

ODC 17

ORDER SHEET
AP/238/2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

TATA CAPITAL FINANCIAL SERVICES LIMITED
VS
RAJSHREE INDUSTRIES

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 28th July, 2022.

Appearance:

Mr. Satarup Banerjee, Adv.

Mr. Avishek Guha, Adv.

Ms. Akansha Chopra, Adv.

Ms. Debarati Das, Adv.

The Court: Heard Mr. Swatarup Banerjee counsel appearing on behalf of the petitioner.

It is to be noted that this matter has appeared on several occasions and none has appeared on behalf of the respondent in spite of service. The arbitration clause in the loan cum hypothecation agreement is delineated below.

“13. **Arbitration**

If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under the Facility Documents or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration to be held at the place as mentioned at Serial No.13 of Annexure 1 heretoin as may be

decided by the Lender in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a sole arbitration to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be in English language. Cost of arbitration shall be borne by the Obligors.”

It is to be further seen that Annexure one indicates that the place of arbitration is Kolkata. It is to be further noted that a Section 9 application has been moved by the petitioner and possession has been taken by the petitioner by order of Court. That Section 9 application was disposed of and the asset is still lying with the Receiver.

In light of the above, I see no impediment in commencing any arbitration proceedings to resolve the disputes between the parties.

Accordingly, Mr. Ratnanko Banerji, Senior Advocate, Bar Library Club, is appointed as Arbitrator. 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 238 of 2021 is disposed of.

(SHEKHAR B. SARAF, J.)

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