



2026 INSC 1014

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No.13015 of 2026
(Arising out of SLP (C) No. 26596 of 2026)

**Arth Micro Finance Private
Ltd. And Ors.**

...Appellant (s)

Versus

Shivalik Small Finance Bank Ltd. ..Respondent(s)

O R D E R

Leave granted.

2. Arbitration, though rhymes with it, cannot result in an arbitrary measure, even in the appointment of an Arbitral Tribunal.

3. In the present case, disputes arose between the appellants and the respondent, and definitely, the agreement between them, had an arbitration clause. The respondent allegedly appointed an Arbitral Tribunal, on consent. The notice is seen issued at Annexure P2 on 02.05.2024. The Arbitral Tribunal appointed, issued a communication to the appellants by Annexure P3, which was replied to by Annexure P4 objecting to the appointment, especially pointing out that the appointed Arbitral Tribunal had close links with the respondent. Undeterred, the Arbitral Tribunal

passed three interim orders under Section 17 of the Arbitration and Conciliation Act, 1996, by Annexures P5, P6 and P7, which were appealed before the High Court under Section 37 of the said Act. The appeal was dismissed on the ground of limitation, especially pointing out that there is no application filed to condone the delay, invoking Section 5 of the Limitation Act, 1963.

4. We heard Sri K. Parameshwar, learned Senior Counsel for the appellants and Sri Bishwajit Bhattacharyya, learned Senior Counsel for the respondent. Though it was argued that, it is on consent that the Arbitral Tribunal was appointed, there is nothing to show the consent having been obtained from the appellants herein. The orders at Annexures P5, P6 and P7 respectively directed the freezing of the bank accounts at IDBI, Bank of Baroda, HDFC and ICICI linked to the specific PAN number of the appellants; permitted the respondent's bank to take over possession of the movable and immovable properties of the appellants; and directed transfer of the amounts deposited by the appellants herein, in the various

banks as mentioned before, to be transferred and deposited in the respondent's bank.

5. We have to remind ourselves that this was done in the wake of the clear objection to the appointment of the Arbitral Tribunal and the allegation of bias raised against the said Arbitral Tribunal. The orders passed at the first instance, are also arbitrary in nature.

6. We, hence, set aside the impugned order of the High Court finding the very initiation of arbitration to be *non est* in law. The interim orders passed by the Arbitral Tribunal at Annexures P5, P6 and P7 shall stand set aside. If the interim orders have been given effect to, then any amount deposited from the account of the appellants to the account of the respondent herein, shall be remitted back within a period of one week from today and the interest due on such amounts, the very appointment having been found to be *non est* in law, shall be one of the issues to be considered by the Arbitrator whom we intend to appoint. If the amounts are not remitted back as directed by us, then it would carry Compound Interest @18% from the date on which it was debited from the accounts of the appellants at monthly rests and the

same shall be set off as against any claim found in favour of the respondent in Arbitration. Any attachment or takeovers of movable or immovable properties of the appellants shall also be set at naught and the same restored to the possession of the appellants.

7. To facilitate resolution of the disputes, we direct that Ms. Mayuri Raghuwanshi, Advocate (Mob. No.- 97173 44186), be appointed as an Arbitrator. The Registry of this Court shall intimate the learned Arbitrator appointed by us. The learned Arbitrator shall issue notices to the parties in connection with the arbitral proceedings. The learned Arbitrator is free to determine her fee in consultation with the parties. We make it clear that we have expressed no opinion on the merits of the case, which aspect is left open for the parties to urge before the learned Arbitrator.

8. The appeal is disposed of with the above directions.

9. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
SEPTEMBER 17, 2026.**