

ORDER SHEET
AP/259/2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

ELDORADO APARTMENT AND CREDIT PVT. LTD. AND ORS.
VS
ORCHID THAI SPA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 23rd August, 2022.

Appearance:
Ms. Urmila Chakraborty, Adv.
Ms. Ranjana Seal, Adv.
...for the petitioners

The Court: Heard Ms. Urmila Chakraborty, advocate, appearing on behalf of the petitioners. It is to be noted that on 24th November, 2021, directions for affidavits had been given but till date no affidavit-in-opposition has been filed by the respondents. When the matter was called on today, none has appeared on behalf of the respondents.

The dispute between the parties is with regard to a lease agreement entered into on 15th January, 2019 between the parties. Clause 13 of the said agreement is delineated below:

“13. Arbitration:

In case of differences or disputes between the Lessors and the Lessee, the same shall be mutually discussed and resolved amicably, in case of differences or disputes not been

resolved amicably within a period of 1 (One) month from the date of one party raising the difference or dispute in writing, the same shall be referred to arbitration to a sole arbitrator to be mutually appointed by the Lessee & the Lessors and failing such mutual agreement within a period of 45 Days (Forty five) from the date of reference to arbitration the differences or dispute shall be referred to a court of law. The same venue of arbitration will be Kolkata.

Jurisdiction – Only the courts at Kolkata shall have exclusive and sole jurisdictional in all matter relating to or arising out of the Lease deed.”

The petitioners have served a Section 21 notice under the Arbitration Act which was not responded to by the respondents. In view of the fact that the respondents have not responded to the Section 21 notice and the fact that there is an arbitration clause in the lease agreement, I am of the view that the matter should be referred to arbitration.

Accordingly, I appoint Mr. Rohit Banerjee, Advocate, Bar Library Club (Mob. No.9163891670) as an Arbitrator to resolve the disputes 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.

I make it clear that in the event the agreement is not properly stamped, the Arbitrator shall take necessary action as required under the law.

AP/259/2021 is, accordingly, disposed of.

(SHEKHAR B. SARAF, J.)