

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 5356 OF 2025
IN
EXECUTION APPLICATION NO. 2387 OF 2025

Aditya Birla Capital Limited ... Applicant
Versus
Sunitha Traders ... Respondent

Ms. Vedika Pedhambkar i/b. Akhil Modi & Associates, Advocate for Applicant.
None for Respondent.

CORAM : ABHAY AHUJA, J.
DATE : 24th APRIL, 2026

PC. :

1. When the matter is called out, Ms. Pedhambkar, 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 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 22nd July, 2024 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 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.)