

OD-19

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[Via Video Conference]

AP/19/2021

NETAI MAITY
Versus
NEMAI MAITY

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 15th November, 2021

Appearance:
Mr. Haradhan Banerjee, Adv.
Mr. Subharangshu Datta, Adv.
..for the petitioner

Mr. Suman Ghosh, Adv.
Mr. Sagar Chowdhury, Adv.
...for the respondent

The Court:- This is an application for termination of the mandate of the Arbitrator on the ground that the Arbitrator has kept the proceeding pending without fixing any date for a period of more than three years. It is further submitted that the Arbitrator is not taking any steps in the matter and is not willing to act as Arbitrator.

It is submitted on behalf of the petitioner that notwithstanding repeated requests the Arbitrator has failed, neglected and refused to fix any date for hearing of the arbitration proceedings has acted with undue and inordinate delay.

It is submitted on behalf of the petitioner that though the Statement of Claim was filed as far back on 28th March, 2017, the Arbitrator has taken no steps to conclude the proceedings. It is also submitted on behalf of the parties

that no sitting of the arbitration proceedings has been held since 29th August, 2016. Accordingly the petitioner prays that the mandate of the Arbitrator be terminated and a substituted Arbitrator be appointed in place and stead of the present Arbitrator.

The respondent is represented and does not object to the termination of the Arbitrator and also consents to the appointment of a substituted Arbitrator.

In view of the submissions made on behalf of the parties, AP/19/2021 is allowed. There will be an order in terms of prayers (a) and (b) of the Notice of Motion.

Mr. Sabyasachi Choudhury, Advocate and a member of the Bar Library Club is appointed as a substituted Arbitrator with a request to conclude the arbitration proceedings as expeditiously as possible and preferably within a period of one year from the date of communication of this order.

Liberty is granted to the Arbitrator to fix his remuneration which the parties will share in equal proportion. Liberty is also granted to the Arbitrator to commence the proceeding from the stage of the proceeding where the erstwhile Arbitrator had reached.

The erstwhile Arbitrator is directed to submit all the case papers including the entire file relating to the arbitration proceedings to the Advocate-on-Record of the petitioner forthwith who is directed to forward the same to the substituted Arbitrator.

(RAVI KRISHAN KAPUR, J.)