

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13809 OF 2025
IN
ARBITRATION PETITION NO. 02 OF 2024

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Mr. Hareshlal Guralmal Kukreja ...Petitioner
Versus
Mr. Shyamlal Guralmal Kukreja ...Respondent

Mr. Purushottam G. Chavan (*through VC*), for Respondent and
Petitioner in ARP No. 2 to 2024.

Mr. P.G. Hartalkar *i/b Tejas P. Hartalkar*, for Applicant in IA-
13809-2025.

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : December 12, 2025

ORDER :

1. The review application seeks a review of an order appointing an arbitrator. It is claimed by Advocate for the Review Petitioner that the dispute is not arbitrable inasmuch as the suit concerning the same subject matter had been filed.

2. Be that as it may, if this were the case, it would be open to the Petitioner to demonstrate the same to the Learned Arbitral Tribunal by an appropriate application under Section 16 of the Arbitration and

Conciliation Act, 1996.

3. In *HCC vs. Bihar*^[1], the Supreme Court considered the issue of whether a High Court has jurisdiction to review an order passed earlier under Section 11(6) of the Act as “Issue No. 1” and discussed the issue threadbare in Paragraph 11 (sub-paragraphs 11.1 to 11.15). To avoid prolixity, the entire contents of *HCC vs. Bihar* in relation to Issue No. 1 are not being extracted here, and just the concluding portion in the law declared by the Supreme Court is set out below:

11.15. For the reasons discussed above, this Court is of the considered view that the High Court did not have the jurisdiction to re-open or review its earlier order passed under Section 11(6) of the A&C Act. Once the appointment was made, the court became functus officio and could not sit in judgment over the very issue it had already settled. The review order cuts against the grain of the Act, undermines the principle of minimal judicial interference, and effectively converts the review into an appeal in disguise. Such an exercise cannot stand. Accordingly, this issue is answered in the negative.

[Emphasis Supplied]

4. The application for review of the order is misconceived and is *disposed of* without any directions.

1 Hindustan Construction Company Ltd. vs. Bihar Rajya Pul Nirman Nigam Ltd. – 2025 INSC 1365

5. 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.]