IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12128 OF 2026

PETITIONER : Matrix Life Science Pvt. Ltd.
Ori. Claimant (formerly known as Matrix Fine Sciences Pvt. Ltd.) Through its Director, Mr. Ashok Ramkishan Sikchi Age: 73 years, Occ: Business, Having Registered Office at 12, Shilp Nagar, Railway Station Road, Chhatrapati Sambhajinagar (Aurangabad).

..VERSUS..

RESPONDENT : The Oriental Insurance Co. Ltd.
Ori. Respondent Through its Divisional Manager Having Office at 3rd Floor, ABC East Building, Near Prozone Mall, MIDC Chikalthana, Chhatrapati Sambhajinagar (Aurangabad).

Mr. S. S. Rathi, Advocate for petitioner.
Mr S. V. Adwant, Advocate for the Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **05.10.2026**

J U D G M E N T :

1) Heard finally with consent of learned advocates for the respective parties.

2) The present petition is filed in order to challenge order dated 13.08.2026 passed by the learned Sole Arbitrator, Justice P. R. Bora, in arbitration proceedings between the petitioner and respondent, thereby allowing the application

filed by the respondent/Insurance Company for filing evidence affidavits of all the witnesses that the petitioner/claimant intends to examine on its behalf simultaneously within a period of 15 days from the date of the said order.

3) The petitioner had initiated arbitration proceedings against the respondent seeking compensation under, “Standard Fire and Perils Policy”. After the petitioner and respondent filed their statement of claim and statement of defence, respectively, issues came to be framed by the learned Arbitral Tribunal on 23.03.2026.

4) On 17.06.2026, learned advocate for the petitioner stated that it will first adduce evidence of an officer of the petitioner who is conversant with the subject matter and, if required, may also examine two more witnesses. The learned advocate stated that names of the witnesses will be communicated in advance to learned advocate for the respondent/Insurance Company. It was further stated that evidence affidavit of the first witness will be submitted on the next date by serving a copy thereof to the learned advocate

for respondent one week in advance.

5) On 07.07.2026, i.e. on the next date of hearing, the petitioner sought further accommodation for filing of evidence affidavit of its first witness. Request for adjournment was granted and hearing of arbitration was adjourned to 17.07.2026. On 17.07.2026, affidavit of examination-in-chief of the Managing Director of the petitioner/company was filed. Learned advocate for respondent/insurance company sought accommodation in order to peruse the affidavit and documents annexed thereto. The proceeding was adjourned to 19.07.2026.

6) The respondent/insurance company filed application before the Arbitral Tribunal *inter alia,* seeking directions against the petitioner/claimant to file affidavits of examination-in-chief of all the witnesses proposed to be examined simultaneously. The said application is based on Order XVIII Rule 4(1-A) to (1-C) of the Code of Civil Procedure (hereinafter referred to as “the CPC” for brevity), as made applicable to commercial suits filed under the Commercial Courts Act, 2015. The said application was

opposed by the petitioner/ claimant contending that provisions of the CPC are not applicable to arbitration proceedings and that, once the petitioner/claimant was permitted to file affidavit in lieu of examination-in-chief of its first witness, forcing it to file affidavits of all the witnesses simultaneously will not be permissible. It was contended that adopting such a course will help the respondent/insurance company to improve its case by filling the gaps after cross-examination of witness No.1. It was also contended that adopting such a course would curtail the substantive right of the petitioner/claimant to lead evidence step by step.

7) After hearing the parties, the learned Arbitral Tribunal allowed the said application vide impugned order dated 13.08.2026. The learned Tribunal has held that although the proceedings before the Arbitral Tribunal are not strictly governed by the provisions of CPC and the Evidence Act, the Arbitral Tribunal can be guided by the provisions of CPC and the Evidence Act and that the underlying principles of the said statutes are required to be followed. The learned Arbitral Tribunal has also recorded that in the first meeting

held on 12.08.2025, it was decided that principles laid down in CPC and the Evidence Act will be guiding factors for conducting the arbitral proceedings. Having observed so, the learned Tribunal has further observed that directing the petitioner/claimant to file affidavits of all the witnesses proposed to be examined simultaneously was necessary to ensure procedural fairness. It is also recorded that it is not necessary that all the witnesses whose affidavits are filed must be examined. Lastly, it is directed that the same course would be adopted even during the course of evidence by the respondent/insurance company.

