

OD-6

ORDER SHEET

AP/581/2019

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

LINDSAY INTERNATIONAL PRIVATE LIMITED
-Versus-
TRL KROSAKI REFRACTORIES LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : March 8, 2022

Appearance:

Mr. Sakya Sen, Adv.
Mr. Sukrit Mukherjee, Adv.
Mr. Shaunak Mitra, Adv.
Mr. S. R. Kakrania, Adv.
Mr. Tanuj Kakrania, Adv.
... for the petitioner

Mr. Jishnu Saha, Sr. Adv.
Mr. Rishad Medora, Adv.
Mr. Ishaan Saha, Adv.
Mr. Pratik Ghose, Adv.
Mr. Avishek Roy Chowdhury, Adv.
... for the respondent

The Court :- This is an application filed by the respondent in an arbitration proceedings for setting aside of what the respondent (applicant before this Court) terms as an 'Award'.

According to learned counsel appearing for the petitioner, the impugned order of the learned Arbitrator dated 3rd August, 2019 contains certain observations which have gone into the merits of the matter. According to learned

counsel, this could not have been done since the impugned order was passed in an application filed by the petitioner under Section 16 of the 1996 Act questioning the jurisdiction of the Arbitrator. Counsel segregates only paragraphs 23 to 27 from the impugned order to submit that in the event the observations are held to be final, nothing would remain of the counter-claim filed by the petitioner in the arbitration.

This Court is inclined to accept the submissions made by the learned counsel for the respondent (claimant in the arbitration). Having perused the observations contained in paragraphs 23 to 27 of the impugned order, the said observations/findings may be treated as tentative and not prevent the petitioner (the respondent in the arbitration) to urge these facts in the arbitration proceedings.

The petitioner shall be entitled to come before the court as provided under Section 16 and 34 of the Act, if and when such occasion arises in future.

AP/581/2019 is disposed of in terms of the above.

Affidavit-in-reply is kept on record.

(MOUSHUMI BHATTACHARYA, J.)