

KANCHAN
PRASHANT
DHURI

Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2026.04.23
20:09:57 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2484 OF 2025

IN

EXECUTION APPLICATION NO. 2377 OF 2025

Kotak Mahindra Bank Limited ... Applicant

Versus

Monza Impex ... Respondent

WITH

INTERIM APPLICATION (L) NO. 38795 OF 2025

IN

EXECUTION APPLICATION NO. 2377 OF 2025

WITH

EXECUTION APPLICATION NO. 2377 OF 2025

.....

Ms. Jenny Somaiya alongwith Ms. Vedika Pedhambkar instructed by Akhil Modi & Associates, Advocate for the Applicant.

None for the Respondent.

.....

CORAM : ABHAY AHUJA, J.

DATE : 23 APRIL 2026

P.C. :

1. When the matter is called out, Ms. Somaiya, 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.

2. The Execution Application No.2377 of 2025 is not on Board. Upon mentioning, the same is taken on Board.

3. In view of the aforesaid, the award dated 6th August 2018 is set aside and the Execution Application as well as the connected Interim Applications stand dismissed/disposed.

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

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

6. 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.)

¹ 2026 SCC Online SC 7