

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

ARBITRATION APPLICATION NO.156 OF 2026

Kotak Mahindra Bank Ltd.	.. Applicant
Vs.	
Jamil Hussain Barbhuiya	.. Respondent

Ms. Bijal Gogri, Advocate, i/by GNP Legal, for the Applicant.
None for the Respondent.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 28TH APRIL 2026.

P.C. :

1. This Arbitration Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“the Act”) seeking appointment of an Arbitrator in relation to the disputes that have arisen under the Card Holder Agreement read with the Most Important Terms and Conditions (“*Agreement*”) which contains the terms and conditions for availing the credit card facility of the Applicant-Bank. The arbitration clause is at Clause 32.2 at page no.67 of the paper-book and the same reads as under:-

“32.2 Any dispute, difference and/ or claims arising out of in connection with or in relation to this Agreement, shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any subsequent statutory amendment, if any, to the Act, by a sole arbitrator to be appointed by the Bank. Any arbitration award/direction passed shall be final and binding on the Parties. The language of the Arbitration

shall be English and the venue of such arbitration shall be at Mumbai.”

2. It is the Applicant-Bank’s case that the credit card facility was granted to the Respondent through an on-line application. The Respondent has defaulted in repaying the credit card dues. The copies of the credit card statements are annexed to this Application. The Applicant has also annexed a Loan Recall Notice dated 12th March 2025 under Section 21 of the Act whereby the said Agreement was terminated and the Respondent was called upon to make payment of the outstanding amounts along with interest and other charges.

3. The Applicant-Bank had invoked arbitration on an earlier occasion by approaching SETLEN Arbitration and Dispute Resolution Forum (“SADRF”) and by its letter dated 29th March 2025 requested SADRf to appoint a sole Arbitrator for adjudication of disputes arising under the said Agreement. SADRf issued an intimation letter dated 2nd April 2025 to both the parties proposing a panel of arbitrators and calling upon the parties to nominate a sole Arbitrator. As both the parties failed to agree upon the arbitrator, SADRf proposed the name of an Arbitrator in terms of the said intimation. A Claim Petition and a Section 17 Application was filed by the Applicant-Bank. This was objected to by the Respondent *inter alia* on the ground that the Arbitrator could not have been unilaterally appointed.

4. Ms. Bijal Gogri, the learned Advocate for the Applicant-Bank

tenders an affidavit-of-service dated 6th April 2026 which has been e-filed in this Court on 10th April 2026. The said affidavit records that the present Application is served on the Respondent. A physical copy of the said affidavit is taken on record and marked “X” for identification. Despite service, no appears for the Respondent.

5. I have perused the record and find that the existence of the arbitration agreement is not in dispute. The arbitration agreement is at Clause 32.2 at page 67 of the paper-book. The arbitration has been validly invoked by the Applicant-Bank by the notice dated 21st March 2025 read with its invocation before the SADRF. It is settled law as held by the Hon’ble Supreme Court in *Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, in Re (2024) 6 SCC 1* and followed in subsequent judgment in the case of *SBI General Insurance Company Vs. Krish Spinning, (2025) 3 SCC (Civ) 567* that the Section 11 Court ought not to venture beyond the existence of a validly existing arbitration agreement.

6. Being satisfied that an arbitration agreement is in existence and that it has been duly invoked, I refer all disputes and differences between the parties under the said Agreement to the sole arbitration of the Institution, namely, “J M Swift Consultancy”. In these circumstances, Arbitration Application no.156 of 2026 is disposed of in the following terms :-

[A]. “J M Swift Consultancy”, an independent online dispute resolution institution is directed to appoint a

sole arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above and administer the same;

[B]. The contact particulars of the Director, J M Swift Consultancy are set out below:-

Email id : jmswiftarbitration@gmail.com

Contact Person : Mr. Akib Kondekar, Case Manager

Contact No.: 7721043615

Office Address : Office no.307, 3rd Floor, M.K. Bhavan, S.B.S. Road, Ballard Estate, Fort, Mumbai-400001.

[C]. A copy of this Order will be communicated to “J M Swift Consultancy” by the Advocates for the Petitioner within a period of one week from today. The Petitioner shall provide the contact and communication particulars of the parties to “J M Swift Consultancy” along with a copy of this Order;

[D]. It is clarified that “J M Swift Consultancy” being an ODR Institution, all proceedings will be conducted online through electronic mode, unless otherwise agreed between the appointed Arbitrator and the parties, with appropriate notification to the administration of “J M Swift Consultancy”;

- [E]. The administration of “J M Swift Consultancy” is requested to appoint an independent arbitrator in compliance with the Act and its own rules consistent with the Act as soon as possible and in any event within a period of two weeks from receipt of a copy of this Order;
- [F]. The parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the administration of “J M Swift Consultancy” and any other particulars as reasonably requested by the administration. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;
- [G]. All arbitral costs and fees of the arbitration shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs; and
- [H]. The seat of the arbitration shall be deemed to be the same as the seat discernible from the Agreement while the arbitration shall primarily be conducted online.

[GAUTAM A. ANKHAD, J.]