

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

AP/286/2020

CIMMCO LTD.
VS.
TEXMACO RAIL AND ENGINEERING LTD.

.....

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY

Date : 8th December, 2020.

Mr. S. Bose, Adv...for petitioner.

Mr. M.K. Ghosh, Sr. Adv.,
Mr. Emon Bhattacharya, Adv...for respondent.

The Court : By this application under section 11(6) of the Arbitration and Conciliation Act, 1996 (in short, "the Act of 1996") the petitioner has approached this Court for appointment of a new Arbitrator. The fact, which has necessitated filing of the present application, is that the Arbitrator appointed by a Coordinate Bench of this Court on March 3, 2014 in AP No.673 of 2012 has passed away.

There is no dispute that in the arbitral proceeding conducted by the Arbitrator, since deceased the parties had already filed their respective pleading and they had also adduced their respective evidence even the parties had concluded their respective oral argument. At this stage when the award was awaiting the Arbitrator appointed on March 3, 2014 passed away. Respondent also supports the prayer of the petitioner in this application.

Considering the facts of the case, Mr. Pradip Kumar Ghosh, Senior Advocate of Bar Library Club is appointed as the new Arbitrator to adjudicate the disputes between the parties based on the pleading of the respective parties and the evidence already adduced by the respective parties before the erstwhile Arbitrator. The Arbitrator will be entitled to a consolidated remuneration of Rs.10 lac to be shared equally by the parties. The Arbitrator shall also be free to engage secretarial staff, whose remuneration shall also be borne by the parties in equal share.

The advocate on record of the respective parties shall take steps to collect the records of the arbitral proceeding conducted by the erstwhile Arbitrator and produce the same before the new Arbitrator.

The parties shall render all assistance to the Arbitrator in order to enable him to make and publish the award within six months from the date of the first sitting held by the Arbitrator. The Arbitrator will be free to proceed with the arbitral proceeding by holding day to day hearing.

With the above directions, AP No.286 of 2020 stands disposed of, without any order as to costs.

(ASHIS KUMAR CHAKRABORTY, J.)

