

AP/12/2022

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTIONMD. WASIM AND ANR.
VERSUS
M/S. DESNA STORES AND ORS.

BEFORE:

THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

DATE : 24TH JUNE, 2022

APPEARANCE:

Mr. Rahul Karmakar, Advocate
Mr. Saunak Mukherjee, Advocate
....for the petitioners

The Court:- Though learned counsel for the respondents on the previous date had sought extension of time to file affidavit-in-opposition but neither the affidavit-in-opposition has been filed till now nor the learned counsel for the respondents is present to oppose the application.

This application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of the arbitrator.

Learned counsel for the applicants has pointed out that the partnership deed dated 15th November, 1995 was executed between the parties which contains the following arbitration clause:-

“17. THAT all disputes and questions whatsoever which shall either during the continuance of partnership or afterwards arise amongst the partners or their respective representative or between any partner and representatives of the partners touching these presents or the construction or application thereof or any clause or thing herein contained or any accounts, valuation or division of assets, debt or liabilities to be made hereunder or as to any other matter in any way relating to the partnership business or the affairs thereof or the rights, duties or liabilities of any person under these presents shall be referred to a single Arbitrator in case the parties agree upon otherwise to two or more Arbitrators to be appointed by each party to the difference in accordance with and subject to the provision of the Indian Arbitration Act, 1940 or any statutory modification thereof for the time being in force.”

He has also pointed out that since the dispute has arisen between the parties, therefore, the applicants had filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 in which a competent Court had

passed the order dated 5th October, 2021. Thereafter, the applicants had served upon the respondents notice dated 8.9.2021 under Section 21 of the Act proposing the name of the arbitrator but the respondents had not replied to the said notice.

Since no one is present for the respondents, therefore, the above submissions of the learned counsel for the applicants have remained uncontroverted and considering the aforesaid, I am of the opinion that a case for appointment of an independent sole arbitration is made out. Accordingly, Mr. Sachchida Nand Pandey, Advocate (M:9007285496) of this Court is appointed as Arbitrator to resolve the dispute between the parties.

The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

AP is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)