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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3580 OF 2024

IN

EXECUTION APPLICATION NO. 991 OF 2024

Kotak Mahindra Bank Limited

... Applicant

Versus

Shalibhadra Traders, through its Prop.

Reena Ravindra Khona

... Respondent

WITH

EXECUTION APPLICATION NO. 991 OF 2024

.....
Ms. Jenny Somaiya alongwith Ms. Vedika Pedhambkar instructed by
Akhil Modi & Associates, Advocate for the Applicant.
None for the Respondent.

.....
CORAM : ABHAY AHUJA, J.

DATE : 23 APRIL 2026

PC. :

1. When the matter is called out, Ms. Somaiya, learned Counsel, appearing for the Applicant submits 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, where the Hon'ble Supreme Court has clearly observed that

1 2026 SCC Online SC 7

unilateral appointment of arbitrator is void *ab initio* and the ineligibility can be raised at any stage and even in execution.

2. The Execution Application No.991 of 2024 is not on Board. Upon mentioning, the same is taken on Board.

3. In view of the aforesaid, the award dated 31st August 2019 is set aside and the Execution Application as well as the connected Interim Application stand dismissed/disposed.

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 Arbitration and Conciliation Act, 1996 (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.)