

AP 273 of 2020

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

SANDIPAN CHAKRAVORTTY
VERSUS
M/S. SANTAS FANTASEA AND ORS.

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY

Date : 14th October, 2020.

Appearance:

Ms. Amrita Pandey, Adv.

Ms. Anamika Pandey, Adv.

...for the petitioner.

The Court : The petitioner has filed this application under Section 11(6) of the Arbitration & Conciliation Act, 1996 (in short, "the Act of 1996") for appointment of a sole Arbitrator to adjudicate the disputes between the parties herein relating to the licence agreement dated June 1, 2019 (hereinafter referred to as the "said agreement").

Clause 8 of the said licence agreement contemplates that all disputes arising between the parties thereto shall be decided by a sole Arbitrator to be appointed by the petitioner. According to the petitioner, disputes have arisen between the parties relating to the said licence agreement and by a letter dated March 5, 2020, he nominated the Arbitrator and requested the respondents to agree to the appointment of the said Arbitrator.

Since the respondents have not agreed to the appointment of the Arbitrator nominated by the petitioner, there has been a failure of the agreed procedure for appointment of the Arbitrator under Sub-section(6) of Section 11 of the Act of 1996.

From the affidavit of service filed by the petitioner it appears that the respondents have been duly served with copies of this application. In this connection, a copy of the same affidavit of service filed by the petitioner is kept with the record. However, the respondents remain unrepresented.

Considering the facts of the case, I find that the petitioner has substantiated the ground under sub-section(6) of Section 11 of the Act of 1996 to move the present application.

Accordingly, Mr. Ipshita Banerjee, Advocate of Bar Library Club, is appointed as the sole Arbitrator to adjudicate the claim of the petitioner against the respondents.

It is, however, made clear that the respondents may also raise any counter-claim against the petitioner.

The Arbitrator shall be paid a consolidated fees of Rs.4 lakh, which shall be borne by the parties in equal share. The Arbitrator will be free to engage stenographer and clerk for conducting the arbitral proceeding whose remuneration shall also be shared by the parties in equal share.

The parties shall render all cooperation to the Arbitrator for conclusion of the arbitral proceeding within ten months after completion of their respective pleading.

With the above directions, AP No.273 of 2020 stands disposed of. There shall, however, be no order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(ASHIS KUMAR CHAKRABORTY, J.)

s.pal