



ORDER BELOW EXH. 1 IN ARBITRATION R.D.NO.18/2023

(Mahindra and Mahindra Financial Services Ltd V/S
Swapnil Anandrao Ghorpade)

This is an execution petition based on the Arbitral award dated 25/03/2014. Admittedly No documents relating to appointment of arbitrator are filed along with this petition, wherefrom an inference as to whether appointment of arbitrator is unilateral or bilateral could be gathered. Recently **Hon'ble Supreme Court in 'Civ. Appeal No.32-38/2026 S.L.P. No.16107-16108/2025, Bhadra International Ltd. V. Airports Authority of India' judgment, 05/01/2026'** which is followed by our **Hon'ble parent High Court in 'Commercial Execution Application No.5277/2022, L & T finance Ltd. V. Sangeeta Bhansali, 17/01/2026'** has laid down that, if the arbitral award (appointment of arbitrator) is unilateral (in contravention of section 18 re 12(5) of the Act) then same cannot be executed for lack of inherent jurisdiction. Considering these facts and the ratio laid down by the **Hon'ble Supreme Court vis-a-vis of the Hon'ble Bombay High Court**, in the case in hand, by order below Exh.01, D.H. was ordered and directed (Vide Order XI Rule 14 C. P. C) to produce 'Arbitration agreement or documents about appointment of arbitrator'. Admittedly documents directed to be produced are within exclusive domain and custody of D.H. Still D.H. did not bothered to produce those for reasons best known. Hence an adverse inference under section 119 illustration (g) of 'The

Bharatiya Saksha Adhiniyam, 2023' that, D.H. is not having documents directed to be produced or if it has those, if be produced are unfavorable to it, can be drawn. Hence by order below Exh.01 petition was fixed for further orders for want of compliance of the orders and directions of this court. Even then D.H. did not complied the orders till today. Hence in result following order is passed.

ORDER

- 1) Execution Petition (Arbitration Darkhast) is disposed off as dismissed in default for want of compliance & prosecution (Vide Order XI Rule 21 C. P. C) by D.H.
- 2) Pending applications, if any stands disposed off as filed.
- 3) Proceeding is closed.

Karad.

Date:09/06/2026.

(Kiran Khondre)

3rd Jt. Civil Judge Sr. Dn., Karad.