

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.113 OF 2024

CRIF High Mark Credit Information

Services Pvt. Ltd.

....Applicant

Versus

Nimisha Finance India Private Limited

....Respondent

Mrs. Disha Mehta *i/b. King Stubb & Kasiva, Advocate for Applicant.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JULY 17, 2025

ORDER :

1. This Application 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 a Membership and Service Agreement dated July 20, 2016 (***“Agreement”***). The arbitration agreement is contained in Clause 14 of the Agreement (Found at Page No.40 of the Application). 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. The Applicant has invoked arbitration on January 6, 2024, to which there has been no response. The existence of the arbitration

agreement is not in dispute. No useful purpose would be served by keeping this matter pending any further on the docket of this Court. It is seen from the record that the Applicant has already nominated an arbitrator as seen in the invocation notice dated January 6, 2024. The Respondent has not nominated its nominee arbitrator. The Applicant shall intimate its nominee arbitrator to the Respondent within a week of the upload of this order. The two nominee arbitrators shall select the third presiding arbitrator.

3. 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 Supreme Court's decision rendered by 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.

4. 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 appoint a nominee arbitrator on behalf of the Respondent.

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

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

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

5. The Applicant has already nominated an arbitrator. In these circumstances, Ms. Yogita Deshmukh, a learned advocate of this Court (Email: yogitadeshmukhoffice@gmail.com) is hereby nominated as the arbitrator on behalf of the Respondent, leaving it to these two nominee arbitrators to select the third arbitrator who shall act as a presiding arbitrator.

6. The Application is ***finally disposed of*** in the aforesaid terms.

7. A copy of this Order will be communicated to the nominee Arbitrator by the Advocates for the Applicant within a period of one week from the date on which this order is uploaded on the website of this Court.

8. 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.

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.**]