

ORDER SHEET
AP 48 OF 2021
IN THE HIGH COURT AT CALCUTTA
Original Civil Jurisdiction
ORIGINAL SIDE

M/S. ROYAL INFRACONSTRU LTD.
VERSUS
BRAITHWAITE AND COMPANY LIMITED

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date : 17TH March, 2021.

Appearance:
Mr. Arnab Chakraborty, Adv.
Ms. Pragya Bhowmick, Adv.
....For the Petitioner

Mr. Subhojit Ghosh, Adv.
...For the Respondent

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

The respondent is represented.

The petitioner participated in a tender floated by the respondent. The petitioner was awarded a contract on September 3, 2009 and the purchased order was issued on August 21, 2010. The work was completed and a completion certificate issued on December 16, 2016.

The parties thereafter undertook reconciliation of accounts. On reconciliation of accounts a sum was paid by the petitioner to the respondent on August 23, 2018. According to the petitioner, such sum is an excess recovery by the respondents. In the process of the reconciliation and even subsequent to the cheque dated August 23, 2018 the petitioner issued various letters to the

respondent for reconciliation of accounts. The petitioner is not satisfied with the conduct of the respondent in not reconciling of accounts and addressing the grievances of the petitioner.

In such circumstances, disputes and difference subsists between the parties which are covered by the arbitration agreement existing between the parties. The factum of existence of arbitration agreement between the parties and that, the disputes sought to be referred are covered by the arbitration agreement are not disputed by the parties.

In such circumstances, it would be appropriate to appoint Chief Justice Mr. Debasish Kar Gupta (retired) as the arbitrator. The learned Arbitrator is at liberty to fix his remuneration, which shall be paid by the parties in equal shares.

The parties will bear costs and expenses of the arbitration. The parties will inform the learned Arbitrator of this order.

AP NO.48 of 2021 is disposed of accordingly.

(DEBANGSU BASAK, J.)

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