



=====

IN THE CITY CIVIL COURT AT AHMEDABAD

[CORAM: H.H. JUDGE SHRI AMITKUMAR J. KANANI, COURT NO.16]

=====

EXECUTION PETITION REGULAR NO.82 OF 2023

Decree Holder : **Mahindra & Mahindra Financial Services Ltd.**

V/s.

Judgment Debtors : **1. Akbalsingh Jodhsingh Gandhi
2. Bhajansing Jodhsingh Gandhi
3. Rashmikumar Kanaklal Gandhi**

Appearance:-

Ld. Advocate **Mr.Tarun B.Dharmawat** for the Decree Holder
None appeared for the Judgment-Debtors

Order below Exhibit - 01

- 1]** The present Execution Petition is filed by the Decree Holder under Section-36 of the Arbitration & Conciliation Act, 1996. Upon perusal of the Award passed in this Execution Petition, the learned Sole Arbitrator was unilaterally appointed by the decree holder, which is in violation of provisions of Section-12(5) of the Arbitration & Conciliation Act, 1996.
- 2]** Today, none appeared for the respective parties before this Court.

- 3] In the judgment of **Civil Misc. Application No. 25636 of 2023 (Kotak Mahindra Bank Ltd. vs. Narendra Kumar Prajaat)** with allied matters, the Hon'ble High Court of Delhi relied on the judgment of Hon'ble Apex Court reported in **(2019) 5 SCC 755 (Bharat Broadband Network Limited vs. United Telecoms Limited)**, wherein the Hon'ble Court upheld that:-

"Award rendered by a person who ineligible to act as an Arbitrator by virtue of the provisions of Section-12(5) of the Arbitration & Conciliation Act, 1996 is nullity and therefore, cannot be enforced under Section-36 of the Arbitration & Conciliation Act, 1996."

- 4] In the present Execution Petition, Sole Arbitrator appointed by the Decree Holder, which is not permissible u/s. 12(5) of the Arbitration & Conciliation Act, 1996. Therefore, the Execution Petition deserves to be dismissed, hence, I pass the following order:-

ORDER

- 1) Present Execution Petition stands dismissed.
- 2) Parties to bear their respective cost.

Pronounced in the open Court today on this 3rd day of **February, 2024**

Date :- 03-02-2024
Place:- Ahmedabad.

[Amitkumar J. Kanani]
Judge, City Civil Court,
Court No.16, Ahmedabad.
(Unique I.D. Code No.GJ00662)

**tishy*