

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.277 OF 2025

Shri Krushna Engineers
Thr. its Proprietor
Mr. Pritam Suresh Mahale

....Petitioner

Versus

Bharti Infratel Ltd.

....Respondent

Mr. Nitin V. Gaware Patil, for Petitioner.

Mr. Rushab Chopra i/b. Himansh Vidhani, for Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 22, 2026

ORDER :

1. This Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (***"the Act"***) seeking a reference to arbitration under an agreement dated April 12, 2007. The arbitration was invoked by a notice dated March 7, 2017. Therefore, the right to approach the Section 11 Court accrued on April 7, 2017.

2. Evidently, in 2017, a Petition under Section 11 of the Act had been filed being Arbitration Petition No. 146 of 2017. It is seen from the record that by an Order dated December 14, 2018, the Petitioner

was given liberty to withdraw the aforesaid Petition to file a fresh Petition for the same relief, if so advised.

3. Since the Petition was disposed of with liberty as sought, even if one were to compute a three-year period afresh from December 14, 2018, this Petition has been filed in 2025, literally seven years after the event. Based on an additional affidavit and submissions filed by the Petitioner, it appears that the Petitioner was a proprietorship firm of one Mr. Pritam Mahale, who in fact expired on December 15, 2019. That the business was run by an individual is also something that cannot be lost sight of.

4. Be that as it may, the inordinate delay in approaching this Court cannot be considered as justifiable. It is now settled law that the Section 11 Court must examine limitation from the perspective of approaching the Section 11 Court after invocation, and not from the perspective of delay in invoking arbitration from the time the cause of action arose – that lies in the domain of the Arbitral Tribunal. As regards what lies within the domain of the Court, it would be wholly inappropriate to consider this Petition, since it is being filed four years after the expiry of even the extended period of limitation, as computed from December 14, 2018.

5. The Petition cannot be entertained and is *finally disposed* without appointing an Arbitral Tribunal.

6. 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.]