



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

WRIT PETITION (L) NO. 42108 OF 2025

Samco Securities Ltd.
Naman Midtown Office No. 1104,
“A” Wing, Behind Kamhar Kridakendra
S B Parth Prabhadevi, Mumbai – 400013

... Petitioner

Versus

Triton Communications Pvt. Ltd.
43, prospect Chambers Annex,
Dr.D.N.Road, Fort, Mumbai 400001

... Respondent

...
Ms.Moleena Thakur with Ms.Nooraksa Ansari i/b. Samudra Legal LLP for
the Petitioner.

Mr.Sunand Subramaniam i/b. Mr.Rishi Murarka for the Respondent.

...

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.

DATE : FEBRUARY 05, 2026

ORAL JUDGMENT (Per : Ravindra V. Ghuge, J.) :-

1. **Rule.** Rule made returnable forthwith and heard finally by the
consent of the parties.

2. The Petitioner has put forth prayer clauses (a), (b) and (c), as
under :

“a. That this Hon'ble Court be pleased to call for the record and proceedings of the arbitration between the Petitioner and the Respondent arising out of the said Agreement and, after examining the legality, validity and propriety of the same, be pleased to appropriate writ, order or direction under Article 227 of the Constitution of India, quashing and setting aside the Impugned Order passed by the Learned Sole Arbitrator.

b. That this Hon'ble Court be pleased to hold and declare that the Learned Sole Arbitrator has no jurisdiction to adjudicate disputes between the parties arising out of post-termination services rendered after 31.07.2019, which are not governed by any valid and subsisting arbitration agreement under Section 7 of the Act and consequently be pleased to direct termination of the arbitral proceedings in respect of such disputes as being without jurisdiction.

c. In the alternative to prayer clause b, direct the Learned Sole Arbitrator to decide the Petitioner's application under section 16 of the Act as a preliminary issue, within a time-bound period, before proceeding further with the arbitral proceedings.”

3. The learned Advocate for the Petitioner has vehemently canvassed all the grounds formulated in the pleadings.

4. The learned Advocate for the Respondent relied upon two orders passed by the Division Bench of this Court in Writ Petition (L) No. 39997 of 2025, ***(SAP India Private Limited and Anr. V/s. Cox and Kings***

Limited), dated 23.12.2025 and Writ Petition No. 11281 of 2025, (*Shivranjan Towers Sahakari Griha Rachana Sanstha Maryadit Versus Bhujbal Constructions & Ors.*), dated 04.09.2025, which indicate that an Application under Section 16 of the Arbitration and Conciliation Act, 1996 (the Act of 1996) is to be entertained only in exceptional cases where there is a clear case of patent lack of inherent jurisdiction.

5. The grievance of the Petitioner is that the Application filed under Section 16 of the Act of 1996 should have been dealt with by the concerned Authority at the earliest and should have delivered a verdict as to whether the arbitration proceedings are maintainable or not. The foundation laid by the Petitioner in the said Application is that the Contract Agreement has been terminated between the Petitioner and the Respondent and, as such, the arbitration clause would stand extinguished and the remedy of approaching the Arbitrator would not be available. We find that the said submission cannot be sustained.

6. We have perused the impugned order passed by the Tribunal under Section 16 of the Act of 1996, dated 09.10.2025. To cut short the issue, it would be apposite to reproduce paragraph Nos. 14 to 17 set out in the Discussion and Findings of the Arbitrator, hereunder:

“14. The principal contention of the Respondent is that the Agreement was terminated by its communications of 11 and 17 June 2019, and that any subsequent services were rendered under ad hoc or oral arrangements, independent of the arbitration clause. The Claimant, on the other hand, disputes the validity of the alleged termination and asserts that services rendered after July 2019 were in fact governed by the terms of the original Agreement, including the arbitration clause. The Claimant further submits that the arbitration clause is separable and independent, and survives any termination of the substantive contract.

15. It is apparent that the issue of whether there was a valid termination is intrinsically a matter of evidence. The Claimant denies receipt of the Letter dated 17 June 2019, and submits that there is no acknowledgment, signature, or other confirmation of service. Even as regards the email of 11 June 2019, the Claimant contends that it does not satisfy the contractual requirements under Clause V. Similarly, whether the services rendered post-July 2019 fall within the ambit of the original Agreement or constitute separate ad hoc arrangements cannot be determined without assessing the conduct of the parties, the terms of the invoices, and the circumstances under which payments were made. Both these issues/questions are therefore fact-intensive and closely interwoven with the merits of the dispute. It is important to state that, at this juncture, no evidence has been led by either the Respondent or the Claimant.

*16. While the law establishes that a Section 16 objection is ordinarily to be decided at the earliest stage, it has been recognized by the Delhi High Court in *Surender Kumar Singhal & Ors. v. Arun Kumar Bhalotia & Ors.* [(2021) 279 DLT 636] that where the objection is fact-intensive and closely*

linked to the merits, the Tribunal may defer its adjudication until after evidence has been led. This approach prevents premature determination that could inadvertently prejudice a party and ensures that jurisdiction is decided on a complete factual record. Moreover, the doctrine of separability, and survival of the Arbitration Clause post termination, underscores that arbitration clauses are autonomous and may survive termination of the underlying contract, further highlighting the complexity of the questions raised in the present case.

17. In the present matter, a premature determination of the Respondent's Section 16 objection would necessitate adjudication of disputed facts, including receipt, acknowledgment, and compliance with notice requirements for termination communications, as well as the characterization of post-July 2019 services. Any such premature determination could inadvertently prejudice a party or result in a finding based on an incomplete factual record. In the interest of ensuring fairness and adherence to natural justice, the Tribunal finds it necessary to defer its adjudication until after the parties have led all relevant evidence, including written communications, invoices, ledger entries, and oral testimony.”

7. It is well settled that if any issue raised as a preliminary issue requires oral and documentary evidence to arrive at conclusion on the issue, such Applications are not to be decided at a preliminary stage.

8. The Arbitrator has merely postponed the decision on the Application under Section 16, as he is convinced that oral and documentary evidence would be required to adjudicate on the Application, and that the Application can be decided along with the main proceedings. A plausible view has been taken by the Arbitrator. Merely because a different view is possible, it would not mean that the impugned order is to be branded as perverse or erroneous, in view of the law laid down in *Syed Yakoob v. K.S. Radhakrishnan*, AIR 1964 SC 477, and *Surya Dev Rai v. Ram Chander Rai*, AIR 2003 SC 3044 : (2003) 6 SCC 682.

9. In view of the above, **this Writ Petition is dismissed.**

10. Rule stands discharged.

(ABHAY J.MANTRI, J.)

(RAVINDRA V. GHUGE, J.)