

MHST050012422023



IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD

ORDER BELOW EXH.1

IN

A.R.D. NO.463 OF 2023

M/S. Cholamandalam Investment & Finance
Company Ltd.

...D.H.

Versus

1. Mr. Maruti Hariba Suryawanshi and Anr.

...J.D.

Advocate Mr. S. A. Karande for the D.H.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 17/06/2026

ORAL ORDER :

This is an execution petition based on the Arbitral award dtd.21/08/2019. 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. Vs. Airports Authority of India' judgment dtd.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 Sec.18 r/w.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 on 28/04/2026, D.H. was ordered and directed (Vide O.XI R.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 U/Sec.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. Even then D.H. neither complied the order nor taken effective step to proceed the matter 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.

Date : 17/06/2026.

[S. B. Todkar]
Civil Judge S. D. Karad.