



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

COMMERCIAL ARBITRATION PETITION NO. 210 OF 2025

Chintaman Pandurang Raul
Age- 84 years, Indian Inhabitant,
Proprietor of M/s. Chintaman
Pandurang Raul, B-5 Kalyan Tower
CHS Ltd, Sector - 17, Plot No. 20,
Vashi, Navi Mumbai - 400 703

... Petitioner.

Versus

1. Abhyudaya Co-operative Bank Limited,
K.K. Tower, Abhudaya Bank Lane,
Off. G.D.Ambekar Marg,
Parel Village, Mumbai – 400 012
2. Vijay Chintaman Raul, an Adult,
Indian Inhabitant, B-5 Kalyan Tower
CHS Ltd, Sector - 17, Plot No.20,
Vashi, Navi Mumbai – 400 703
3. Suresh Shankar Muluk, an adult,
K-12/4, S.G. Barve Nagar, Bhatwadi,
Ghatkopar (W) - 400084
4. Rahul Ramchandra Sardal,
an adult, Room No. A/30, LIG 1"t Sector-2E,
Kalamboli Colony
Navi Mumbai - 400 218

... Respondents.

Mr. Rohan Savant a/w. Mr. Aagam Mehta for the Petitioner.
Mr. Madhur Rai a/w. Mr. Yogesh J. Mishra for Respondent No.1.

Coram : Sharmila U. Deshmukh, J.
Reserved On : April 01, 2026
Pronounced On : April 28, 2026

JUDGMENT :

1. By this Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, "**Arbitration Act**"), the challenge is to the impugned Award dated 26th March, 2024 passed by the Learned Sole Arbitrator under Section 84 of the Multi State Co-operative Societies Act, 2002 (for short, "**MSCS Act**").

FACTUAL MATRIX:

2. The Respondent No.1-Bank filed a Dispute application under Section 84 of the MSCS Act claiming joint and several liability of the Petitioner and Respondent Nos 2 to 4 for sum of Rs.79,11,945.51, as on 30th June, 2020 with further interest. The case of the Respondent No 1 as borne out from the impugned Award is that the Petitioner by application dated 11th March, 2010 applied to the Respondent No 1 Bank for sanction of credit facility against the security of mortgage of immovable properties being gala at APMC market and residential flat at Dadar, Mumbai. The Respondent Nos.2 to 4 were guarantors for the mortgage loan. The cash credit facility was sanctioned for Rs.75 lakhs which was enhanced and renewed from time to time and eventually was renewed to Rs.49 lakhs in July, 2017 and mortgage loan of Rs.25 lakhs was sanctioned against the mortgage of the same properties. The loan was

repayable with interest at the rate of 13.5% p.a. and the Respondent No.1-Bank was empowered to vary the rate of interest and the present rate of interest for the mortgage loan is 16.5% p.a.

3. During the continuation of mortgage loan, the Respondent No.1 on 22nd June, 2017, applied for reduction of cash credit facility from Rs.75 lakhs to Rs.49 lakhs against security of hypothecation of stock and book debts and continuation of mortgage of immovable properties. Accordingly cash credit facility of Rs.49 lakhs was sanctioned on 14th July, 2017 bearing initial rate of interest at the rate of 14.5% p.a. The Bank was empowered to vary the rate of interest and the present rate of interest is 16.5% p.a. After accepting the terms and conditions of sanction of cash credit facility, the demand promissory note, hypothecation of stock and book debts agreement, letter of guarantee and letter of undertaking were executed.

4. There was default committed by Petitioner as principal borrower despite specific demand made by the Respondent No.1-Bank and the accounts have been classified as NPA on 26th April, 2018 as per RBI guidelines. The requisitions of the demand notices met with non compliance and hence the Dispute was filed under Section 84 of MSCS Act.

5. The impugned Award records that in reply statement, it is submitted that the entire loan has been paid under the Term Loan Account. The Petitioner was required to pay Rs.35,41,020/- whereas the Petitioner has paid Rs.37,26,783/- and there is excess payment of Rs.1,85,763/-. In the board meeting of 25th February, 2022, the Board of Directors have given unanimous approval for calculating interest at the rate of 13.50% p.a. and accordingly letter was issued on 11th March, 2022 that it has been decided to calculate simple interest @ 13.5% p.a from date of disbursement till date of settlement. The Petitioner is liable to pay Rs.4,05,091/- to the Respondent No.1-Bank for the cash credit account and Term Loan Account.

