

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/732/2025

SURENDRA BHALOTIA AND ANR.
VS
UGRO CAPITAL LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 4th February, 2026.

Appearance

Mr. Pranit Bag, Adv.
Mr. Anuj Mishra, Adv.
Mr. Balram Patra, Adv.
Mr. Saket Raj Singh, Adv.
...for the petitioners

Mr. Paritosh Sinha, Adv.
Mr. K. K. Pandey, Adv.
Ms. Sonia Nandy, Adv.
...for the respondent

The Court: The petitioners have preferred the present petition under Section 34 of the Arbitration and conciliation Act, 1996 seeking setting aside of the impugned arbitral award dated 9th June, 2025.

The petitioners contend that the arbitral award passed by the learned Sole Arbitrator is illegal and contrary to the settled principles of law. It is submitted that the respondent had unilaterally appointed the learned Sole Arbitrator to adjudicate the disputes between the parties.

According to the petitioners, in view of the judgment of the Hon'ble Supreme Court in ***Bhadra International (India) Pvt. Ltd. & Ors. v. Airports Authority of India***, reported in **2026 SCC OnLine SC 7**, unilateral appointment of an arbitrator is *per se* impermissible in law and renders the arbitral proceedings, as well as the award arising therefrom, unsustainable. The petitioners rely upon the said decision to contend that the Hon'ble Supreme Court has held that unilateral appointment of an

arbitrator vitiates the arbitral proceedings on account of lack of impartiality and that such infirmity, by itself, constitutes sufficient ground for setting aside the arbitral award.

The petitioners further submit that this Court, by an order dated 21 April 2025, had stayed the arbitral proceedings. It is contended that, despite the subsistence of the said stay order, the learned Arbitrator proceeded with the hearing and, in violation thereof, passed the impugned arbitral award.

At the outset, learned counsel appearing for the respondent fairly submits that the impugned arbitral award is a nullity in law, inasmuch as this Court, by an order dated 21 April 2025, had stayed the arbitral proceedings. It is submitted that, in view of the subsistence of the said stay order, the learned Arbitrator could not have proceeded with the arbitral proceedings or passed the impugned award.

Learned counsel for the respondent accordingly agrees to the setting aside of the impugned arbitral award. In view thereof, the impugned arbitral award dated 9 June 2025 is set aside.

Both parties, by consent, agree to the appointment of a new arbitrator to adjudicate the disputes between them *afresh*.

With the consent of the parties, this Court appoints Mr. Aryak Dutta, Member, Bar Library Club (Mobile No. 9831441234), as the Sole Arbitrator to adjudicate the disputes between the parties.

The learned Sole Arbitrator shall be at liberty to fix his remuneration in accordance with Fourth Schedule of the Arbitration and Conciliation Act, 1996.

A copy of this order shall be communicated to the learned Sole Arbitrator to enable him to take appropriate steps in the matter.

The parties shall be at liberty to raise and agitate all their claims and counter-claims before the learned Sole Arbitrator, who shall decide the same independently and strictly in accordance with law, without being influenced by any of the observations made in this judgment.

With the above directions, the present application stands disposed of.

(GAURANG KANTH, J.)

S. Mandi