
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO.637 OF 2025

Prateek AgarwaalPetitioner
Versus
Hindon Mercantile Limited & Anr.Respondents

Mr. Kunal Vaishnav *a/w. Suraj Iyer, Devender Ailawadi & Vijeet Trivedi i/b. Ganesh & Co., Advocates for Petitioner.*

Mr. Karl Tamboly *a/w. Parth Jain, Varun Garj, Prashant Jain & Pallavi Fukale i/b. Jain Law Partners LLP, Advocates for Respondents.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : AUGUST 12, 2025

ORDER :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (*“the Act”*).
2. At the heart of the dispute is a claim by the Petitioner of his entitlement to “iSAFE Sequel Notes” to be allotted to the Petitioner in connection with services rendered by the Petitioner for procuring funding for investment in the company. It is a case of the Petitioner that the terms of the iSAFE Sequel Notes are being altered to his detriment and that he is entitled to the cash value equivalent of the

iSAFE Sequel Notes, which according to him would have a value of Rs.7 Crores.

3. In terms of the agreement dated April 15, 2023, the Petitioner had a right to cash out on the iSAFE Sequel Notes i.e. accept cash instead of interest in the capital of the company. Learned Counsel for the Respondent would submit that the Petitioner has not carried out the services expected from him and even his entitlement to be allotted the Notes is in doubt. He would also point to the terms of the Notes that would point to the right to modify the terms being an integral feature of the terms of the Notes.

4. The aforesaid conflict lies in the heart of the dispute between the parties. Having heard the parties for some time, it would be appropriate to call for a reply from the Respondents. While Learned Counsel for the Respondents requests for a short accommodation of time file a reply, he is willing to proceed to arbitration forthwith.

5. Having considered the submissions by the parties and taking on record the consent of the parties to proceed to arbitration forthwith, it is felt appropriate that a reply be filed within a week from today but such reply shall be filed directly before the Learned Arbitral Tribunal appointed hereby.

6. In these circumstances, the Petition is *finally disposed of* accepting the consent of the parties to proceed to arbitration forthwith in the following terms:-

A] Justice S.C. Gupte (guptesc@gmail.com), a Former Judge of this Court is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of upload of this order. The Petitioner shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal.

Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

7. The Learned Arbitral Tribunal is requested to convene within a week of being approached by the parties to issue further directions on how to proceed further in the matter. This Petition stands converted into an application under Section 17 of the Act in the aforesaid terms and is *disposed of* accordingly.

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.]