

ORDER

OD-6

AP/335/2021
IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

SHALIMAR PELLET FEEDS LIMITED
VERSUS
SMT. PRAMILA BISWAS

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
Date: 30th November 2021.

[Via Video Conference]

APPEARANCE:

Mr. Ayan Kumar Boral, Advocate
Mr. Ajay Kumar Mishra, Advocate
Ms. Bishalaxmi Ghosh, Advocate
.....for the applicant

The Court:- Affidavit of service has been filed by the applicant.

It is pointed out that previously the respondent was served and an affidavit of service was filed. But no one had appeared for the respondent. Therefore, this Court by order dated 18th August, 2021 had directed the applicant to inform the respondent of the next date of hearing. Therefore, the applicant has again informed and served the respondent. In spite of service of notice, no one is present for the respondent.

Learned counsel for the applicant has pointed out that the agreement dated 1st June, 2015 was executed between the applicant and one Bhabesh Biswas, the husband of the respondent, as proprietor of Biswas Feed Centre. He has also pointed out that as per the recital of the said agreement, the same was binding on the proprietor and his heirs, successors, legal representatives and assigns and that the respondent is the wife of Bhavesh Biswas, who is now the proprietor of the Biswas Feed Centre. He has also pointed out that the dispute has arisen between the parties, therefore notice dated 20th November, 2020 was sent to the respondent which was duly served and in that notice the name of the

proposed arbitrator was mentioned, but no response has been received from the respondent. Hence, the present application has been filed.

The Agreement dated 1st June, 2015 contains the following arbitration clause:-

“ARBITRATION

19. If any difference, dispute or question arises between the parties hereto in any way relating to or arising out of or connected with this Agreement, the matter shall at the option of the Company be referred to arbitration. Such arbitration shall be in accordance with the Arbitration & Conciliation Act of 1996. The Stockist/Dealer consent to the appointment of sole Arbitrator by the Company.

20. The award of the sole arbitrator shall be final and binding on both the parties hereto. The arbitration proceedings shall be held at Kolkata. And the language of proceedings will be English.

21. All disputes shall be subject to the jurisdiction of Calcutta High Court and its subordinate courts in Kolkata.”

The respondent has not chosen to appear before this Court. Hence, the arbitration agreement containing the aforesaid clause has remained undisputed. The records reflect that dispute has arisen between the parties.

Therefore, I am of the opinion that a case is made out to appoint an arbitrator in terms of Section 11 of the Act and hence AP No.335 of 2021 is allowed. Justice Aloke Chakrabarti, a retired Judge of this Court is appointed as arbitrator to resolve the dispute between the parties.

(PRAKASH SHRIVASTAVA, C.J.)