

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

COMMERCIAL ARBITRATION APPLICATION NO.241 OF 2026

Siemens Financial Services Pvt. Ltd.,]
Registered Office at Worli, Mumbai] .. **Applicant**

Versus

1. Saroj Diagnostic Laboratory LLP,]
Address at Ernakulam, Kerala]
2. Arun Jyotish KC,]
Address at Kozhikode, Kerala]
3. Alphilin Jose,]
Address at Ernakulam/Kozhikode, Kerala]
4. Remya Rachel George,]
Address at Ernakulam/Pathanmthitta, Kerala] .. **Respondents**

Mr. Nishant Chothani with Ms. Anushka Shetty, Advocates, i/by MLS Vani & Associates, for the Applicant.

Mr. Paul Jacob, Advocate, i/by Khare Legal Chambers, for the Respondents.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 2ND JULY 2026

P.C. :

1. The Applicant has filed this Application under Section 11 of the Arbitration and Conciliation Act, 1996 to adjudicate upon disputes that have arisen between the Applicant and the Respondents under the Finance Agreement dated 25th June 2024 ("**Agreement**"). The execution of the Agreement is not in dispute. The relevant dispute resolution clause under the Agreement reads as under:-

“16(d) Governing law and Jurisdiction

This Agreement is governed by Indian Law and shall be subject to the jurisdiction of the Courts in Mumbai.

16(e) Arbitration

*All disputes, differences and/or claim arising out of or in connection with this Agreement and the Schedule(s) attached hereto or the performance of this Agreement shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act. 1996, or any statutory amendments thereof and shall be referred to the sole Arbitrator nominated/appointed by the Lender. **The place of arbitration shall be Mumbai** and the award given by such an Arbitrator shall be final and binding on the parties to this Agreement.”*

2. Mr. Chothani, learned counsel appearing for the Applicant, submits that the disputes arise out of the Agreement under which the Applicant advanced a loan of Rs. 7,38,00,000/- to Respondent No.1. Respondent Nos.2 to 4 executed the Agreement as guarantors and jointly and severally, unconditionally and irrevocably guaranteed repayment of the loan by Respondent No.1. The Agreement also provides for creation of certain additional securities in favour of the Applicant. Pursuant to the Agreement, Respondent No.1 availed of the loan facility but thereafter committed defaults in repayment. Consequently, the Applicant issued a recall-cum-invocation notice dated 17th June 2025, followed by a further invocation notice dated 2nd March 2026.

3. Both notices were duly served upon the Respondents, and the

acknowledgments thereof are annexed at Exhibits "E" and "F" to the paper-book. The Respondents have neither disputed receipt of the notices nor denied the invocation of the arbitration agreement or the underlying claims. Since the Respondents failed to respond or take any steps pursuant to the invocation notices, the Applicant has filed the present Application under Section 11 of the Arbitration and Conciliation Act, 1996.

4. Mr. Jacob, learned counsel appearing for the Respondents, does not dispute the execution of the Agreement or the receipt of the notices dated 17th June 2025 and 2nd March 2026. The Application is opposed on the ground that the Agreement merely stipulates Mumbai as the "place" of arbitration and does not designate it as the "seat" of arbitration. According to him, in the absence of an express agreement identifying Mumbai as the seat of arbitration, this Court lacks territorial jurisdiction to entertain the present Application. Reliance is placed upon the decisions of the Hon'ble Supreme Court in **BGS SGS SOMA JV v. NHPC Limited**¹ and **BBR (India) Private Limited v. S.P. Singla Constructions Private Limited**² to submit that a mere reference to the "place" of arbitration does not, by itself, amount to designation of the juridical seat. On this basis, he prays that the present Application be dismissed for want of jurisdiction.

¹ (2020) 4 SCC 234

² (2023) 1 SCC 693

5. I have heard the learned counsels appearing for the parties and perused the record. Clause 16(d) of the Agreement expressly provides that the Agreement shall be subject to the jurisdiction of the Courts at Mumbai. Clause 16(e), which contains the arbitration agreement, further stipulates that the place of arbitration shall be Mumbai. The Agreement is clear and unequivocal. The parties have consciously agreed that the arbitration proceedings shall be conducted at Mumbai while simultaneously conferring jurisdiction upon the Courts at Mumbai in respect of the Agreement. There is no contrary indication in the Agreement suggesting that any other place was intended to be the juridical seat of arbitration. The arbitration agreement was duly invoked by the Applicant through notices dated 17th June 2025 and 2nd March 2026. The Respondents admittedly received both notices and have not replied to the same. The Respondents have neither disputed the invocation of the arbitration agreement nor questioned its validity or enforceability. In my view, the objection with regard to the territorial jurisdiction of this Court is devoid of merit.

