



2026:KER:31400

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 7TH DAY OF APRIL 2026 / 17TH CHAITHRA, 1948

AR NO. 38 OF 2026

PETITIONER(S) :

COCO-LATEX EXPORTS PVT. LTD.
REP. BY ITS MANAGING DIRECTOR,
VAZHATHOPPU BUILDINGS, CHUNGOM,
ALLEPPEY DISTRICT, PIN - 688011.

BY ADVS.
SHRI.RAJESH SIVARAMANKUTTY
SMT.VIJINA K.
SRI.ARUL MURALIDHARAN

RESPONDENT(S) :

NATIONAL INSURANCE COMPANY LTD.
REP. BY ITS MANAGER, SHUBHARAM COMPLEX,
144 M.G. ROAD, BANGALORE, PIN - 560001.

BY ADVS.
SMT.LATHA SUSAN CHERIAN
SRI.GIBI.C.GEORGE

THIS ARBITRATION REQUEST HAVING COME UP FOR ADMISSION ON
07.04.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is a Private Limited Company. It runs a factory in Pala and a depot in Alleppey. It had entered into two policies with the respondent company:- (1) National Bharat Sookshma Udyam Suraksha Policy No.60210012310000111 with respect to stocks, having validity from 27.07.2023 to midnight of 26.07.2024 under occupancy details as “mattress and pillow making”, for the factory, with total location sum insured of Rs.2,94,20,248/- and (2) National Bharat Laghu Udyam Suraksha Policy No.602100112310000112 for the assets in the factory, with the policy effective from 27.07.2023 to midnight of 26.07.2024, again under the occupancy details of “mattress and pillow making”, for total location sum insured of Rs.17,02,96,781/-. Copies of the policy have been produced as Annexures 1 and 2.

2. An accidental fire broke out in the petitioner’s factory at Pala on 12.11.2023, leading to extensive damage to various stocks of finished goods, semi-finished goods, raw materials etc. besides the building, plant, machinery, office equipments and other assets including a lorry. The petitioner reported the accident to the respondent and laid a claim. A Surveyor was appointed by the respondent who filed a report on



17.07.2025. A copy of the report has been produced as Annexure 4. The respondent offered a full and final settlement of the claim for stocks and assets for an amount of Rs.2,92,45,468/- as against the Surveyor's assessment of net loss at Rs.3,89,93,958/-. An amount of Rs.52,36,061/- was deducted as 25% non-standard deduction in the final amount determined by the respondent and an amount of Rs.45,12,429/- was deducted as 25% non-standard deduction on Surveyor's assessed claim amount with respect to Annexure 2 policy. The petitioner accepted the amount offered by the respondent and a claim discharge voucher was executed on 12.03.2025. Later, the petitioner disputed the deductions and demanded that the respondent shall pay the amounts deducted. However, the respondent did not accede to the said claim.

3. Invoking the arbitration clause in the policies Annexure 5 letter was issued by the petitioner to the respondent on 15.09.2025. Annexure 6 reply was issued by the respondent on 07.11.2025, denying the claims of the petitioner. Thereafter, Annexure 7 notice dated 23.12.2025, was issued by the petitioner as contemplated under Section 21 of the Arbitration and Conciliation Act, 1996 for initiating arbitrary proceedings. The said notice was received by the respondent on 26.12.2025. An e-mail



communication was issued by the respondent on 20.01.2026 in reply reiterating the stand taken in the earlier reply notice. As there is no consensus regarding initiation of arbitral proceedings and also nomination of an Arbitrator, this arbitration request was filed.

4. The respondent entered appearance through its Standing Counsel and filed a counter affidavit. The prime objection raised by the respondent is that the petitioner executed a claim discharge voucher on 12.03.2025, in favour of the respondent accepting an amount of Rs.2,91,87,861/- as full and final settlement. A copy of the discharge voucher dated 12.03.2025 has been produced as Annexure R5. According to the respondent, since the dispute was settled and the petitioner accepted the amount offered and executed a discharge voucher, no arbitrable dispute is existing. Further, the respondent relied on a circular issued by the Insurance Regulatory and Development Authority of India. A copy of the circular has been produced as Annexure R7.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent. The learned Counsel for the petitioner submitted that arbitration clauses exist in the respective policies and therefore the disputes between the parties



may be referred for arbitration. He submitted that the execution of discharge voucher will not stand in the way of the petitioner raising lawful claims under the policies and seeking further amounts from the respondent. He relied on the judgment of the Honourable Supreme Court in **Arabian Exports Private Limited v. National Insurance Company Ltd.**, [2025 10 SCC 388]. He relied on the following paragraphs of the judgment :-

“33. In Nathani Steels (supra), a three-Judge Bench of this Court opined that once the parties reach a settlement in respect of any dispute or difference arising under a contract and that dispute or difference is amicably settled by way of a final settlement by and between the parties, unless that settlement is set aside in proper proceedings it cannot lie in the mouth of one of the parties to the settlement to spurn it on the ground that it was a mistake and thereafter proceed to invoke the arbitration clause.

