

OD-108

ORDER SHEET

AP/161/2022

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

ADVANCE CONSTRUCTION CO
VS
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 28th April, 2022

Appearance:

Mr. Nilanjan Bhattacharya, Adv.

Mr. S.K. Tiwari, Adv.

The Court: On perusal of the documents it is clear that there is an arbitration clause in the agreement. It also appears that the arbitration clause is in conflict with Section 12(5) of the Arbitration and Conciliation Act, 1996.

Accordingly, as per the Supreme Court judgments passed in *TRF Limited v. Energo Engineering Projects Ltd.* reported in (2017) 8 SCC 377 and in *Perkins Eastman Architects v. HSCC (India) Limited* reported in (2019) 9 SCC Online SC 1517, the Court is required to appoint an independent Arbitrator.

In light of the same, Mr. Soumyajit Ghosh, Advocate (Mob. No.9830060597) 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/161/2022 is accordingly disposed of.

(SHEKHAR B. SARAF, J.)

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