6. The evidence was directed to be led by claim affidavits and documents. The Respondent No.1-Bank filed Affidavit of Claim along with loan security documents including copy of ledger extract of statement of loan account and cash credit account. The Petitioner and the Respondent No.2 filed affidavit of evidence and written arguments were filed by both parties. The application filed by the Petitioner for cross examination of the bank's officer has been rejected. The Respondent Nos.3 and 4 did not participate in the proceedings.

FINDINGS OF THE ARBITRAL AWARD:

7. The Learned Sole Arbitrator framed the necessary issues. Relevant for our purpose is Issue Nos.3, 6, and 8, which read as under:

- “3) Whether Opponent No.1 & 2 are entitled to simple interest @ 13.50% from the date of disbursement till this award as per letter dated 11/03/2022?
- 6) Whether Opponent No.1 & 2 prove that they have repaid entire loan under CC and Term loan account and whether Opponent No.1 & 2 are entitled to get refund of the excess amount which they have paid, back with interest from the disputant bank?
- 8) Does Disputant Bank prove its claim amount of Rs.79,11,945.57 as on 30/06/2020 alongwith further interest thereon at the contractual rate of interest @16.50% p.a. with effect from 01/10/2023 till realization of the entire dues / closure of loan amount?”

8. The Learned Sole Arbitrator noted that the real and substantial questions for consideration are: (a) the quantum of debt payable by the Opponent to the disputant bank, (b) the applicable rate of interest and (c) effective rate of interest. The Learned Sole Arbitrator noted the contents of the letter dated 11th March, 2022 issued by the Respondent No.1-Bank which recorded that it has been decided to calculate simple interest @ 13.5% p.a.

from the date of disbursement till the date of settlement and that accordingly, the benefit as applicable would be communicated to the Opponents. The Learned Sole Arbitrator negated the contention of the Respondent No.1-Bank that the letter dated 11th March, 2022 was without prejudice letter and held that the letter of 11th March, 2022 is binding on the bank and the bank is entitled to recover its dues with simple interest at the rate of 13.5% p.a. from the date of disbursal.

9. The Learned Sole Arbitrator noted that the loan documents state that the rate of interest is @ 13.5% p.a. and the contention of the bank that the rate was varied from time to time. It noted that the present rate of 16.5 % p.a. is not supported by any evidence by way of guidelines or circulars of RBI and held that the Respondent No.1- Bank was entitled to contractual rate of interest @13.5% p.a.

10. The Learned Sole Arbitrator considered the issue of application of interest and method of calculation. It held that the conscious decision was taken by the bank to allow simple rate of interest. The Learned Sole Arbitrator interpreted the expression "the date of disbursement" and in case of cash credit limit applied it from the date of last renewal i.e. 14th July, 2017 as the cash credit facility is renewed from year to year and there is renewal of

contract and granted simple interest at the rate of 13.5% p.a. in respect of the loan facility from the date of disbursal of loan.

11. It further held in paragraphs 69 to 72 that the excess interest levied in the term loan account till 30th April, 2018 works out to Rs.1,73,140/-, whereas the excess interest levied in cash credit account after 14th July, 2017 works out to Rs.70,886/-. It noted that the Bank has not disputed debit of low turnover charges of Rs.2,44,913.19 and when the account was classified as NPA, the balance outstanding was Rs.51,77,309/- plus term loan balance of Rs.3,15,965.50 aggregating to Rs.54,93,247.50. After deducting the excess interest and low turnover charges, it held that the figure outstanding under NPA would come down to Rs.50,04,335.35 and that the Bank would be entitled to an Award for recovery of the following amount.

- "i. Principal sum of Rs.39,93,335.35.
- ii. Simple Interest on a sum of Rs.50,04,335.35 @ 13.5% p.a. w.e.f. 01/05/2018 to 19/12/2022.
- iii. Simple Interest on a sum of Rs.39,93,335.35 @ 13.5% p.a. w.e.f. 20/12/2022 till closure of the entire principal amount as per "i" above."

12. In addition, the Learned Sole Arbitrator injuncted the Petitioner from creating any third party rights in the mortgage/hypothecated property till full realisation of the

Awarded amount.

