

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

EXECUTION APPLICATION NO. 3162 OF 2024

Kotak Mahindra Bank Ltd.

.. Applicant

Versus

Abdulgani Yusuf Khan & Anr.

.. Respondents

None for the Parties.

CORAM: FIRDOSH P. POONIWALLA, J.

DATE: APRIL 10, 2026

P. C.

1. This matter has been listed in view of the decision of the Hon'ble Supreme Court in the case of *Bhadra International (India) Pvt. Ltd. and Others vs. Airports Authority of India*¹ where the Hon'ble Supreme Court has observed that unilateral appointment of an arbitrator is void ab initio and the ineligibility can be raised at any stage and even in execution.

2. Since, in this matter it has been found by the Office of the Prothonotary & Senior Master of this Court that the appointment of the sole arbitrator has been unilateral, the said Application, in view of the above

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decision of the Hon'ble Supreme Court, stands dismissed. The respective Arbitral Award stands set aside and the Commercial Execution Application and the connected Interim Application as well as the Chamber Summons, if any, stand accordingly disposed of.

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 the 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.

[FIRDOSH P. POONIWALLA, J.]