

AP No. 216 of 2020

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

MAHA HYDRAULICS PRIVATE LIMITED
VERSUS
MCNALLY BHARAT ENGINEERING COMPANY LTD.

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY

Date : 14th September, 2020

(Through Video Conference)

Appearance:

Mr. Rajeev Kr. Jain, Adv.

Mr. Abhirup Chakraborty, Adv.

The Court : This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an arbitrator.

A copy of the application has been served upon the respondent but on September 4, 2020, the respondent remained unrepresented. Once again, on September 10, 2020 this application was adjourned on the ground of absence of the respondent. Even today, the respondent remains unrepresented. Thus, at the instance of the petitioner, this application is taken up for hearing in the absence of the respondent.

The disputes between the parties arise out of a purchase order dated April 10, 2013 (hereinafter referred to as the “said purchase order”). The said purchase order stipulates that all disputes arising out of the same would be settled between the parties by arbitration in accordance with the Arbitration and Conciliation Act, 1996.

The said purchase order further stipulates as follows:

“This Agreement/Order shall be deemed to have been executed at,Kolkata and is subject to the Jurisdiction of the Court of Law at,Kolkata only, irrespective of anything to the contrary that may be mentioned in your Offer/subsequent correspondence.”

Considering the correspondence dated July 8, 2020 and July 15, 2020 exchanged between the parties, it is evident that the parties failed to agree to the appointment of a sole arbitrator to adjudicate the disputes between them. Thus, the present application is maintainable.

Considering the facts of the case, when the parties have failed to agree to the appointment of the sole arbitrator in terms of the said purchase order, Mr. Shyamaprosad Sarkar, Senior Advocate, Bar Library Club is appointed Arbitrator to adjudicate the disputes between the parties arising out of and in relation to the said purchase order.

Arbitrator will be free to engage his secretarial staff. The arbitrator will also be free to fix his remuneration as well as the remuneration of the staff, which will be borne by the parties in equal share.

Arbitrator is requested to make and publish the award within ten months from the date of completion of the pleadings by the respective parties.

With the above directions AP No.216 of 2020 stands disposed of.

(ASHIS KUMAR CHAKRABORTY, J.)