SUBMISSIONS:

13. Mr. Savant, Learned counsel appearing for the Petitioners submits that the learned Arbitrator has interpreted the letter of 11th March, 2022 in the context of cash credit facility to apply from the date of renewal of facility i.e. 2017, whereas the letter of 11th March, 2022 was in respect of repayment of the cash credit as well as the term loan facility. He submits that there was previous correspondence with the bank pursuant to which the board meeting was held on 24th February, 2022, which would indicate the basis for settlement of both the facilities. He submits that the correspondence was not considered by the learned Arbitrator while rendering the finding on the amounts due and the rate of interest and the time period in respect of computation of cash credit facility. He submits that in case of patent ambiguity, it was necessary for evidence to be led which has been declined by the learned Arbitrator which vitiates the Award by reason of perversity.

14. Mr. Savant would further submit that the computation of excess interest in the term loan account and the cash credit facility account recorded in paragraph 69 is not supported by any reasoning or finding and suffers from perversity. He submits that

the Petitioner had tendered a statement of additional interest levied on the term loan account which reflected the interest charged above 13.5% p.a. which was compounded and capitalised which has not been considered by the learned Arbitrator.

15. He would further submit that low turnover charges towards cash credit facility was Rs.3,10,649/-, whereas the learned Arbitrator has deducted and given credit of only Rs.2,44,913/- and no credit has been given in respect of the compounding interest charged over the low turnover charges. He submits that credit for low turnover charges is not dependent on the renewal of the cash credit facility. He submits that learned Arbitrator has accepted the Respondent No.1's statement without any basis or justification.

16. He would further submit that even under the provisions of Section 84 of the MSCS Act, the provisions of Section 19 of the Arbitration Act is required to be followed and evidence was required to be permitted to be led considering the ambiguity as regards the date of disbursement.

17. He would further submit that the learned Arbitrator while rejecting the Respondent-Bank's contention for higher rate of interest in respect of the term loan has refused to accept the contention of the bank that the rate was vary from time to time

and that the present rate is 16.5% p.a. and as per the RBI guidelines since no evidence was produced by way of any guideline/circular of the RBI, which yardstick would also apply to the cash credit facility. He submits that the learned Arbitrator has given the benefit of 13.5% only from the date of last renewal without noticing that the bank has failed to produce any evidence to show that the increased rate of interest was as per the RBI guidelines.

18. He would further submit that the learned Arbitrator has failed to render any findings on permissibility to levy compound interest and has failed to notice that the Respondent No.1-Bank has charged compound interest which is impermissible in law. He would further submit that the learned Arbitrator has enjoined the Petitioner from alienating the alleged mortgage property, and any dispute pertaining to the mortgage property cannot be the subject matter of the arbitration.

19. *Per contra*, Mr. Rai, learned counsel appearing for the Respondent No.1 submits that there is no dispute as regards the availment of the financial assistance by the Petitioners and no dispute about the execution of loan and security documents by the Petitioners. He submits that it is an admitted position that the account became NPA on 26th April, 2018. He submits that insofar as

the term loan is concerned, the agreed rate of interest was floating interest @ 13.5% p.a. which is variable depending on RBI rate of interest.

20. He submits that insofar as cash credit facility is concerned, the interest agreed under the cash credit facility was 13.50%p.a. He submits that in the written statement, the Petitioner had annexed copy of statement prepared by its Chartered Accountant for term loan facility and cash credit facility showing the excess amount levied and recovered by the Bank over and above the base rate of 13.5% p.a. which is the computation accepted by the learned Arbitrator in paragraph 69. He would further submit that insofar as the low turnover charges is concerned, the same is as per the bank statement of account showing the charges for low turnover charges on the specific dates which are set out therein and has been accepted by the learned Arbitrator. He submits that the learned Arbitrator has taken into consideration the amount outstanding as on date of NPA and after deducting the excess amount of interest as per the Petitioner's own statement of account and giving further direction for the amount paid has awarded the interest.

21. In rejoinder Mr. Savant would submit that the statement produced by the Petitioner gives the calculation of the interest

levied above base rate of 13.5% and also the compound interest levied. He submits that the Learned Arbitration has ignored the compound interest levied. He submits that similarly for low turnover charges as the simple interest had to be calculated in respect of cash credit facility from the year 2017, accordingly the charges and the compound interest was required to be considered, which has not being considered.

