

AP/216/2021

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

MINATI BANERJEE
VERSUS
MIMI PAL

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

DATE : 14TH DECEMBER, 2021.

[Via Video Conference]

APPEARANCE:

Mr. Arif Ali, Advocate
Mr. Sarban Bhattacharjee, Advocate
.....for the applicant.

The Court:- Affidavit of service has been filed by the petitioner disclosing that the respondent is duly served.

This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of Arbitrator to resolve the dispute between the parties.

Learned counsel for the applicant has pointed out that the service agreement dated 1st November, 2018 was entered into between the applicant and the respondent for providing the services described in the agreement and that the dispute had arisen, therefore, the applicant had given the notice dated 20th February, 2021 in terms of Section 21 of the Act invoking the arbitration clause and suggesting the name of the arbitrator. He submits that the said notice was duly served upon the respondent but no reply was received.

The service agreement contains the following arbitration clause:

“h) *Only the courts territorial jurisdiction over the “Said Unit” shall have jurisdiction in all matters relating to or arising out of this agreement, and in case of only disputes and/or differences arising by and between the parties hereto relating to any of the terms and conditions hereof or relating to meaning interpretation of any clauses, then the same shall be referred to Arbitration before Arbitrator to be appointed by the parties and the said*

tribunal shall have summary power and the award shall be valid and binding on the parties. This entire process shall be governed by the provision of the Arbitration and Conciliation Act, 1996 and/or any statutory modification thereof.”

In spite of service of notice, no one has appeared on behalf of the respondent to dispute the lease agreement or the arbitration clause contained therein. It is pointed out by the learned counsel for the applicant that a separate lease agreement exists in respect of which dispute has arisen and this Court in AP No.217 of 2021 by order dated 24th November, 2021 has already appointed an arbitrator.

Having regard to the circumstances of the case and considering the fact that the arbitration agreement exists and dispute has arisen, in my opinion, a case for allowing the application under Section 11 of the Act is made out. Accordingly, AP No. 216 of 2021 is allowed by appointing Mr. Soumya Dasgupta, Advocate, 114H/4, Ananda Palit Road, Kolkata – 700 014 (M:9830576448) as arbitrator.

Let the necessary declaration from the above arbitrator be obtained by the office in the Form prescribed in Sixth Schedule of the Act.

(PRAKASH SHRIVASTAVA, C.J.)