

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

EXECUTION APPLICATION NO. 1533 OF 2023

Kotak Mahindra Bank Ltd.

... Applicant

Versus

Mohd. Kamran Farooqui (Borrower) & Anr.

... Respondents

WITH

INTERIM APPLICATION NO. 2402 OF 2025

IN

EXECUTION APPLICATION NO. 1533 OF 2023

.....

Ms. Janhatee Joshi with Mr. Narayan Awate a/w. Ms. Seema Phadtare,
Advocate for the Applicant.

None for the Respondents.

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CORAM : ABHAY AHUJA, J.

DATE : 20th APRIL 2026

PC. :

1. When the matter is called out, Ms. Joshi, learned Counsel, appearing for the Applicant informs 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. In view of the aforesaid, the award dated 16th October 2017 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.)