REASONS AND ANALYSIS :

22. The Learned Arbitrator has accepted that the letter dated 11th March, 2022 is binding on the bank and the bank is entitled to recover its dues with simple interest @ 13.5% p.a. from the date of disbursal. The Learned Arbitrator had declined to extend the settlement contained in the letter of 11th March, 2022 from the year 2010 to the cash credit limit by construing that the words “from the date of disbursement” cannot mean the date of original disbursement in the year 2010 for the reason that cash credit facility is renewed from year to year. The Learned Sole Arbitrator granted the simple rate of interest @ 13.5% p.a. from 14th July, 2017. The dispute is confined to the non applicability of the simple rate of interest @ 13.5% p.a. to the cash credit facility from the year 2010.

23. The undisputed fact is that initially on 11th March, 2010, the Petitioner had applied for and was sanctioned cash credit facility of Rs.75,00,000/- which was renewed from time to time. It is stated in paragraph 8 of the written statement that initially the Respondent No.1-bank had sanctioned the cash credit facility of Rs.75 lakhs vide its sanction letter dated 15th July, 2010 with interest @ 13.5% p.a. The Petitioner decided to close the cash credit facility of Rs.75,00,000/- and sold one of his shops and deposited the entire sale amount in his cash credit account and thus, cleared the due amount in the cash credit account. Thereafter, the Respondent No.1-Bank sanctioned the new cash credit facility of Rs.49 lakhs which was offered against the hypothecation of stock and book debts. It is specifically pleaded that at that time, the disputant bank had entered into a fresh agreement of hypothecation of stock and book debts with the Petitioner for this fresh credit facility in the year 2017 and also the letter of sanction was issued to that effect on 17th July, 2017. The written statement is replete with assertions describing the cash credit facility of Rs.49 lakhs as new cash credit account and that the amount claimed through the present application in respect of new cash credit account.

24. It is the Petitioner's own case that the cash credit facility of

Rs.49 lakhs is a new cash credit facility sanctioned in the year 2017. The decision of the Respondent Bank noted in the communication of 11th March, 2022 would necessarily apply to the new cash credit facility and not the old cash credit facility which according to the Petitioner had been cleared by the Petitioner out of sale proceeds of one of his shops. The cash credit facility sanctioned in the year 2017 was new financial assistance availed by the Petitioner different and distinct from the cash credit facility availed earlier. This fact is demonstrated by reason of execution of fresh demand promissory note, hypothecation of stock and book debt agreement, etc. on 29th July, 2017 by Petitioner and the guarantors. It is the default in payment of dues against this new cash credit facility which was the subject matter of the arbitration proceedings.

25. The learned Arbitrator has considered that the cash credit limit is renewed from year to year and constitutes a renewal of contract and has given the benefit of simple interest @ 13.5% p.a. for the cash credit facility only from the date of the last renewal on 14th July, 2017, i.e. the date on which the new cash credit facility was entered into between the parties. The Learned Arbitrator has interpreted the expression "date of disbursal" contained in the letter of 11th March, 2022 as date of last renewal. In the case of

M/s. Sudarsan Trading Co. vs Government of Kerala and Anr.¹, the Hon'ble Apex Court has held that power of the arbitrator in respect of the interpretation of the contract is matter for arbitration and the Court cannot substitute its own view and set aside the award unless it suffers from error apparent from the face of the record.

26. Considering the pleadings on record, the view taken by the Learned Arbitrator is reasonable and plausible view implicit from the documents and pleadings on record. It is permissible for the Court to explain the underlying reason from fair reading of the award and documents produced before the Tribunal. In ***OPG Power Generation Private Limited vs Enexio Power Cooling Solutions India Private Limited***², the Hon'ble Apex Court held in paragraph 168 as under:

"168. We have given due consideration to the above submission. In our view, a distinction would have to be drawn between an arbitral award where reasons are either lacking/unintelligible or perverse and an arbitral award where reasons are there but appear inadequate or insufficient. In a case where reasons appear insufficient or inadequate, if, on a careful reading of the entire award, coupled with documents recited/relied therein, the underlying reason, factual or legal, that forms the basis of the award, is discernible/intelligible, and the same exhibits

1 (1989) 2 SCC 38

2 (2025) 2 SCC 417

no perversity, the Court need not set aside the award while exercising powers under Section 34 or Section 37 of the 1996 Act, rather it may explain the existence of that underlying reason while dealing with a challenge laid to the award. In doing so, the Court does not supplant the reasons of the Arbitral Tribunal but only explains it for a better and clearer understanding of the award.”

