

2026 LiveLaw (SC) 145

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJAY KUMAR; J., ALOK ARADHE; J.
SLP (C) NO.38327/2025; FEBRUARY 06, 2026

VIVA HIGHWAYS LTD

versus

MADHYA PRADESH ROAD DEVELOPMENT CORPORATION LTD & ANR.

Arbitration and Conciliation Act, 1996; Section 29A(4) and Section 29A(6) — Extension of Mandate and Substitution of Arbitrator — The Supreme Court clarified that the expression "obligates" used in the *Mohan Lal Fatehpuria* case regarding the substitution of an arbitrator does not mean that substitution is an inevitable consequence when considering an extension of a mandate that has already expired - Substitution is only required "if the situation so warranted" and is not a mandatory inference following the termination of a mandate under Section 29A(4).

Arbitration and Conciliation Act, 1996; Section 29A and Section 11 — Jurisdiction — held that Section 11 has no bearing on the provisions of Chapters 5 and 6 (where Section 29A is located) - Noted, an application for extension of time under Section 29A(4) does not lie before the High Court.

[Arising out of impugned final judgment and order dated 02-12-2025 in MCC No. 2699/2025 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

For Petitioner(s): Mr. Sandeep Bajaj, Adv. Mr. Soayib Qureshi, AOR Ms. Chetna Alagh, Adv. Mr. Mayank Biyani, Adv.

For Respondent(s): Mr. Saurabh Mishra, Sr. Adv. Mr. Abhinav Shrivastava, AOR Mr. Swastik Singh, Adv. Mr. Shivang Rawat, Adv. Mr. Hitesh Gupta, Adv. Ms. Muskaan, Adv. Mr. Birj Kant Mishra, Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. Amit Kumar Chawla, Adv. Mr. Akhileshwar Jha, Adv. Mr. Anupam Kumar, Adv. Mr. Jogender Kumar, Adv. Mr. Desh Pal Singh, Adv. Ms. Gunjan Sinha Jain, AOR

ORDER

Leave granted.

This appeal is directed against the interim order dated 02.12.2025 passed by the High Court of Madhya Pradesh in MCC No.2699/2025, by which it declared the mandate of the existing Arbitrator in the ongoing arbitration proceedings between the parties to be terminated and further directed the parties to propose the name of a new Arbitrator for appointment.

The High Court placed reliance on the decision of this Court in *Mohan Lal Fatehpuria vs. M/s. Bharat Textiles & Ors.* [2025 INSC 1409].

Given the circumstances of the present case, it is not necessary for us to advert to the details of the case as the impugned interim order has been passed by the High Court on a misinterpretation of the *ratio* of the decision of this Court in *Mohan Lal Fatehpuria (supra)*. In paragraph 13 thereof, while dealing with Section 29A(6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Arbitration Act'), it was held that the aforesaid provision empowers and obligates the Court to substitute an Arbitrator. It appears that the aforesaid expression has been misinterpreted by the High Court. When this Court used the expression 'obligates', it only meant that a substitute Arbitrator would be appointed if the situation so warranted. It is not an inference which would necessarily follow the mandate of the Arbitrator standing terminated under Section 29A(4) of the Arbitration Act.

It is pertinent to note that the decision rendered by this Court in *Mohan Lal Fatehpuria (supra)* was considered by a coordinate Bench of this Court in *C Velusamy vs. K. Indhera* [2026 INSC 112], wherein it was clarified that the decision in *Mohan Lal Fatehpuria (supra)* does not mandate the substitution of an Arbitrator as an inevitable consequence, when the Court is considering the extension of mandate that has already expired. It was further observed that the judgment in *Mohan Lal Fatehpuria (supra)* proceeds to substitute the Arbitrator as the situation so warranted. This is the correct understanding of the view taken in *Mohan Lal Fatehpuria (supra)*.

This Court, in *Jagdeep Chowgule vs. Sheela Chowgule & Ors.* [2026 INSC 92] held that Section 11 of the Arbitration Act will have no bearing on the working of the provisions of Chapter 5 and 6, wherein Section 29A is located. The application for extension of time under Section 29A(4) of the Arbitration Act, in the present case, therefore, did not lie before the High Court.

For the aforementioned reasons, the impugned order dated 02.12.2025 passed by the High Court is quashed and set aside.

The application which was disposed of by the Commercial Court, Bhopal, in MJC (AV) No.30/2025 shall stand revived and the said Court is directed to decide the application seeking extension of the mandate of the Arbitrator expeditiously.

It is clarified that this Court has not expressed any opinion on the merits of the application seeking extension of the mandate of the Arbitrator which shall be decided on its own merits and in accordance with law by the Commercial Court.

The appeal is, accordingly, disposed of.

Pending application(s), if any, shall also stand disposed of.

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