

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

EXECUTION APPLICATION NO. 371 OF 2017

WITH

CHAMBER SUMMONS NO. 185 OF 2017

Shriram Transport Finance Co.ltd.

...Applicant

Versus

Abdul Kalam Jamil Kahan (borrower) And Anr.

...Respondents

Adv. Disha Karambar, i/b Adv. Disha Karambar & Associates, for the Applicant.

CORAM : ADVAIT M. SETHNA, J.

DATE : 28th AUGUST 2026

P.C.:

1. Ms. Disha Karambar, learned Counsel for the Applicant, on instructions, seeks leave to withdraw this Application.
2. From the record, it further appears that this Application is covered by the judgment of the Supreme Court in the case of ***Bhadra International (India) Pvt. Ltd. and Others v. Airport Authority of India***¹. The Supreme Court has held therein that an arbitral award can be set aside as being void ab initio on the ground that the arbitrator was unilaterally appointed.
3. According to the Supreme Court, a decree passed by a Court without jurisdiction goes to the root of the matter. Any decision passed by a Court lacking jurisdiction would be *coram non judice*, since a Court cannot confer jurisdiction upon itself. No act of the parties can cure an

¹ Civil Appeal Nos. 37-38 of 2026 decided on 5th January 2026.

inherent lack of jurisdiction. In view thereof, all the proceedings, including the execution proceedings, are rendered non est. The issue therefore is no longer *res integra*.

4. Similar view has been consistently taken by this Court in various decisions, including the order in *L & T Finance Ltd. Vs. Sangeeta Bhansali & Anr.*².

5. In the above backdrop, leave is granted to the Applicant to withdraw the said proceedings.

6. However, it would be open to the parties to initiate fresh arbitration proceedings, if necessary, in accordance with law.

7. As far as the issue of limitation is concerned, the period commencing from the date of invocation of arbitration until the date of this order shall stand excluded, in the event fresh proceedings are initiated by the parties.

8. With the above observations and directions, the Application stand Disposed of as withdrawn.

9. Consequently, the Interim Applications, if any, would not survive and stand Disposed of.

[ADVAIT M. SETHNA, J.]

² Commercial Execution Application (L) No.5277 of 2022, decided on 17th January 2026.