27. The contention that there was patent ambiguity in letter of 11th March, 2022, which required evidence to be led is unacceptable as the Learned Arbitrator has accepted the applicability of the letter of 11th March, 2022 to the loan facility as well as the cash credit facility. The determination of the date of disbursement is based on the nature of the credit facility which was renewed from year to year. There was no necessity of leading any evidence for the simple reason that the Petitioner himself claimed that the old cash credit facility was repaid in full and new cash credit facility was sanctioned and fresh documents were executed in respect of the new cash credit facility. The letter of 11th March, 2022 was applied only to the subsisting cash credit facility which did not require any evidence to be led.

28. Insofar as the contention of the incorrect computation of excess interest levied in the term loan account and cash credit set out in paragraphs 69 to 72 of the impugned Award is concerned,

the issues which were framed for consideration by the Learned Arbitrator were:

- “(a) What is the quantum of debt payable by opponents to disputant bank ?
- (b) What rate of interest would apply ? and
- (c) What would be the effective rate of interest ?”

29. The written statement of the Petitioner states that in respect of Term Loan Account, the Petitioner has repaid the entire loan. It is stated that the amount to be paid by Petitioner was Rs.35,41,020/- whereas the Petitioner has paid Rs.37,26,783/- which is excess of Rs.1,85,763/- paid. There is no case set up of compound interest being charged and no quantification of any such interest. The Petitioner himself has stated that the excess amount paid was Rs.1,85,763/-. The impugned Award does not disclose that the issue as regards charging of compound interest on term loan, cash credit and low turnover debit charges was presented for consideration or argued before the Arbitral Tribunal. There is no evidence on record to demonstrate levying of compound interest by the Bank. There is no pleaded ground in the present Petition assailing the computation in paragraph 69 of the impugned Award. It was orally argued before this Court that there is no basis for the computation of the excess amount, in response to which, Mr. Rai has produced

the written statement filed by the Petitioner showing the Petitioner's calculation statement calculating interest levied above base rate of 13.5%, which has been accepted by the Learned Arbitrator. Mr.Savant in response to the submission of Mr.Rai points out the last column of compound interest, which was not argued before the Arbitral Tribunal, and, is not a pleaded ground in this petition. The computation of the excess interest by the Arbitral Tribunal in paragraph 69 is in consonance with the finding that simple interest could not be levied above 13.5% and based on the Petitioner's own statement, the Learned Arbitrator has accepted the computation of excess interest levied above the base rate of 13.5% p.a.

30. Similar is the case in respect of low turnover charges debited to cash credit account which according to Mr. Savant has been charged with compound interest. There is no argument as regards compound interest charged by the Bank before the Learned Arbitrator. The statement produced along with the written statement refers to low turnover charges from the year 2012, whereas the new cash credit facility was sanctioned in the year 2017. The Learned Arbitrator has accepted the Bank's computation of low turnover charges. The Learned Arbitrator's computation is

based on the documents produced by the parties and can be reconciled with the said documents. As there is basis for the computation, it is impermissible for this Court to interfere under Section 34 of Arbitration Act.

31. Insofar as injunction against transfer of properties is concerned, there is no ground pleaded as regards the injunction. What has been pleaded is the lack of jurisdiction of Sole Arbitrator to decide claim for recovery of mortgage money, which has not been argued.

32. The scope of interference under Section 34 is extremely narrow and as the findings in the impugned Award is based on documents on record, there is no patent illegality demonstrated.

33. As the petition fails to make out any ground under Section 34 of the Arbitration Act, the petition fails and stands dismissed.

[Sharmila U. Deshmukh, J.]

34. At this stage, request is made for extending the ad-interim relief which was granted by order of 18th March, 2026 for a period of four weeks. The interim protection is extended by period of six weeks from today.

[Sharmila U. Deshmukh, J.]