

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

IA NO. GA-COM/1/2026
In AP-COM/798/2025
BHAGWANDAS VEHICLE TEST SERVICES PVT LTD
Vs
KESHRI AUTOMOBILES PVT LTD

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 30th April, 2026.

Appearance:
Ms. Debjani Sengupta, Adv.
Mr. Rajib Mullick, Adv.
Ms. Mriganka Chowdhury, Adv. ...for petitioner.

Ms. Tutun Das, Adv. ...for respondent.

The Court: This is an application for recalling of the order dated 20th January, 2026, passed by this Court, appointing a learned Arbitrator.

Learned advocate for the respondent has filed the recalling application, inter alia, on the ground of her inability to appear before the court for personal difficulties and failure to place certain factual issues. It is submitted that, the agreement between the Transport Department and the petitioner had expired. Even notice of eviction had been issued to the petitioner by the Transport Department. Several proceedings were pending before the civil court and also before the other arbitral tribunals. Those aspects were necessary to be brought on record.

It is further submitted that proceedings under sections 5 and 8 are pending before the other civil court.

In my view, the factual aspects which have been urged can be agitated before the learned Arbitrator. This court has kept all points open, for adjudication by the arbitrator, including the question of arbitrability, jurisdiction, admissibility, limitation etc. The law provides that the pendency

of an application under sections 5 and 8, will not debar the referral court from referring the dispute to arbitration.

The law is also well settled, that even if the parent agreement expires, the arbitration clause continues. Section 16 of the Arbitration and Conciliation Act, 1996 recognises this principle.

Under such circumstances, the order impugned need not be recalled.

It is made clear that all points urged in this recalling application and all other factual aspects which are highlighted before this court, shall be agitated in the arbitral proceeding.

In view of the disposal of this recalling application, the respondent shall proceed in accordance with law before the learned Arbitrator.

(SHAMPA SARKAR, J.)

pkd.