to invert this statutory scheme by going into exactly the same matter as was gone into by the arbitrator in the Section 16 application, and then decided that the two year ban was no part of the notice for arbitration issued on 02.11.2017, a finding which is directly contrary to the finding of the learned Arbitrator dismissing the Section 16 application. For this reason alone, the judgment under appeal needs to be set aside.”

(emphasis supplied)

26. In the case of *Punjab State Power Corporation Limited Vs Emta Coal Limited And Anr*⁶ further explaining the import of the observations in paragraph 17 in the case of *Deep Industries* (supra) (extracted above), the Supreme Court cautioned against

6 (2020) 17 SCC 93.

the purported misuse of the said expression of law, in the following words:

“4. We are of the view that a foray to the writ court from a Section 16 application being dismissed by the arbitrator can only be if the order passed is so perverse that the only possible conclusion is that there is a *patent* lack in inherent jurisdiction. A *patent* lack of inherent jurisdiction requires no argument whatsoever—it must be that perversity of the order that must stare one in the face.

5. Unfortunately, the parties are using this expression which is in our judgment in **Deep Industries Ltd (Supra)**, to go to the Article 227 Court in matters which do not suffer from a patent lack of inherent jurisdiction. This is one of them. Instead of dismissing the writ petition on the ground stated, the High Court would have done well to have referred to our judgment in **Deep Industries (Supra)** and dismiss the Article 227 petition on the ground that there is no such perversity in the order which leads to *patent* lack of inherent jurisdiction. The High Court ought to have discouraged similar litigation by imposing heavy costs. The High Court did not choose to do either of these two things.”

(emphasis supplied)

27. The issue again came up for consideration before a Three Judge Bench of the Supreme Court in ***Bhaven Construction Through Authorised Signatory Premjibhai K. Shah Vs Executive Engineer, Sardar Sarovar Narmada Nigam Limited & Anr***,⁷ wherein the sole Arbitrator had rejected an Application of the Respondent No.1 therein and held that the sole Arbitrator had jurisdiction to adjudicate the dispute. After advertng to the judgment of the Supreme Court in the case of ***Nivedita Sharma Vs Cellular Operators Association of India***,⁸ the Supreme Court

7 (2022) 1 SCC 75.

8 (2011) 14 SCC 337.

enunciated that, it is prudent for a judge to not exercise discretion to allow judicial interference beyond the procedure established under the enactment. This power needs to be exercised in exceptional rarity, wherein one party is left remediless under the statute or a clear “bad faith” is shown by one of the parties. This high standard set by the Supreme Court is in terms of the legislative intention to make the Arbitration fair and efficient.

28. With reference to the decision in the case of *Deep Industries* (supra), the Supreme Court further observed that Section 16 of the Act of 1996 necessarily mandates that the issue of jurisdiction must be dealt first by the Tribunal before the Court examines the same under Section 34. The Respondent No.1 was, therefore, not left remediless, and has statutorily been provided a chance of Appeal.

29. In the case of *Hindustan Petroleum Corporation Ltd.* (supra), on which reliance was placed by Mr. Kharawala, a Division Bench of this Court, after adverting to the aforesaid and other pronouncements, observed that the law on the aspect of judicial interference appears to be very clear — the High Court, in exercise of its writ jurisdiction under Articles 226 and 227 of the Constitution of India, should not interfere in orders passed

by the Arbitral Tribunals or Courts in arbitration proceedings, except in the exceptional circumstances mentioned in the aforesaid judgments. In the view of the Division Bench, that regime was in keeping with the provisions of Section 5 of the Arbitration Act which limits the interference of the judicial authorities in arbitration matters.

30. The position in law which thus emerges is that, ordinarily, the challenge to an order determining the jurisdiction of the Arbitral Tribunal must be through the regime envisaged by Section 16 and Section 34 of the Act of 1996. A Writ Petition can be entertained by the High Court only in cases of patent lack of inherent jurisdiction. In that category also, the lack of jurisdiction should be such that it does not warrant any investigation and becomes so glaringly evident that no other inference is plausible. An exceptionally rare situation which justifies the exercise of plenary jurisdiction may also arise where in view of the order passed by the Arbitrator, one of the parties is left completely remediless or “bad faith” is clearly exhibited by one of the parties. Barring these exceptional situations, the Writ Court will be well advised not to interdict the arbitral process by adhering to the principle of minimal interference and non breakability of the arbitral process.

31. Whether the petitioner has succeeded in making out such a rare case as to cross the jurisdictional impediment? Mr. Kharawala would urge that, in the case at hand, an exceptional case is made out as the learned Arbitrator cannot be said to have ruled on its jurisdiction. Instead, the leaned Arbitrator kept the issues raised by the petitioner open for consideration, at an appropriate stage, in the arbitral proceedings. Such an approach, according to Mr. Kharawala, is *ex facie* perverse.

32. I find it difficult to accede to the aforesaid submissions of Mr. Kharawala. The learned Arbitrator has indeed kept the issues raised by the petitioner open for consideration as he was of the view that those issues warranted adjudication post recording of evidence. However, that does not imply that the learned Arbitrator has not ruled on the issue of jurisdiction. After an elaborate consideration, the learned Arbitrator had noted the recitals in the Master Loan-cum-Hypothecation-cum-Guarantee Agreement and the fact that there was no denial of the execution of the Master Loan-cum-Hypothecation-cum-Guarantee Agreement as well as the transaction documents. The challenge was essentially on the ground that the sanction letter and the agreement qua each of the transactions did not contain separate arbitration clause. In that backdrop, the

learned Arbitrator held that whether the Master Loan-cum-Hypothecation-cum Guarantee Agreement would govern the jural relations between the parties to the arbitration proceedings would warrant determination after the parties lead evidence.

33. The objection to the jurisdiction was premised primarily on absence of evidence to prove the existence of the arbitration agreement qua each of the separate transactions. In contrast, it was the claim of R2 – claimant that the Master Loan-cum-Hypothecation-cum-Guarantee Agreement governed the separate transactions; the aggregate value of financial facility extended thereunder was the same as was provided for in the Master Loan-cum-Hypothecation-cum-Guarantee Agreement, which indisputably contains the arbitration clause and was executed by the petitioner also.

34. In these circumstances, the submission on behalf of the petitioner that the learned Arbitrator committed a jurisdictional error in not ruling on its own jurisdiction, which the Arbitrator is obligated to do, cannot be readily acceded to. In the aforesaid backdrop, this Court finds it difficult to accede to the submission on behalf of the petitioner that in the facts of the case, a situation of exceptional rarity has arisen or the continuation of the arbitral proceedings has the propensity to

leave the petitioner remediless or claimant has shown clear bad faith. The impugned order neither suffers from such patent inherent lack of jurisdiction nor can it be said to be so perverse as to stare in the face. Resultantly, it cannot be said that the petitioner has succeeded in making out such an exceptional case as would warrant interference in the arbitral process. Hence, the petitions deserve to be dismissed.

35. The petitions stand dismissed with costs.

36. Rule discharged.

[N. J. JAMADAR, J.]