

ODC-2

ORDER SHEET
APO/120/2021
WITH
AP/281/2021
IA NO: GA/1/2021
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

M/S. CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY
LIMITED
VS
TANMOY BARMAN AND ANR.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 5TH October, 2021.

Appearance :
Mr. Soumya Roy, Adv.
Ms. T. Das Singh, Adv.
Mr. A. Singh, Adv.
Ms. P. Sett, Adv.
Mr. R. Singh, Adv.
...For the appellant

Mr. A. Ghosh, Adv.
Mr. A. Das, Adv.
..For the respondents

The Court : This appeal is admitted. It can be disposed of at the threshold.

We propose to do so dispensing with all formalities.

Section 9 (3) of the Arbitration and Conciliation Act, 1996, provides as follows :

“(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under Section 17 efficacious.”

Admittedly, arbitral proceedings have commenced.

We dispose of the appeal (APO No.120 of 2021) and the connected stay application (IA No. GA No.1 of 2021) by directing that the cause of

action in this Section 9 application can be urged by way of a Section 17 application before the arbitral tribunal. All points are kept open.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)