

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 274 OF 2025

CHAITANYA
ASHOK
JADHAV
Digitally
signed by
CHAITANYA
ASHOK
JADHAV
Date:
2026.02.02
11:09:33
+0530

Shree Samarth Sahavas Co-Op. Hsg. Society Ltd. ...Petitioner

Versus

Joshi Enterprises, Through its Present Partners ...Respondent

Mr. Arjun Amanchi, *a/w Mr. Vinay Kadam i/b Amanchi Legal, for the Petitioner.*

CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : JANUARY 28 , 2026

ORDER:

1. There is an inherent conflict in the underlying agreement between Clause 29 and Clause 37.
2. Clause 29 specifically provides that if any dispute arises between the parties to the agreement, the same would be subject to *exclusive* jurisdiction of the Court at Thane only. Clause 37, which deals with arbitration, provides for disputes being referred to arbitration, with the place of arbitration being Mumbai, and the Courts in Mumbai having *exclusive* jurisdiction. This peculiar drafting in this contract has led to a conflict as to whether this Petition ought to be considered on the Original Side or the Appellate Side of this court.
3. Considering that my roster does not include Section 11

Applications on the Original Side, it would be necessary to reconcile this inherent conflict. One plausible and logical means of reconciling the inherent conflict would be that where any dispute is arbitrable, or rather, where there is no bar to arbitrability, Clause 37 will apply resulting in the seat of the arbitration being Mumbai, while any non-arbitrable dispute would be governed by Clause 29, bringing in the jurisdiction of Courts in Thane, with no arbitral tribunal being involved.

4. In these circumstances, liberty is granted to convert this Petition into an Application under Section 11 of the Arbitration and Conciliation Act, 1996.

5. The registry is directed to transfer the same to the Original Side so that a Judge having the specific roster in the matter can proceed to appoint the Arbitral Tribunal.

6. In these circumstances, the Petition is converted into an Application under Section 11 to be considered on the Original Side. Liberty to mention before the appropriate bench with roster in the matter considering the time spent in pursuing this Petition.

7. 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.]