

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 5843 OF 2026
IN
ARBITRATION PETITION NO. 308 OF 2025**

Varshraj Realtors Pvt. Ltd. Through Mr. Rajan
B Sujanani

...Petitioner/
Applicant

Versus

Sailee Developers & Ors

...Respondents

Mr. Karl Tamboly, Ms. Nidhi Chheda, Bhavin Shah, Mehak shah for the Applicant in IA No. 5843 of 2026.

Mr. Kunal Mehta, a/w Simeen Shaikh, Priyanka Gharge and Anamika Singh i/b Simeen Shaikh Advocate for Petitioner.

**CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : APRIL 29, 2026**

ORDER :

1. Interim Application (L) No. 5843 of 2026 seeks a recall of order dated March 18, 2025, on the premise that the order had been obtained by suppressing material information from this Court. The application is made by Varshraj Realtors Pvt. Ltd. (***“Varshraj”***) which contends that when the order dated March 18, 2025, was passed in Arbitration Petition (L) No. 24896 of 2023, it was not highlighted to this Court that there had been an order passed by a Learned Single Judge of this Court on October 13, 2014, in Notice of Motion No. 1481 of 2012 in Suit No. 1418 of 2012 that the parties by consent

had agreed that they would not prosecute the arbitration proceedings pending before a Learned retired Judge of the Supreme Court.

2. The order dated March 18, 2025, was passed owing to the aforesaid arbitrator having resigned from the mandate of the arbitrator. In these circumstances, a substitute arbitrator came to be appointed.

3. Today when the matter is called out, the Learned Advocate for Sailee Developers pointed out that this dispute is not the only reference pending before the substitute arbitrator; rather, the substitute arbitrator is seized of five distinct references, three of which entail claims made by Sailee Developers against multiple parties, including Varshraj. Equally, another reference in a dispute raised by Great Deal Developers Pvt. Ltd., in which the subject matter of the dispute is the same property, is also pending before the same arbitrator. The question then becomes whether the claim raised by Varshraj before the same arbitrator, i.e. one of the five references before it, ought to be recalled by recalling the order of appointment of the substitute arbitrator

4. Considering that five different references are pending before the same arbitrator, no case is made out for the review and recall of the order dated March 18, 2025, since it would be disruptive. Needless to say, the refusal to recall does not affect the entitlement of Mr. Kamal Sheth, who represented

Varshraj in Arbitration Petition (L) No. 24896 of 2023 and the entitlement of Varshraj itself, from presenting their competing contentions as to whether the arbitration between them could continue, by moving the Court having the appropriate roster of Suits. The arbitration was initiated in the name of Varshraj in Suit No. 1418 of 2012 by Mr. Kamal Sheth.

5. Another facet of the recall is that a board resolution was passed by Varshraj on February 1, 2011, revoking an earlier revocation of Mr. Kamal Sheth's entitlement to represent Varshraj. However, this resolution also states that Mr. Kamal Sheth would not be entitled to have any order passed by consent before any court while representing Varshraj. Since the order dated March 18, 2025, was passed by consent of the parties, the contention is that the order lends itself to be withdrawn.

6. It is made clear that nothing in this order, refusing to recall the order dated March 18, 2025, is an expression of an opinion on the merits as to whether Mr. Kamal Sheth is entitled to represent the company or not, or the contours of such authority. Since that is evidently subject matter of an order passed in Suit No. 1418 of 2012, such disputes would be examined by the Bench having the roster over such Suit. Needless to say, the effect of the order dated October 13, 2014, can also be presented by both parties before the Arbitral Tribunal, as that may decide the scope of jurisdiction under Section

16, which is entirely for the parties to convince the Learned Arbitral Tribunal. The order under review only replaced the arbitrator and that jurisdiction is not meant to pronounce upon how to interpret a past stay order.

7. Having seen the reply, liberty is granted to file the reply with the Registry. Interim Application is *disposed of*.

8. 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.]