

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE NO. 258 OF 2025

IN

EXECUTION APPLICATION NO. 498/2021

HDB FINANCIAL SERVICES LIMITED

..... APPLICANT

VERSUS

KBS EXPORTS AND 2 ORS

..... RESPONDENTS

Mr. Shariq Shaikh i/by M/s. S. G. Legal and Associates, Advocate for the Applicant.

CORAM : RAJESH S. PATIL, J.

DATE : 5th FEBRUARY, 2026

P.C. :-

1) Learned counsel appearing for the applicant submits that, as the ARC has taken over the loan, he does not have any instructions in the present proceedings.

2) From the proceedings, it can be gathered that the learned arbitrator was appointed unilaterally by the claimants.

3) I have taken a view in the judgment of **L & T Finance Ltd. vs. Sangeeta Bhansali & Anr. in Commercial Execution Application (L) No. 5277 of 2022**, considering the latest judgment of the Supreme Court decided on 5 January, 2026, in the matter of ***Bhadra***

International (India) Pvt. Ltd. and others vs. Airport Authority of India, Civil Appeal No. 37-38 of 2026, wherein it has been held that even at the stage of execution, an arbitral award can be set aside being *void-ab-initio* on the ground that the appointment of the arbitrator was unilateral.

4) In view of the aforesaid judgment, the award in the present proceedings passed by the learned arbitrator is hereby declared to be non-est in law, non-executable and *void-ab-initio*.

5) **Execution Application** stands **dismissed**.

6) In sequel, **Notice & the Interim Applications**, if any, also stand **disposed of**.

7) It shall be open for the parties to initiate fresh arbitration proceedings in accordance with law.

8) As far as limitation is concerned, the period from the invocation of the arbitration till today shall stand excluded for the purpose of initiating fresh arbitration proceedings.

(RAJESH S. PATIL, J.)