8) Mr. Swapnil Rathi, learned Advocate for the petitioner, argues that, in view of Section 19(1) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the A&C Act" for brevity), the Arbitral Tribunal is not bound by the provisions of CPC and the Evidence Act. Drawing attention to section 19(2) of the A&C Act, the learned advocate argues that the parties before the Arbitral Tribunal are free to agree on the procedure to be followed in arbitration proceedings. He contends that the minutes of

meeting dated 17.06.2026 will indicate that it was agreed that the claimant/petitioner will file affidavit of examination-in-chief of the first witness and, thereafter, file further affidavits of other witnesses, if needed. He contends that the respondent had agreed to adopt this course and thereafter had moved the application for directing filing of affidavits of all witnesses simultaneously. The learned advocate vehemently argues that the application ought to have been rejected since the same was against the agreed procedure as determined by the parties mutually. The learned advocate has placed reliance on judgment of this Court in the case of ***M/s. Oil and Natural Gas Corporation Ltd. Vs. M/s. Interocean Shipping (India) Pvt. Ltd.,***[1] to argue that, once the procedure for conducting arbitration is decided between the parties, such procedure can be modified or altered only by the parties mutually and that, in the absence of such modification or alteration, the Arbitral Tribunal is bound to follow the procedure agreed upon. The learned advocate, therefore, submits that the impugned order, which discards the agreed procedure for recording evidence as is reflected in the

1 AIROnline 2018 Bom 270

minutes of meeting dated 17.06.2026 cannot be sustained.

9) Mr. Adwant, learned advocate for the respondent raises a preliminary objection to maintainability of the petition. He places reliance on judgment of the Supreme Court in the case of ***SBP and Co. Vs. Patel Engineering Ltd., and anr,***[2] to contend that procedural orders passed by an Arbitral Tribunal cannot be challenged by invoking Article 226 or 227 of the Constitution of India. Apart from this, reliance is also placed on judgments of the Delhi High Court in ***VRS Natarajan Vs. Oyo Hotels and Homes Pvt Ltd,***[3] ***Easy Trip Planners Ltd. Vs. One97 Communications Ltd.,***[4] and in the case of ***Railtel Corporation of India Ltd. Vs. Primatel Fibcom Ltd.,***[5]. Mr. Adwant would argue that unless the petitioner establishes a case of bad faith or a case that it would be rendered remediless if the petition is not entertained, interference at the hands of this Court with a procedural order passed by the learned Arbitral Tribunal is not permissible. The learned advocate contends that the

2 (2005) 8 SCC 618
3 2022:DHC:3461,
4 2022 SCC OnLine Del 2186
5 2026:DHC:7171

impugned order merely directs mode in which affidavits have to be tendered, which is a purely procedural order, challenge to which cannot be entertained either under Article 226 or 227 of the Constitution of India. It is further contended that, in the event the occasion arises, grounds of challenge in this regard can be raised in a petition under Section 34 of the A&C Act.

10) Mr. Rathi places reliance on Division Bench judgment of this Court in the matter of ***Shri Guru Govind Singhji Institute of Engineering and Technology Vs. M/s. Kay Vee Enterprises,***[6] and argues that the Division Bench, after considering the Supreme Court judgment in the case of ***Patel Engineering*** (supra) and the judgment in the case of ***L. Chandra Kumar Vs. Union of India and others,***[7] has categorically held that power of judicial review vested with this Court is a part of basic structure of the Constitution of India and that said jurisdiction cannot be excluded by any statutory provision such as Section 5 of the A&C Act. The learned advocate draws attention to paragraph 24 of the

6 (Writ Petition No.9868 of 2024 decided at Aurangabad Bench on 05.12.2024)
7 (1997) 3 SCC 261

judgment to contend that the observations in ***Patel Engineering*** (supra) in relation to maintainability of a Writ Petition cannot be construed as ratio of the said judgment since the issue involved in the said case was with respect to nature of jurisdiction of the Chief Justice or its designate under Section 11 of the A&C Act. The learned advocate also places reliance on another Division Bench judgment in the case of ***Central Depositories Services (India) Limited and Ors. Vs. Ketan Lalit Shah and Ors,***[8] in support of his contention that jurisdiction of this Court to entertain a challenge against interlocutory orders passed by Arbitral Tribunal is not excluded by way of Section 5 of the said Act. Reliance is also placed on judgment of Delhi High Court in ***Surender Kumar Singhal and Ors. Vs. Arun Kumar Bhalotia and Ors,***[9]. It is his contention that the learned Arbitral Tribunal has travelled beyond its jurisdiction in altering the agreed procedure for recording evidence. The learned advocate contends that the preliminary objection should, therefore, be rejected.

