

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

ARBITRATION PETITION NO. 77 OF 2024
WITH
INTERIM APPLICATION (L) NO. 40628 OF 2022
IN
ARBITRATION PETITION NO. 77 OF 2024

Hitesh Harjivandas Jagad And Anr.

...Applicants/
Petitioners

Versus

Yes Bank Limited And Anr.

...Respondents

*Mr. Rajiv Hingu a/w Mr. Deepraj Shetye i/b L.H.Hingu & Co., for the
Petitioner.*

*Mr. Oyam Khaiyam Shaikh i/b Mr. V. Salvi & Associates, for the
Respondent No. 1.*

CORAM : SHARMILA U. DESHMUKH, J.

DATE : June 15, 2026

P. C. :

1. By the present Arbitration Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "**Arbitration Act**"), the challenge is to the impugned award dated 21st June, 2022 passed by the learned sole arbitrator.

2. The solitary submission raised by learned counsel for the Petitioner is that the arbitral Award is unenforceable in view of the

unilateral appointment of the sole arbitrator. He submits that the law is well settled and by communication of 10th June, 2022, the Respondent bank had nominated the learned sole arbitrator which amounts to unilateral appointment.

3. Learned counsel for the Respondent would submit that the arbitration clause was contained in the loan agreement executed between the parties pursuant to which the learned arbitrator came to be appointed in the year 2022. He submits that even if the Award is set aside on the ground of unilateral appointment, liberty be granted to initiate fresh proceedings by filing an application under Section 11 of Arbitration Act for appointment of arbitrator.

4. The arbitration proceedings were commenced pursuant to an arbitration clause contained in the loan agreement under which the Respondent was entitled to appoint sole arbitrator to adjudicate the dispute and matters arising out of loan agreement. The communication of 10th June, 2022 makes a reference to the said arbitration clause and seeks to appoint learned sole arbitrator to adjudicate the dispute arising between the parties. The position is well settled by the decision of the Hon'ble Apex Court in the case of ***Perkins Eastman Architects DPC v. HSCC (India) Ltd.***¹ where the Hon'ble Apex Court has held that the party who is interested in the outcome of the dispute is not

1 (2019) 20 SCC 231

entitled to act as arbitrator and is also not entitled to nominate any person to act as an arbitrator and any Award resulting from such unilateral appointment is nullity and unenforceable.

5. Considering the settled position in law and the undisputed fact of unilateral appointment by the Respondent, the impugned Award dated 21st June, 2022 is unsustainable and is hereby quashed and set aside. The Arbitration Petition is allowed.

6. Interim Application does not survive for consideration and stands disposed of.

7. Needless to clarify that the Respondents are at liberty to initiate arbitration proceedings for appointment of arbitrator by filing necessary application under Section 11 of the Arbitration Act.

[SHARMILA U. DESHMUKH, J.]