

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE NO. 769 OF 2025

IN

EXECUTION APPLICATION NO. 1446 OF 2022

KOTAK MAHINDRA PRIME LTD

..... APPLICANT

VERSUS

**ZAREER AKBARALI
PORBUNDERWALA**

..... RESPONDENT

None present.

CORAM : RAJESH S. PATIL, J.

Date : 24th FEBRUARY, 2026

P.C. :-

- 1) None appears for the applicant when the matter is called out.
- 2) This Notice is filed under the provisions of Order XXI, Rule 22 of the Code of Civil Procedure, in the year 2025.
- 3) From the proceedings, it can be gathered that the appointment of the sole arbitrator was unilateral.
- 4) 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 grounds that the appointment of the arbitrator was unilateral.

5) In view of the aforesaid judgment, the arbitral award in the present proceeding dated passed by the sole arbitrator is hereby declared to be non-est in law, non-executable and *void-ab-initio*.

6) **Execution Application** stands **dismissed**.

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

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

9) 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.)