

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 465 OF 2025

IN

EXECUTION APPLICATION NO. 2119 OF 2025

Kotak Mahindra Bank Limited ... Applicant

Versus

Zapadiya Dhirabhai Harjibhai and another ... Respondents

.....

Ms. Reet Jain alongwith Ms. Shrutika Mane instructed by S.I. Joshi & Co., Advocate for the Applicant.

None for the Respondents.

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CORAM : ABHAY AHUJA, J.

DATE : 6 APRIL 2026

PC. :

1. When the matter is called out, Ms. Jain, learned Counsel, appearing for the Applicant 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. The Hon'ble Supreme Court has clearly observed that unilateral appointment of arbitrator is void ab initio and the ineligibility can be raised at any stage and even in execution.

1 2026 SCC Online SC 7

2. In view of the aforesaid, the award dated 17th February 2014 is therefore set aside and the Execution Application as well as the connected Interim Application stand dismissed.

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

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

5. 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.)