

AP/528/2021
IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

RELIANCE COMMERCIAL FINANCE LIMITED
VERSUS
SIARAM CHOUDHURY & ANR.

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

DATE : 20th December, 2021.

[Via Video Conference]

APPEARANCE:

Mr. Biswaroop Mukherjee, Advocate,
Mr. Avijit Dey, Advocate
.....for the petitioner.

Mr. Rabi Sankar Chattopadhyay, Advocate,
Mr. Sayan Chattopadhyay, Advocate,
Mr. Steven Suvrodip Biswas, Advocate,
Mr. S. Bhattacharya, Advocate.
.....for respondent No.1

The Court:- The affidavits of service dated 14th December 2021 and 18th December 2021 have been filed disclosing that the respondents are already served.

This petition has been filed under Section 11 of the Arbitration and Conciliation Act for appointment of arbitrator to resolve the dispute between the parties. Loan cum hypothecation agreement dated 30th May 2015 was executed between the parties, which contains the following arbitration clause:-

“xvi) Arbitration: In the event of any dispute or differences arising under this Agreement including any dispute as to any amount outstanding, the real meaning or purport hereof (“Dispute”), such Dispute shall be finally resolved by arbitration. Such arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 or any amendment or re-enactment thereof by a single arbitrator to be appointed by the Lender. The venue of arbitration shall be as decided by the Lender and the arbitration shall be conducted in English language. The award passed by the Arbitrator will be binding on all the parties.”

It is pointed out by learned counsel for the petitioner that initially, the arbitrator was appointed who has recused. Therefore, vide communication dated 14th August 2021, the petitioner had proposed the name of the sole arbitrator which was not accepted by the respondents. Hence this petition has been filed.

Learned counsel for the respondent No.1 does not dispute the arbitration agreement and he has also stated that the dispute between the parties in respect of the arbitration is only about the name of the arbitrator.

Having regard to the fact that the arbitration agreement exists between the parties and the dispute flowing from the said agreement also exists, I am of the opinion that a case is made out for allowing the prayer for appointment of the arbitrator. Hence, Mr. Kaushik Dey, Advocate, Bar Association Room No.2 (M: 9830467715) is appointed as Arbitrator to resolve the dispute.

Office is directed to take his declaration in the form prescribed in the Sixth Schedule of the Arbitration and Conciliation Act.

AP No.528 of 2021 is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)