

ORDER SHEET

AP/20/2021

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

M/S. MAP MINES AND MINERALS LIMITED
VERSUS
CORE MINERAL AND ANR.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

Date : 24th March, 2021.

(Via Video Conference)

Appearance:

Mr. Raja Basu Chowdhury, Adv.

Mr. Bhaskar Mukherjee, Adv.

Ms. Debjani Ghosh, Adv.

Mr. Debraj Sahu, Adv.

Ms. Nafisa Yasmin, Adv.

Mr. R. Medora, Adv.

Ms. S. Hariharan, Adv.

The Court: In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner seeks appointment of an Arbitrator.

The rival relationship between the parties cannot be disputed. The parties entered into an agreement for settlement of dues on August 16, 2019, containing an arbitration clause. The parties entered into a further agreement for settlement of dues on December 3, 2019 to rework the payment modalities. The arbitration agreement is not disputed by the parties. The defence of the respondents is that the payment was made in full and final settlement. The petitioner disputes such contention. The other defence of the respondents is that the respondent no.2 is not a party to the arbitration agreement. The

petitioner contends that the respondent no.2 is a partner of the respondent no.1, which is a partnership firm.

So far as the defence of full and final settlement is concerned, it cannot be said with certainty that the payment made by the respondents was in full and final settlement. Therefore, such dispute remains to be adjudicated. It should, therefore, be referred to arbitration in terms of the arbitration agreement.

Liability of a partner of a partnership firm is co-extensive as that of the firm. Therefore, a partner is bound by the arbitration agreement that the partnership firm entered into validly.

In such circumstances, it would be appropriate to refer the disputes between the parties to arbitration. Both the issues raised by the respondents are kept open to be decided by the learned Arbitrator.

Mr. Suman Kumar Dutt, Senior Advocate, Bar Library Club, is appointed as the Arbitrator in terms of the arbitration agreement existing between the parties.

Learned Arbitrator is at liberty to fix his remuneration. The parties will bear such remuneration equally with one part to be paid by the petitioner and the other part to be paid by the respondents. The parties will bear the costs and expenses of the arbitration in such proportions also.

The parties are at liberty to inform the learned Arbitrator of this order.

AP 20 of 2021 is disposed of accordingly.

(DEBANGSU BASAK, J.)