



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION (L) NO. 15149 OF 2026

Sonu R Yadav

...Petitioner

Versus

Axis Bank Limited & Ors.

...Respondents

Mr. Vaibhav Jagdale a/w Mr. Pandurang Andhale, for the Petitioner.

Mr. Alok D. Mishra, for the Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MAY 4 , 2026

ORDER :

1. Learned Advocate for the Respondents submits that he has instructions to state that the arbitration proceedings will be withdrawn since, admittedly, the arbitrator has not been appointed either by the consent of the parties or under Section 11 of the Arbitration and Conciliation Act, 1996, by the Court. However, he submits that the arbitrator having been appointed by an independent third-party institution, would somehow cure the unilateral appointment.

2. Such a submission is totally untenable. Even for an institutional arbitration to take place, the parties have to agree for resorting to institutional arbitration. I have dealt with this issue in detail in a judgement dated April 30,



2026 in a bunch of Petitions led by Arbitration Petition (L) No. 12097 of 2026. To avoid prolixity, I do not wish to reproduce extracts from the judgement. Suffice it to say, the Supreme Court has reiterated multiple times that purporting to have an independent person appointed unilaterally would not cleanse the taint of unilateral appointment, and that the objection to such appointment can be raised at any stage including during the challenge under Section 34 of the Act. The law declared in *TRF Ltd.*¹, *Perkins Eastman*², and most recently in *Bhadra International*³, would point a resounding and emphatic declaration of the law as aforesaid.

3. Evidently, this is yet another case of a party (this time, a scheduled commercial bank), which is meant to hold out a greater intensity of promise to be compliant with the law, appointing an arbitrator unilaterally but purporting to appoint the arbitrator through an “institution” hoping to mask the inherent illegality in unilateral-appointment. What is evident is that the *modus operandi* is to conduct arbitration in this process and hope that in most cases the affected party may not challenge the arbitration and may instead come up with settlement terms, with the strategy resulting in recoveries. However, whenever a counterparty challenges the unilateral appointment, the

1 *TRF Ltd. v. Energo Engg. Projects Ltd.*, **(2017) 8 SCC 377**;

2 *Perkins Eastman Architects DPC v. HSCC (India) Ltd.*, **(2020) 20 SCC 760**.

3 *Bhadra International (India) Pvt. Ltd. & Ors. v. Airports Authority of India*, **2026 INSC 6**



unilaterally-appointing party simply volunteers to have the arbitration proceedings withdrawn, which is indeed being done in these proceedings too.

4. This device is without doubt a manipulation that circumvents with impunity, the law declared by the Supreme Court. It is made clear that there are only two known methods in law to appoint an arbitrator: (i) by consent of the parties – either in the agreement itself by naming an arbitrator or by agreeing upon how the arbitrator would be chosen by consent when a dispute arises; and (ii) by appointment by a Section 11 Court having jurisdiction in the matter. Any third method of appointment cannot be whitewashed as being a compliant appointment.

5. In these circumstances, the Impugned Order is *quashed and set aside*. It is made clear that should further instances of this nature recur, the Court may be constrained to call for an explanation from the Audit Committee of the Bank as to how the institution is acting in conflict with the law declared by the Supreme Court.

6. This time, the assurance given by the Learned Advocate for the Respondent that this approach would not be adopted, is taken on board, and therefore, no further directions are being issued to the Bank, with the hope that future conduct by the bank will be compliant with the law declared by the Supreme Court.



7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]