

OD-25

ORDER SHEET

AP/227/2021

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

M/S. CEMCON RUBBER PVT LIMITED
VERSUS
UNION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date: 21st December, 2021.

(Via Video Conference)

Appearance:
Mr. Emon Bhattacharya, Adv.
Ms. Malini Chakraborty, Adv.
Ms. Pooja Saha, Adv.
...for the petitioner

The Court: This is an application under Section 9 of the Arbitration and Conciliation Act, 1996.

The petitioner seeks a restraint order on a bank guarantee being Bank Guarantee No.1932BG000089 dated 13th August, 2019. It is submitted on behalf of the petitioner that the respondents be restrained from invoking the said bank guarantee and adjusting the same against any outstanding pending bills of the petitioner.

The respondents are represented and submit that the particular bank guarantee dated 13th August, 2019 is not in accordance with the tender document.

It is further submitted on behalf of the respondents that an application under Section 11 for appointment of an Arbitrator is pending before this Hon'ble Court.

I am of the view that since it is admitted position that the bank guarantee dated 13th August, 2019 is not in the proper format in terms of the tender document, there is no scope of passing any order of restraint in respect of the bank guarantee.

This application for interim reliefs is misconceived and there can be no question of granting any order of restraint in respect of bank guarantee which is admittedly not in its proper format in terms of the tender document.

In view of the aforesaid, AP No. 227 of 2021 stands dismissed.

The respondents are at liberty to take appropriate steps in accordance with law as it may be advised insofar as to the non-furnishing of the bank guarantee is concerned.

(RAVI KRISHAN KAPUR, J.)