33.1. Of course the Bench held that unless the settlement is set aside in proper proceedings, it would not be open to one of the parties to the settlement to invoke arbitration. But at the same time, it needs to be pointed out that this view was taken in



the context of an amicable settlement arrived at between the parties in the presence of a third party and reduced to writing. If there is an amicable settlement of the dispute between the parties unless such settlement is set aside in proper proceedings, it would not be open to one of the parties to invoke arbitration. Therefore, the crucial expression here is 'amicable settlement'.

34. This decision was explained by this Court in Boghara Polyfab (supra). A two-Judge Bench of this Court noted that in Nathani Steels (supra) this Court on examination of the facts of that case was satisfied that there were negotiations leading to voluntary settlement between the parties in all pending disputes. Thus the contract was discharged by 'accord and satisfaction'. The Bench categorized such claims under two categories. In the first category there would be cases where there is bilateral negotiated settlement of pending disputes, such settlement having been reduced to writing either in the presence of witnesses or otherwise. Nathani Steels (supra) falls in this category. In the second category of cases,



there would be 'no dues/claims certificate' or 'full and final settlement discharge vouchers' insisted upon and taken, either in a printed format or otherwise, as a condition precedent for release of the admitted dues. In the latter group of cases, the disputes are arbitrable. Mere execution of a full and final settlement receipt or a discharge voucher cannot be a bar to arbitration even when validity thereof is challenged by the claimant on the ground of fraud, coercion or undue influence. The Bench further distinguished Nathani Steels (supra) by clarifying that the observations made that unless the settlement is set aside in proper proceedings, it would not be open to a party to the settlement to invoke arbitration was with reference to a plea of 'mistake' taken by the claimant and not with reference to allegations of fraud, undue influence or coercion. Further, the said decision was rendered in the context of the provisions of the Arbitration Act, 1940. The perspective of the 1996 Act is different from the Arbitration Act, 1940.

37. In Oriental Insurance Company Ltd. Vs. Dicitex Furnishing Ltd., (2020) 4 SCC 621 a



two-Judge Bench of this Court considered the objection of the insurer about maintainability of the application under Section 11(6) of the 1996 Act in which the High Court had appointed an arbitrator. The objection was that the claimant had signed the discharge voucher and had accepted the amount offered, thus signifying 'accord and satisfaction' which in turn meant that there was no arbitrable dispute. This Court rejected the objection of the insurer and held thus:

26. An overall reading of Dicitex's application [under Section 11(6)] clearly shows that its grievance with respect to the involuntary nature of the discharge voucher was articulated. It cannot be disputed that several letters spanning over two years stating that it was facing financial crisis on account of the delay in settling the claim, were addressed to the appellant. This Court is conscious of the fact that an application under Section 11(6) is in the form of a pleading which merely seeks an order of the court, for appointment of an arbitrator. It cannot be conclusive of the pleas or contentions that the claimant or the party concerned can take in the arbitral



proceedings. At this stage, therefore, the court which is required to ensure that an arbitrable dispute exists, has to be prima facie convinced about the genuineness or credibility of the plea of coercion; it cannot be too particular about the nature of the plea, which necessarily has to be made and established in the substantive (read arbitration) proceeding. If the court were to take a contrary approach and minutely examine the plea and judge its credibility or reasonableness, there would be a danger of its denying a forum to the applicant altogether, because rejection of the application would render the finding (about the finality of the discharge and its effect as satisfaction) final, thus, precluding the applicant of its right even to approach a civil court. There are decisions of this Court (Associated Construction v. Pawanhans Helicopters Ltd. and Boghara Polyfab) which upheld the concept of economic duress. Having regard to the facts and circumstances, this Court is of the opinion that the reasoning in the impugned judgment cannot be faulted.