6. It is well settled that while exercising jurisdiction under Section 11 of the Arbitration and Conciliation Act, 1996, the referral Court is required to undertake only a limited examination as to the existence of a valid arbitration

agreement. The Hon'ble Supreme Court in *Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, in Re*³ and in *SBI General Insurance Company Vs. Krish Spinning*⁴, that the referral Court ought not to venture beyond the existence of an arbitration agreement. Since the existence of the arbitration agreement is not in dispute in the present case, there is no impediment to the appointment of an Arbitrator.

7. The Respondents' reliance upon the judgment in *BGS SGS SOMA JV (supra)* is misconceived. Far from supporting the Respondents, the said decision reinforces the Applicant's case. In paragraphs 61 and 82, the Hon'ble Supreme Court has categorically held as under:

“61. It will thus be seen that wherever there is an express designation of a “venue” and no designation of any alternative place as the “seat”, combined with a supranational body of rules governing the arbitration, and no other significant contrary indicia, the inexorable conclusion is that the stated venue is actually the juridical seat of the arbitral proceeding.

82. On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being the “venue” of the arbitration proceedings, the expression “arbitration proceedings” would make it clear that the “venue” is really the “seat” of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a

³ (2024) 6 SCC 1

⁴ (2025) 3 SCC (Civ) 567

whole, including the making of an award at that place. This language has to be contrasted with language such as “tribunals are to meet or have witnesses, experts or the parties” where only hearings are to take place in the “venue”, which may lead to the conclusion, other things being equal, that the venue so stated is not the “seat” of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral proceedings “shall be held” at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a “venue” and not the “seat” of the arbitral proceedings, would then conclusively show that such a clause designates a “seat” of the arbitral proceedings. In an international context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that “the venue”, so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the “stated venue”, which then becomes the “seat” for the purposes of arbitration.”

In the present case, the Agreement specifically provides that the place of arbitration shall be Mumbai. Clause 16(d) expressly confers jurisdiction upon the Courts at Mumbai. There is no provision in the Agreement suggesting any different seat of arbitration. These provisions, read harmoniously, demonstrate the parties intention to treat Mumbai as the juridical seat of arbitration.

8. Similarly the reliance upon *BBR (India)* is also misplaced. That decision arose in an entirely different factual context where the arbitration agreement

did not specify either the seat or the venue of arbitration, thereby requiring the Court to determine the seat on the basis of other surrounding circumstances. This is not the case here. The ratio of *BBR (India)* far from advancing the Respondents' case, reiterates the principles laid down in *BGS SGS SOMA JV*.

9. In view of the above, there is no merit in the objection raised by the Respondents regarding the territorial jurisdiction of this Court. Hence, this **Commercial Arbitration Application no. 241 of 2026 is allowed and disposed of** in the following terms:-

[A]. Hon'ble Shri Justice Dhiraj Singh Thakur, Former Chief Justice of Andhra Pradesh High Court, is hereby appointed as the sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with or in relation to the Agreement referred to above. The contact details of Hon'ble Shri Justice Dhiraj Singh Thakur, the sole Arbitrator, are "Office Address : Flat No.202, Surabhi Co-operative Housing Society Ltd., Oshiwara, Jogeshwari (West), Mumbai-400102; E-mail : dsthakur.chambers@gmail.com and Contact no.: 9419187734".

[B]. A copy of this order will be communicated to the learned Arbitrator by the Advocate for the Applicant within a period of one week from the date on which this order is uploaded on the website of this Court. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this order.

[C]. The learned Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocate for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Arbitration Application and a copy of the same shall be furnished by the Advocate for the Applicant to the Respondents.

[D]. The parties shall appear before the learned Arbitrator on such date in physical or virtual mode as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing schedule for pleadings,

examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional e-mail address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal.

[E]. The fees of the learned Arbitrator shall be as per the Fourth Schedule of the Act read with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

[F]. All issues on merits of the claims and counterclaims are kept open to be agitated before the Tribunal.

[G]. The arbitration shall be held at Mumbai.

[GAUTAM A. ANKHAD, J.]