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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION (L) NO.10523 OF 2026

Fintree Finance Private Ltd.

...Applicant

V/s.

Embifi Global Services Private Limited

...Respondent

Mr. C.M. Jadhav *i/b. M/s. SC Legal for the Applicant.*Ms. Niharika Singh *for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATED: 28 APRIL 2026.

P.C.:

1) This is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (**the Arbitration Act**) seeking appointment of Arbitrator for adjudication of disputes and differences between the parties arising out of Master Service Agreement.

2) I have heard Mr. Jadhav and Ms. Singh, the learned counsel appearing for the parties.

3) Ms. Singh submits that the Application is premature as the Applicant not followed the procedure envisaged under clause 21 of the Agreement. According to her, the Applicant ought to have first issued

dispute notice, waited for a period of 30 days after service of dispute notice and thereafter invoked arbitration by issuance of a fresh notice. She submits that instead of following the procedure agreed under the Agreement, the Applicant has directly invoked arbitration clause vide notice dated 18 September 2025.

4) On the other hand, the learned counsel appearing for the Applicant invites attention of the Court to letter dated 23 June 2025, by which the Respondent was called upon to cure the breaches within a period of 30 days. He therefore, submits that the Respondent was put to prior notice before invoking arbitration.

5) Similarly, it is seen that after receipt of notice under Section 21 of the Arbitration Act from the Applicant, the Respondent has given following response:-

Our Client, disputes and does not approve of appointment of Mr. Chinmaye Gupte, Advocate as sole Arbitrator to adjudicate the present disputes between your Client and our Client and expresses its nomination to appoint Mr. Himanshu Jangid, Advocate as the sole Arbitrator for adjudication of disputes.

6) Thus, the Respondent did not raise the issue of non-following of arbitral procedure and went ahead to nominate a sole Arbitrator for adjudication of disputes. Now for opposing the Application under Section 11(6) the pretext of non-following of arbitration procedure is sought to be raised. This Court does not approve conduct of the Respondent, who has deliberately created hurdle in constitution of Arbitral Tribunal. When the Application was called out in the morning session, Ms. Singh was called upon to take instructions as to whether the

Respondent is willing to go for arbitration by constitution of Arbitral Tribunal of a sole Arbitrator. However, when the Application is called out in the second session, once again she insists that unless agreed procedure is followed by issuance of dispute notice, appointment of Arbitrator cannot be done. Thus, despite agreeing for arbitration and in fact suggesting name of Arbitrator, the Respondent has now taken a *volte* face and is now questioning maintainability of the present Application. The conduct of the Respondent is deprecated.

7) Considering the above position, I do not find any merit in the objection sought to be raised on behalf of the Respondent, who is deliberately opposing the Application for the purpose of creating hurdles in the constitution of the Arbitral Tribunal.

8) Rejecting the objections sought to be raised on behalf of the Respondent, I proceed to pass the following order:-

(A) Ms. Priyanka Kothari, an Advocate practising in this Court is appointed as sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of the concerned Master Service Agreement. The contact details of the Arbitrator are as under:-

Office Address:- G-1 Ground floor, Mittal Avenue,
Nagindas Master Road, Fort,
Mumbai-400 023

contact No.:- 9819655969

Email ID:- law.priyanka@gmail.com

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocates for the Applicant within a period of

one week from the date of uploading of this order. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal alongwith a copy of this order.

(C) The learned sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of 2 weeks from receipt of a copy of this order.

(D) The parties shall appear before the learned sole Arbitrator on such date and at such place as indicated by her, to obtain appropriate direction with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc.

(E) The fees of the sole Arbitrator shall be as prescribed under the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.

9) All rights and contentions of the parties on merits are expressly kept open to be agitated before the Arbitral Tribunal appointed as above.

10) With the above directions, Petition is disposed of.

[SANDEEP V. MARNE, J.]