

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

INTERIM APPLICATION NO. 1042 OF 2023
IN
EXECUTION APPLICATION NO. 82 OF 2025

Kotak Mahindra Bank Ltd.

...Applicant

V/s.

Babasaheb Asaram Malode

...Respondent

WITH
EXECUTION APPLICATION NO. 82 OF 2025

Ms. Jenny Somaiya with Ms. Simran K. Raj and Ms. Vedika Pedhambkar
i/b Nikhil Modi & Associates for the Applicant.

Ms. Ashwin Sakolkar with Shashank Shubham and Mr. Darpan Gupta
for the Respondent.

CORAM : ABHAY AHUJA, J.
DATE : 15th APRIL, 2026.

PC. :

1. When the matter is called out, Ms. Somaiya, learned Counsel appears for the Applicant and confirms that in this matter there has been a unilateral appointment of Arbitrator and this Court may pass appropriate orders in view of the decision in the case of ***Bhadra International (India) Pvt. Ltd. and others vs. Airports Authority of India***¹.

2. The Hon'ble Supreme Court has clearly observed in the aforementioned decision that unilateral appointment of arbitrator is

¹ 2026 SCC Online SC 7

void ab initio and the ineligibility can be raised at any stage and even in execution.

3. In view of the aforesaid, the award dated 29th January, 2016 is set aside and the Execution Application as well as the connected Interim Application to stand dismissed/disposed.

3. Also in view of the aforesaid, theailable warrant / process issued by this Court under execution, stands cancelled.

4. It would be open to the parties to initiate fresh arbitration proceedings in accordance with law.

5. As far as limitation is concerned, the period from the invocation of the arbitration till today be excluded in initiating fresh arbitration proceedings.

6. Liberty to apply in the event there exists an express agreement in writing in terms of proviso to Section 12(5) of the said Act waiving the ineligibility of the sole arbitrator or the right to object under Section 12(5) of the said Act.

(ABHAY AHUJA, J.)

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signed by
NIKITA
YOGESH
GADGIL
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