

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 26 OF 2024
WITH
INTERIM APPLICATION (LODG.) NO. 30862 OF 2021

KOTAK SECURITIES LTD.

.....*Petitioner*

: *Versus* :

Bipin Heerachand Jain

.....*Respondent*

Mr. Saurabh Bachhawat with Ms. Savina Bangera, Mr. Kaushik Puranik, Mr. Rajesh Khandelwal and M s. Shreya Khandelwal i/b. Juris Link, for the Petitioner.

Mr. P. Ranjan with Mr. Yash Jain and Mr. Santosh Salekar ib. Halai & Co., for the Respondent.

CORAM : SANDEEP V. MARNE, J.

DATED : 25 NOVEMBER 2025.

P.C :

1) This is a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the Award of the Appellate Arbitral Tribunal of National stock Exchange directing the Petitioner to pay to the Respondent sum of Rs.6,00,000/- representing 75% of the brokerage in currency future transactions.

2) I have heard Mr. Bachhawat, the learned counsel appearing for the Petitioner and Mr. Ranjan, learned counsel appearing for the Respondent.

3) I have gone through the impugned Award, as well as, the Award passed by the sole Arbitrator dated 30 January 2021 and order passed by the Grievance Redressal Committee dated 30 July 2020.

4) So far as the responsibility fixed on the Petitioner and the finding of some of the trades being unauthorised is concerned, there are three concurrent findings recorded by the GRC, sole Arbitrator and the Appellate Arbitral Tribunal. In exercise of powers under Section 34 of the Arbitration Act, I find no reason to interfere in such concurrent findings in absence of any case of gross perversity being made out.

5) The only error that can be traced in the Award of the Appellate Arbitral Tribunal dated 30 September 2021 is grant of relief in favour of the Respondent in Appeal filed by the Petitioner. It appears that the GRC had initially allowed the claim in the sum of Rs.6,00,000/-, the learned Sole Arbitrator brought down the said amount to Rs.4,00,000/- vide Award dated 30 January 2021. Petitioner preferred Appeal before the Appellate Arbitral Tribunal against the order dated 30 January 2021. Respondent did not feel aggrieved by the Award of the sole Arbitrator dated 30 January 2021 and accepted the reduced amount of Rs.4,00,000/-. However, in Appeal preferred by the Petitioner, the Appellate Arbitral Tribunal has granted relief in favour of the Respondent. Granting relief to the Respondent in an Appeal preferred by the Petitioner is clearly in conflict with the public policy of India as the approach adopted by the Appellate Arbitral Tribunal is in contravention with the fundamental policy of Indian Law which envisages that relief cannot be granted by the

Appellate Court to a Respondent in an Appeal filed by the Appellant. Therefore, the Award of the Appellate Arbitral Tribunal increasing the claim amount from Rs.4,00,000/- to Rs.6,00,000/- is clearly erroneous. To this extent only, the impugned Award suffers from patent illegality.

6) Applying the principles laid down in the Constitution Bench judgment in Gayatri Balasamy Versus. M/s. ISG Novasoft Technologies Limited¹, good part of the Award can be severed from the bad part. In the present case, the error on the part of the Appellate Arbitral Tribunal is only to the limited extent of enhancing the award amount from Rs.4,00,000/- to Rs.6,00,000/- in appeal preferred by the Petitioner. This bad part of the Award enhancing the claim amount can be severed from the good part which upholds the claim in the sum of Rs.4,00,000/- awarded by the sole Arbitrator. Therefore, the entire Award need not be set aside and the good part can be preserved.

7) I accordingly proceed to pass the following order :

(i) The Award dated 30 September 2021 is modified to the limited extent that the Respondent shall be entitled to sum of Rs.4,00,000/- from the Petitioner instead of Rs.6,00,000/-.

(ii) Rest of the Award including the direction for payment of interest is confirmed.

8) The Arbitration Petition is partly allowed to the above extent. There shall be no order as to costs. The Interim Application also stands disposed of.

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[SANDEEP V. MARNE, J.]