
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 49 OF 2025

M/s. Krishna Avdhut Petroleum

...Petitioner

Versus

Indian Oil Corporation Ltd. & Ors

...Respondents

Mr. N.V. Walawlkar, Senior Advocate, a/w Suresh M. Sabrad, Amey C. Sawant, Pratik S. Sabrad, Gracy Saldana, Neha Zanje, for Petitioner.

Mr. Chirag Mody, a/w Sunil Gangan, Swapnil Shikhare, i/b RMG Law Associates, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 17, 2025

PC :

1. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under an agreement dated March 29, 2017. The arbitration agreement is contained in Clause 61 (found at Page 102 of the Petition). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. At the threshold, it is clarified that the Learned Counsel for both parties submit that a Petition under Section 9 of the Act, being Arbitration Petition No. 84 of 2024 connected to this matter (***“Section 9***

Petition”) has also been filed. With the consent of the parties, the Section 9 Petition was also taken up for hearing along with this matter.

3. It is apparent from the record that the arbitration agreement was invoked by Petitioner on November 15, 2024. There is no reply to the said invocation.

4. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge Bench in the *Interplay Judgement*¹ followed by multiple others, including *SBI General*² and *Patel*³ that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

5. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in connection with the aforesaid agreement dated March 29, 2017 to arbitration by a Sole Arbitrator.

6. In these circumstances, both the Section 11 and Section 9 Petition are hereby ***finally disposed of***, in terms of the following order:

¹ *In Re: Interplay Between Arbitration Agreements Under Arbitration and Conciliation Act, 1996 & Stamp Act, 1899 – (2024) 6 SCC 1*

² *SBI General Insurance Co. Ltd. v. Krish Spinning – 2024 SCC OnLine SC 1754*

³ *Ajay Madhusudan Patel v. Jyotrindra S. Patel – 2024 SCC OnLine SC 2597*

A] Mr. Kunal Bhanage, an advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Email ID: kunal.bhanage@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date on which this order is uploaded on the website of this Court. The Petitioner shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection

with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

7. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

8. The Section 9 Petition shall be treated as an Application under Section 17 of the Act by the arbitral tribunal appointed hereby. Given the efflux of time, the Petitioner is at liberty to modify or mould the contents of Section 9 Petition for consideration by the arbitral tribunal as a Section 17 Application. In these circumstances, the Section 9 Petition too is hereby ***finally disposed of*** in the above terms.

9. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]