

ODC 10 & 11

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

AP/148/2022

SREI EQUIPMENT FINANCE LIMITED
VS
TOUCHSTONE SAND AND AGGREGATES PRIVATE LIMITED

AND

AP/388/2021

SREI EQUIPMENT FINANCE LIMITED
VS
TOUCHSTONE SAND AND AGGREGATES PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 19th April, 2022.

Appearance:

Mr. Paritosh Sinha, Adv.

Ms. Shrayshee Das, Adv.

. . .for the petitioner.

Mr. Om Narayan Rai, Adv.

Mr. Saikat Ray Chowdhury, Adv.

. . .for the respondent.

The Court: AP 148/2022 has been filed by the petitioner subsequent to having obtained orders in AP/388/2021. In the earlier Section 9 application, orders have been passed appointing a Receiver and the Receiver acting upon such orders had taken symbolic possession of the asset in question.

The fresh application has been filed as the petitioner has found that the asset is being used by the respondent.

Counsel appearing on behalf of the respondent has taken a stand that in spite of obtaining an order in November, 2021, the matter has not been referred to arbitration and has, accordingly, prayed that this Court should appoint an Arbitrator in the matter. Counsel on behalf of the petitioner has agreed on the suggestion of appointment of an Arbitrator and left the decision of the Arbitrator on this Court.

In view of the above, Mr. Rohit Banerjee, Advocate, (Mobile No. 9163891670) 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.

The respondent is enjoined from using the said asset for a period of two months from date. The parties are directed to immediately move before the Arbitrator for commencement of the Arbitration.

I make it clear that the arbitration should commence within one month from date. The petitioner shall be at liberty to move a fresh Section 17 application before the Arbitrator and the Arbitrator should decide on the same expeditiously without being influenced by the orders passed by this High Court in AP 148 of 2022 and AP 388 of 2021.

In light of the above orders, AP 148 of 2022 and AP 388 of 2021 are disposed of.

Receiver to continue for a period of two months subject to further orders that may be passed by the learned Arbitrator.

The petitioner is directed to pay a further sum of 2000 GMs. to the Receiver.

(SHEKHAR B. SARAF, J.)

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