40. Thus, the doctrine of Kompetenz-Kompetenz is now firmly embedded in the arbitration jurisprudence in India. This doctrine is based on the principle that an arbitral tribunal is competent to rule on its own jurisdiction including on the issue of existence or validity of an arbitration agreement. The object is to minimize judicial intervention which is an acknowledgment of the concept of party autonomy.

41. In view of the clear legal proposition, we have no hesitation in holding that the High Court was wrong in rejecting the Section 11(6) applications of the appellant. The question as to whether the appellant was compelled to sign the standardized voucher/advance receipt forwarded to it by the respondent out of economic duress and whether notwithstanding receipt of Rs.1,88,14,146.00 as against the claim of Rs. 5,71,69,554.00 the claim to arbitration is sustainable or not are clearly within the domain of the arbitral tribunal.”

6. In view of the law laid down by the Honourable Supreme Court in the above judgment, petitioner submitted that



mere fact that a discharge voucher was executed is not a reason for refusing reference under Section 11 of the Arbitration and Conciliation Act. Regarding the circular relied on by the respondent, the learned Counsel for the petitioner submitted that the said circular provided only for omitting arbitration clauses on policies issued after the date of the circular and the same would not affect the validity of the arbitration clause in existing insurance policies. He therefore submitted that the arbitration request is to be allowed.

7. The learned Counsel for the respondent on the other hand vehemently submitted that there is no arbitrable dispute. He pointed out that the communications between the parties produced along with the counter affidavit and submitted that the petitioner had agreed to the settlement amount offered by the respondent company and requested them to release the discharge voucher and proceed with the settlement by an e-mail communication dated 11.03.2025. A copy of the same is produced as Annexure R2. He submitted that thereafter discharge voucher was executed by the petitioner and submitted to the respondent company. Respondent company released an amount of Rs.2,91,87,861/- as agreed between the parties. After receiving



the amount as per the settlement and executing the claim discharge voucher, the petitioner is not entitled to invoke the arbitration clause and seek further amounts from the company. He further submitted that in view of Annexure R7 circular, as the term of the policy expired long ago, the arbitration clause cannot be invoked by the petitioner.

8. I have also perused the pleadings and documents. It is evident that the policies issued by the respondent contained arbitration clauses. Only dispute is as to whether there exist any arbitrable disputes in view of the issuance of the claim discharge voucher by the petitioner. The learned Counsel for the respondent relied on the judgment of the Honourable Supreme Court in ***Nathani Steels Limited v. Associated Constructions*** [(1995) 3 SCC Supp 324]. However, the Honourable Supreme Court has considered the law laid down in *Nathani Steels in Arabian Exports Pvt, Ltd.*, and has held that in case of settlements entered into through bilateral negotiations, mere execution of full and final settlement receipt or a discharge voucher cannot be a bar to arbitration. Therefore, I find that objection raised by the respondent on the basis of the discharge voucher issued by the respondent is not sustainable. The objection raised by the



respondent relying on Annexure R7 circular also cannot be accepted for the reason that it is specifically provided the said circular is that for all existing policies, the existing arbitration clauses would remain valid till the expiry of policy unless a policy holder specifically request the insurer to replace it with the clause at paragraph 2 of the circular. The said clause in the circular makes the intention of the Insurance Regulatory and Development Authority of India clear. As far as policies existing on the date of issuance of Annexure R7 are concerned, the arbitration clauses should be treated as valid till the expiry of the policy, unless the policy holder specifically request the insurer to replace the same. In the instant case, the insurance policy holder, the petitioner, has not made a request to replace the arbitration clause in the policies. Therefore, the validity of the arbitration clauses in the policies is not affected by Annexure R7.

Serious disputes have arisen between the parties. In view of the above discussion, I am of the view that this arbitration request can be allowed, however, making clear that it will be open to the respondent to raise its objection regarding non-existence of arbitrable dispute before the learned Arbitrator. The said contention is left to be considered by the learned Arbitrator.



I dispose this arbitration request by issuing the following directions:-

1. The Kerala High Court Arbitration Centre is directed to nominate an Arbitrator from Panel-I, preferably from Ernakulam, as the sole Arbitrator to resolve the disputes that have arisen between the petitioner and the respondents under Annexure 1 and 2 policies.
2. The learned Arbitrator may entertain all issues between the parties in connection with the said Agreements, including questions of jurisdiction and limitation, if any, raised by the parties. All contentions of the parties are left open and they are at liberty to raise their claims and counterclaims, if any, before the learned Arbitrator, in accordance with law.
3. The Registry shall communicate the substance of this order to the Kerala High Court Arbitration Centre within ten days and the Centre shall inform the learned Arbitrator within a further period of one week and shall obtain duly signed Form 3 as required under Rule 20(4) of the Kerala High Court (Arbitration Centre) Rules, 2025 and forward the same to this Court.



