
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 516 OF 2025

Bharat Construction Company (Bombay) ...Petitioner

Versus

Encee Rail Engineers and Fabricators Pvt. Ltd. ...Respondent

Mr. Sebin Michael Joseph, i/b SMJ Legal, for the Petitioner.

Ms. Shilpa Kapil, a/w Darshit Jain, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : NOVEMBER 14, 2025

ORDER :

1. This Petition has been filed seeking substitution of the Learned Arbitral Tribunal because the arbitrator is *de jure* unable to continue owing to elevation as a judge of this Court.

2. There is strident opposition to the substitution by the Respondent, even seeking to tender an affidavit in reply to indicate that the arbitrator who is no longer able to act himself was a product of substitution under Section 29A of the Arbitration and Conciliation Act, 1996 and the original terms of appointment had not been adhered to by such earlier substitution.

3. However, it is seen from the record that the substitution under Section 29A had been effected by an order dated October 28, 2021, which on the face of it, demonstrates consensus for the substitution. In any case, that order had not been challenged either. It is irrelevant for purposes of substitution of such substitute arbitrator on the premise that the earlier substitution was wrong.

4. In these circumstances, the arbitrator is hereby substituted by appointing Justice (Retd.) K.R. Shriram as the substitute arbitrator who shall take over the proceedings from the stage at which the earlier arbitrator was unable to continue to act as an arbitrator.

5. This Petition is ***finally disposed of*** in the aforesaid terms.

6. 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.]