

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. ARBITRATION APPLICATION NO.567 OF 2025**

Tata Capital Limited .. Applicant
Versus
K K Birla and Co .. Respondent
...

Ms. Resham Vasant Savla i/b Manilal Kher Ambalal and Co for the Applicant.

**CORAM: BHARATI DANGRE, J.
DATED : 20th NOVEMBER 2025**

P.C:-

1. The application filed under Section 11 of the Arbitration and Conciliation Act, 1996, by Tata Capital Ltd a Non-Banking Finance Company, seeks appointment of an Arbitrator constituting the Arbitral Tribunal, to conduct and conclude the adjudication of disputes arising between the parties out of and/or in connection with the Agreement of Term Loan dated 9/11/2020, along with the Deed of Hypothecation dated 29/10/2021.
2. Since, there is no appearance on behalf of the respondents despite service being effected from time to time and the obvious reason being that they have availed the term loan from the applicant and when there was a default, a notice of loan recall

was issued and even arbitration was invoked, but the respondents failed to respond to either of them.

It is in these circumstances, by specifically pointing out to us that in four commercial arbitration applications filed by Tata Capital Ltd involving the Agreement of Term Loan with different entities having availed the facilities, were allowed by making it for Arbitration, the counsel for petitioner seek similar relief.

3. A Receipt of communication dated 8/09/2025 is also placed before me by the learned counsel for the applicant, when a communication was addressed to the respondents with reference to the loan recall with invocation notice dated 12/07/2023, proposing substitution of the arbitrator and clearly indicating that if nothing is indicated on or before 8/09/2025, it shall be considered that they have no objection for substituting the Arbitrator as the Arbitrator earlier appointed for the reasons stated in this communication addressed to the claimant had sought substitution.

4. Since the Arbitrator appointed in the four commercial arbitration applications came to be substituted by an order dated 16/09/2025 and Ms. Sneha Phene, Advocate from this Court was appointed as a substituted Arbitrator, with the directions to the parties to approach the Arbitrator for further instructions and the request made by the learned counsel for the applicant, is even this dispute is made over to Ms. Sneha Phene.

5. In these circumstances, I deem it appropriate to substitute the Arbitrator by appointment of Ms. Sneha Phene, who shall be subject to the same terms of appointment, as stipulated in the order appointing the earlier Arbitrator.

Needless to state, the arbitration proceedings shall be considered afresh with the appointment of new Arbitrator.

With the above directions, the Section 11 application of Arbitration and Conciliation Act, 1996, stands disposed of.

(SMT. BHARATI DANGRE, J.)