

Com. Execution Petition No. 34/2022

ORDER BELOW EXH. 1

- 1.** Read this execution petition and perused the record. Today, matter is repeatedly called out but none remained present for the petitioner/claimant.
- 2.** The present execution petition has been filed by claimant- Intergro Finserv Private Ltd. against the opponents for execution of ex parte arbitral award passed in Arbitral Claim proceedings No. OMG/L-T /LOT/108/LOSS/ FARM/2 4332/ 2017 dated 10.11.2017 which was passed by Shri Kapil Prakash Shety sole arbitrator appointed unilaterally.
- 3.** From the bare reading of the award. It appears that the original claimant M/s. L & T Finance Ltd. has unilaterally appointed the sole arbitrator to adjudicate the dispute and there is no mention of written consent of the opponents after the dispute has arisen. The arbitrator unilaterally appointed by the claimant was being ineligible to be appointed as an arbitrator by virtue of Section- 12(5) of the Arbitration and Conciliation Act.
- 4.** Hence, As per the law laid down by the ***Hon'ble Supreme Court in Bharat Broadband Network Limited Vs. United Telecoms Limited*** reported in 2019 law suit (SC) Page No. 1080 and law laid down by

the ***Hon'ble Delhi High Court in Case of Kotak Mahindra Bank Limited Vs. Narendra Kumar Prajapat*** reported in 2023:DHC:3705-DB, the award passed by unilateral arbitrator is nullity and in contravention under Section- 12(5) of the Arbitration and Conciliation Act. Hence, in my humble view, in facts and circumstances of the present case ex parte arbitral award passed by the arbitrator appointed by claimant unilaterally cannot be enforced and the execution petition is not maintainable. Hence, I pass the following order in the interest of justice.

-: ORDER:-

- 1.** This execution petition of ex parte arbitral award is hereby rejected.
- 2.** No order as to cost.

Signed and pronounced in the open Court today on the 20th day of September, 2023.

Place : Nadiad
Date : 20/09/2023

(J. R. Pandit)
Principal Senior Civil Judge
Nadiad (Dist: Kheda)
GJ00620