11) The legal position which emerges from the

8 AIR 2025 Bom 185
9 AIR Online 2021 Del 415

aforesaid judgments relied upon by the rival parties is that jurisdiction of this Court to entertain a petition under Article 226 and 227 of the Constitution of India against orders passed by an Arbitral Tribunal is not completely excluded. However, while holding that petition against orders passed by Arbitral Tribunal is maintainable and that Section 5 of the A&C Act cannot bar entertaining such petitions, all the judgments come with a caveat that High Courts should be extremely slow in entertaining challenges to interlocutory orders passed by Arbitral Tribunal. There is complete unanimity that interference at the hands of this Court to procedural orders should be restricted in cases where the Arbitral Tribunal acts in bad faith, or failure to interfere would result in rendering the petitioner remediless, or if the order passed by the arbitrator is completely perverse, in the sense that no reasonable person could have passed such an order and such perversity is ex-facie apparent.

12) As regards the scope of interference with an interlocutory order passed in arbitration proceedings in a petition filed under Article 226/227 of the Constitution of

India, the Hon'ble Supreme Court, in the case of ***Serosoft Solutions Pvt. Ltd. Vs. Dexter Capital Advisors Pvt. Ltd.,***[10] has held that interference by the High Court in proceedings pending before the Arbitral Tribunal should be discouraged and that it is not prudent to exercise jurisdiction under Articles 226/227 in matters pending before the Arbitral Tribunal. It is held that power under Article 226/227 must be exercised in case of exceptional rarity or in case of bad faith or only if the order is completely perverse and perversity stares on the face of the order. This view of the Hon'ble Supreme Court is followed by this Court in the Case of ***Ketan Lalit Shah*** (supra). In the light of authorities cited by both the learned advocates, it must be held that there cannot be a blanket bar on entertaining writ petitions challenging interlocutory orders passed by Arbitral Tribunal. However, interference must be restricted to cases wherein order reflects exercise of power in bad faith or is absolutely perverse on the face of it or in cases of exceptional rarity or renders the petitioner remediless

10 2025 SCC OnLine SC 22,

13) The facts of the present case are required to be seen in the backdrop of this legal position. The learned Arbitral Tribunal has categorically recorded that in the preliminary meeting held on 12.08.2025, it was agreed that principles laid down in CPC and Evidence Act will be followed as guiding factors. The learned Arbitral Tribunal has, vide the impugned order, directed filing of affidavits of all witnesses simultaneously, as is prescribed under Order XVIII Rule 4(1-B) of the Code of Civil Procedure, as it is made applicable to suits before Commercial Courts. The Arbitral Tribunal has directed that the same course would be adopted during the course of evidence of the respondent.

14) However, Mr. Rathi, by drawing attention to the minutes of meeting dated 17.06.2026, contends that the agreed procedure was that evidence will be recorded step by step and that direction to file affidavits of examination-in-chief of all witnesses together results in alteration of the agreed procedure without consent of the parties.

15) I have perused the minutes of meeting dated 17.06.2026. It appears that the learned advocate for the

petitioner had stated that first evidence of an authorized officer of the petitioner-company would be filed and, if needed, two more witnesses will be examined. Learned advocate for the petitioner also stated that he will communicate the names of the witnesses to the learned advocate for the respondent in advance. It was decided that evidence affidavit of the first witness would be tendered on the next date of hearing before the Arbitral Tribunal. However, it does not appear from the minutes that it was expressly decided that affidavit of one witness at a time will be tendered.

16) The contention appears to be raised before this Court for the first time. Perusal of the reply filed to the application for directions to tender affidavits of all witnesses together will demonstrate that such a stand, that the parties had earlier agreed for tendering evidence of one witness at a time and the procedure agreed did not contemplate filing of affidavits of all witnesses together, is not raised in the reply.

17) Assuming the contention of Mr. Rathi to be correct, yet, in the considered opinion of this Court, the impugned

order does not fall within any of the categories prescribed by the Hon'ble Supreme Court warranting interference with procedural orders passed in pending arbitration proceedings.

18) The learned Arbitral Tribunal has passed order directing the parties to go by the procedure prescribed under Order XVIII, Rule 4(1-B) of the CPC. The impugned order is not likely to cause any irreparable damage to the case of the petitioner. Apart from this, an appropriate ground of challenge can be raised in a petition under Section 34 of the A&C Act, if the occasion arises. It must be stated that even Section 105 of the CPC provides that if an interlocutory order is passed against a party to a suit, a ground that the order was erroneously passed can be set up in the appeal to be filed against the decree, if the occasion arises.

19) In the light of aforesaid, in the considered opinion of this Court, no case for interference is made out.

20) Writ Petition is **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

Tanmay...