4. Upon receipt of the Form 3, the Registry shall issue a certified copy of this order with a copy of the Form 3 appended to the Kerala High Court Arbitration Centre. The original of the Disclosure Statement shall be retained by the Kerala High Court Arbitration Centre.
5. The fees of the learned Arbitrator of the Kerala High Court Arbitration Centre shall be governed by Rule 28 of the Kerala High Court (Arbitration Centre) Rules, 2025. The manner in which the fees and costs payable by the parties shall be governed by Rule 27 of the Kerala High Court (Arbitration Centre) Rules, 2025.
6. If the learned Arbitrator needs the assistance of an expert, then he is at liberty to seek such assistance in the course of the arbitration proceedings.

Sd/-
S.MANU
JUDGE



APPENDIX OF AR NO. 38 OF 2026

PETITIONER'S ANNEXURES

- ANNEXURE 1** A TRUE COPY OF THE POLICY NO. 602100112310000111 FOR THE PERIOD 27-7-2023 TO MIDNIGHT OF 26-7-2024 ISSUED TO THE PETITIONER BY RESPONDENT
- ANNEXURE 2** A TRUE COPY OF THE POLICY NO. 602100112310000112 FOR THE PERIOD 27-7-2023 TO MIDNIGHT OF 26-7-2024 ISSUED TO THE PETITIONER BY RESPONDENT
- ANNEXURE 3** A TRUE COPY OF THE POLICY DOCUMENT/CLAUSES OF NATIONAL BHARAT LAGHU UDYAM SURAKSHA POLICY COVERED BY ANNEXURES 1 AND 2
- ANNEXURE 4** A TRUE COPY OF THE 'WITHOUT PREJUDICE FINAL REPORT' DATED 17-2-2025 WITH REF:20/302/11261/FSR SUBMITTED BY THE SURVEYOR TO THE RESPONDENT WITH COPY TO PETITIONER
- ANNEXURE 5** A TRUE COPY OF THE LETTER NO. M/01/CS DATED 15-9-2025 ISSUED BY PETITIONER TO RESPONDENT
- ANNEXURE 6** A TRUE COPY OF THE REPLY DATED 7-11-2025 ISSUED BY RESPONDENT TO PETITIONER
- ANNEXURE 7** A TRUE COPY OF THE ARBITRATION REQUEST DATED 23-12-25, UNDER SECTION 21 OF THE ARBITRATION AND CONCILIATION ACT, 1996
- ANNEXURE 8** A TRUE COPY OF THE EMAIL DATED 20-1-2026 ISSUED BY RESPONDENT TO THE PETITIONER
- ANNEXURE 9** A TRUE COPY OF THE CIRCULAR DATED 24-9-2015 IN REF.NO.IRDA/NL/CIR/ MISC./173/09/2015

RESPONDENT'S ANNEXURES

- ANNEXURE R1** COPY OF EMAIL DATED 06.03.2025 SENT BY THE RESPONDENT TO THE PETITIONER
- ANNEXURE R2** COPY OF EMAIL DATED 11.03.2025 SENT BY THE PETITIONER THROUGH ITS AUTHORISED REPRESENTATIVE, TO THE RESPONDENT
- ANNEXURE R3** COPY OF EMAIL DATED 12.03.2025 SENT BY THE RESPONDENT TO THE PETITIONER



- ANNEXURE R4** COPY OF EMAIL DATED 13.03.2025 SENT BY THE PETITIONER THROUGH ITS AUTHORISED REPRESENTATIVE, TO THE RESPONDENT
- ANNEXURE R5** COPY OF DISCHARGE VOUCHER DATED 12.3.2025
- ANNEXURE R6** COPY OF CIRCULAR REF NO.IRDA/NL/CIR/ MISC /113/06/2016 DATED 07-06-2016 ISSUED BY IRDAI
- ANNEXURE R7** COPY OF CIRCULAR REF NO.IRDA/NL/ CIR/MISC /188/0/2023 DATED 27-10-2023 ISSUED BY IRDAI